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Francis's Online Sales Tax Bill Would Raise Cost of Netflix, Prime Video, Chamber of Commerce Says, Calls Bill 'Job Killer'

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Ernice Gilbert **November 20, 2020**

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The Netflix app is highlighted on the PlayStation 5. As pointed out by the St. Croix Chamber of Commerce, Sen. Novelle Francis's bill would also raise the cost of the online video streaming service. **By. ERNICE GILBERT FOR VI CONSORTIUM**

The St. Croix Chamber of Commerce on Thursday said it "strongly opposes" Senator Novelle Francis's online sales tax bill, and called on all senators to vote against the measure. Furthermore, peradventure the bill were to arrive on Governor Albert Bryan's desk, the chamber also called on the governor to veto it. Mr. Bryan is in support of the bill, and is in fact merging his own online sales tax legislation with Mr. Francis's.

"Because the bill would drastically raise the cost of doing business in the territory and disincentivize out-of-territory businesses shipping to the islands, all senators should vote against the bill. If the bill passes, the governor should veto it," said the chamber in its statement.

As the chamber pointed out, if the measure were to be enacted, it would also raise the cost on services such as Netflix and Amazon Prime Video, as the bill seeks to not only tax tangible products, but also internet services. And services like Amazon Prime Video and Netflix easily fall in the \$108,000 sales threshold set by the bill, meaning a company would need to have sales of or exceeding \$108,000 in the USVI to be taxed under the proposed measure.

According to the measure, the qualifying transactions include:

- Sales of tangible personal property;
- Sales of services;
- Sales of any product transferred electronically;
- Sales of any right to access a specified digital good, computer software, or other intangible property from a website owned, used or controlled by the seller, whether or not the digital good, computer software, or other intangible property is downloaded by the customer.

"The online tax bill would significantly raise the cost of doing business in the territory by further hiking the cost of all shipped goods, including food, clothing, and auto parts. The bill would also raise the cost associated with everyday online service providers like Netflix, Amazon, and the Wall Street Journal. This discourages investment and relocation to the territory," the chamber said.

Chamber Board Chairman, Ryan Nelthropp, said, "Given our size and population, the territory simply does not have all the goods and supplies that consumers and businesses need in order to avoid utilizing online retailers."

The chamber said the proposed measure would further hamper access to goods and equipment and subsequently increase the cost of doing business in the U.S. Virgin Islands, once again. One newly opened small business shared that approximately 75 percent of the materials and equipment they needed to build their establishment was not available on St. Croix, the statement contended.

"Had they not been able to ship those items here, there would be no new business adding to the U.S. Virgin Islands' tax base. Additionally, most goods currently purchased by Virgin Islanders are not sold anywhere in the territory, the chamber stated, therefore, there will be a marginal (if any) increase in spending at local businesses. The bill is a job-killer, plain and simple," the chamber assailed.

It added, "Virgin Islands consumers and local businesses already face challenges with shipping goods to the islands because many retailers refuse to ship directly to the territory. Many of those retailers who do ship to the USVI only offer shipping via UPS or FedEx. This is cost-prohibitive given that these shippers charge international shipping rates.

"Those consumers and businesses in the territory who choose to ship via freight forwarders are saddled with Federal Excise Taxes. Adding a Gross Receipts tax on top of the complications already involved would be the death knell for online retailers, particularly smaller retailers who are willing to ship to the territory. Put simply, online sellers will likely determine that the new burdens outweigh the value of USVI sales and will simply not ship to the USVI."

The chamber said its board of directors and membership believe the bill is fiscally short-sighted and would cause undue stress to consumers and business owners in an already economically challenged territory.

"Imposition of this tax and the subsequent requirements to register licenses would effectively cut off Virgin Islands consumers and local businesses from necessary goods and services not available in the territory," the chamber said. "At best, it would dramatically increase costs to Virgin Islands consumers as businesses affected by this tax would either pass these increased costs on to the consumer in the U.S. Virgin Islands or cease to do business in the territory altogether. Either way, it is the consumers and local businesses here in the islands who lose."

A portion of the [bill](#) reads, "For purposes of this chapter, an individual, firm, corporation, or other association without a physical presence in the Virgin Islands is considered to be doing business in the Virgin Islands and is subject to the tax imposed by this section with respect to the gross receipts from qualifying transactions that are sourced to the Virgin Islands, if the individual, firm, corporation, or other association actively solicits sales in the Virgin Islands, and the gross receipts from qualifying transactions in the previous calendar year or current calendar year exceeds one hundred and eight thousand dollars.

The proposed measure was [brought to the fore](#) by the Consortium Wednesday, which led to its swift rejection by the community and strong backlash against its author, Mr. Francis, with Governor Bryan joining the senator.

Mr. Francis was interviewed by the Consortium Wednesday, during which he tried to explain his intention. Mr. Francis said he believes the territory should collect taxes already levied on items Virgin Islanders ship to other states before those items are then reshipped to the territory. To backup his stance, the senator pointed to a 2018 Supreme Court ruling (*South Dakota v. Wayfair*), which said states can mandate that businesses without a physical presence in a state with more than 200 transactions or \$100,000 in-state sales, collect and remit sales taxes on transactions in the state.

"There's an opportunity for us to recoup those funds but in order for us to do that we have to have a local" online sales tax law," Mr. Francis said.

To Mr. Francis, this means, for example, the Virgin Islands government could collect taxes on items Virgin Islanders purchase through online retailers that are shipped to any of the mainland U.S. states. These taxes, already levied on the items, should be remitted to the Virgin Islands government, Mr. Francis understood *South Dakota v. Wayfair* to mean. However, how it works is the tax is levied based on the state where the items are being shipped. For example, items being shipped to Georgia would activate Georgia's sales tax law; items being shipped to California would activate California's sales tax law, and so on. Therefore, the only clear path to online sales taxation for the local government is for items Virgin Islanders purchase online that are being shipped directly to the territory.

Additionally, Mr. Francis did not expound on language in his measure that seeks to levy the tax on online services such as Netflix and Amazon Prime Video.

On Thursday Mr. Francis said on Facebook that he would not rush the measure. "Let's be clear-I'm not rushing this bill. I hear your questions and valid concerns, which I plan to address at an upcoming town hall."

Below, a Lavalier Wireless Camera Microphone System, which costs \$399, totals \$410.73 after shipping and handling. This item is being shipped directly to the USVI where there is currently no sales tax.

[Place your order](#)

By placing your order, you agree to Amazon's [privacy notice](#) and [conditions of use](#).

You also agree to AmazonGlobal's [terms and conditions](#).

Order Summary

Items:	\$399.00
Shipping & handling:	\$11.73
<hr/>	
Total before tax:	\$410.73
Estimated tax to be collected:	\$0.00
<hr/>	
Order total:	\$410.73

But the same item costs \$431.70 when being shipped to Georgia because of the state's internet sales tax law.

Place your order

By placing your order, you agree to Amazon's [privacy notice](#) and [conditions of use](#).

Order Summary

Items:	\$399.00
Shipping & handling:	\$8.26
Total before tax:	\$407.26
Estimated tax to be collected:	\$24.44

Order total: \$431.70

[How are shipping costs calculated?](#)

Virgin Islanders are forced to ship their items to mainland states before those items are sent by relatives and friends from those states to the territory because many businesses in the U.S. view the U.S. Virgin Islands as an international destination and therefore do not ship directly to the territory. Mr. Francis did not say whether he had embarked on an effort to have the USVI be recognized as a U.S. jurisdiction that should be treated as other U.S. jurisdictions relative to the shipping of goods.