Testimony of Tyler S. Wall of SD Bullion, Inc
OPPONENT OF
SALES TAX ON COINS, CURRENCY, AND BULLION
Before the Ohio House Finance Committee
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Chair and members of the Committee, thank you for the opportunity to testify in opponent of the latest budget proposal to impose a sales tax on the retail sales of coins, currency, and precious-metals bullion coins in Ohio.

My name is Tyler S. Wall. After working as a Pharmacist in Ohio, in 2011 I co-founded what has become the third largest precious metal dealer in the United States, SD Bullion, in Ottawa Lake, MI. Our business is located ½ mile from the Ohio border. When we founded the company, Ohio taxed precious metals both through the Commercial Activity Tax (CAT) as well as retail sales tax. The Ohio Commercial Activity Tax (CAT) taxes all precious metal sales from retailers and wholesalers into the state of Ohio that meet the CAT inclusion bylaws. Both of these taxes resulted in SD Bullion being founded out of my resident and preferred state, Ohio.

What are Precious Metal Coins and Bullion?

Precious metal coins, bars, and rounds are produced by national and private mints throughout the world, including the United States Mint of the United States, Royal Canadian Mint of Canada, and Royal Mint of the United Kingdom. For a number of individuals, precious metals offers an important hedge against certain monetary events. Demand for precious metals has soared over the last decade due to Federal Reserve policy decisions including Quantitative Easing (QE). Over the last 100 years, the dollar has lost 95% of its purchasing power in dollar denominated terms versus physical goods and 97% of it's purchasing power against an ounce of gold. An increased number of individuals are also diversifying part of their IRAs and other retirement vehicles into precious metals to reduce the risk of currency fluctuations.

How does Ohio Tax Policy prevent the third largest precious metal retailer, SD Bullion, from relocating a ½ mile into Ohio?

Quite simply, the precious metal market has wholesale margins which average between 0-0.5% and online retail margins of 0.5-1% across the commonly traded products. Suppliers would not be able to absorb the 0.26% CAT tax into their margins at our volumes. If the supplier used a separate rate card, we would be unable to be competitive on the online marketplace as a nearly 100% eCommerce retailer. Furthermore, a retail sales tax also would eliminate the possibility of competitively priced local pickup and from an affiliated storage business, SD Depository, from operating. A business we expect to grow to over 1 billion within the next 5 years.

What have other states concerning tax as it relates to precious metals?

As part of my testimony, I will be referencing the work of Patrick A. Heller, a respected CPA and owner of Liberty Coin Service in Lansing, Michigan. Patrick Heller has conducted years of research on the financial impact of sales tax on precious metals in various states. When Michigan enacted a precious metal tax exemption in 1999, the House and Senate fiscal agencies and the Michigan Treasury used Patrick Heller's calculation of forsaken tax collections in their analyses. Patrick also conservatively forecasted the likely increase in Michigan tax collections under a precious metal sales tax exemption which was enacted, and later documented that the actual increase in tax collections was nearly double what Patrick had estimated. Patrick's analyses of both tax expenditures and documented increases in state Treasury tax collections were subsequently used to support successful efforts to adopt sales and use tax exemptions for precious-metals bullion, rare coins, and currency in Alabama, Indiana, Iowa, Minnesota, Nebraska, North Carolina, Oklahoma, Ohio (2017), Pennsylvania, South Carolina, and Virginia. These same analyses were used to expand the tax exemptions in Texas and Louisiana (and also to restore the exemption in Louisiana after it was suspended in 2016). Most recently, the West Virginia legislature has passed similar exemptions; these have not yet been signed into law.

I am here to address three main issues about which legislators around the country have expressed concern. First, I discuss the question of whether enacting a sales tax exemption for money and not for other tangible property is fair. Second, I discuss why precious metals and rare coins merit a sales-and-use-tax exemption, while other assets sometimes purchased as investments (such as rare stamps, works of art, antiques, and the like) do not. Third, I review the limitations of a static tax-impact analysis versus a dynamic analysis.

<u>1. Is it fair to exempt money but no other tangible property?</u>

Precious-metals bullion, rare coins, and currency have a major distinction from other tangible assets that are subject to sales and use tax. Sales and use taxes are consumption taxes on assets that are consumed or used. In contrast, precious-metals bullion, rare coins, and currency are not consumed. Often, they are acquired as investments to be sold. Others are acquired for the enjoyment of a hobby but are still preserved carefully with an eye toward future sale. They are not worn, used, or otherwise consumed.

The Internal Revenue Service and the Arkansas Treasury confirm that precious-metals bullion, rare coins, and currency are capital assets that are not consumed. Both tax agencies anticipate that these assets will be sold and that the owners will report and pay income taxes on their profits from the sales. In fact, the IRS has a Form 1099-B, which is used by coin dealers to report to the IRS some bullion and coin purchases from the public.

2. Why it is appropriate to "draw the line" with the rare coin and precious metals exemption?

- It parallels the intent of Federal legislation that permits Individual Retirement Accounts to own these products but no other tangible personal property.
- It parallels legislation in over thirty states, none of which extend exemptions to stamps, art, antiques, diamonds, and so forth.
- It parallels the scope of investment advice given by many prudent investment advisors, who recommend only these forms of tangible personal property.
- The state of Utah exempts gold and silver gains and losses from Utah income taxes; the state of Arizona now exempts gains and losses from US gold, silver, and platinum coins from that state's income taxes.
- Rare coins are or have been "legal tender" in their land of issue, a status not shared by other tangible personal property.
- The U.S. Constitution specifically grants the Federal government the authority to coin money, but no explicit powers to manufacture any other tangible personal property.
- The United States Mint manufactures commemorative rare coins and proof versions of circulating coinage. It sells them at prices well above precious metal or face value. The U.S. government has no other programs to manufacture and sell art, antiques, gems, and so forth.
- Investment brokerage firms, including Merrill Lynch, have often established investment funds for the sole purpose of acquiring rare coins. To my knowledge, no comparable investment funds have ever been created for investments in other tangible personal property.

- Investment brokerage firms have established exchange-traded funds for trading gold, silver, platinum, and palladium. I am not aware of exchange-traded funds established to invest in stamps, art, antiques, gems, or other collectible tangible personal property.
- Directly underneath the masthead of The Wall Street Journal are listed key financial indicators, including the price of gold. No information appears there for stamps, art, antiques, gems, or other collectible tangible personal property.

3. Static versus dynamic tax analysis.

State treasuries and legislative fiscal agencies use a static analysis of the impact of tax-law changes. A static analysis asks, "If a sales tax exemption is enacted, how much in existing tax collections would be lost?"

However, if only the forsaken taxes are calculated, with no consideration of the change in behavior of Ohio residents after a tax change occurs, the overall impact on total tax collections will be inaccurate. Instead, a dynamic analysis is needed to reflect the impact of changes to other OhioTreasury tax collections.

From Patrick Heller's work with the agencies in Michigan, he discovered that there is no approved methodology for state treasuries and fiscal agencies to do a dynamic analysis. I believe Patrick Heller's finding of the coin-dealer industry's changes in Michigan, once the exemption was adopted, will help this committee in approximating a dynamic analysis.

- From the enactment of the exemption in 1999 to the end of 2011, there was a 67% increase of coin dealerships in Michigan. About half of this increase was from new businesses opening, and about half was from existing businesses expanding their operations to also become coin dealers.
- Coin-dealer employment levels more than doubled over this time frame, and total payrolls increased by an even greater amount. The increase in coin-dealer payrolls in Michigan generated additional sales tax collections that more than offset tax collections lost because of the exemption. This coin-dealer employment increase occurred while Michigan as a whole was suffering a decline in employment.
- As coin dealers drew more customers for exempt merchandise, they also drew more customers for merchandise they handled that were still subject to sales tax. Major categories of such

products handled by coin dealers were jewelry, antiques, sports cards, other collectibles, and hobby supplies.

- As the number of coin dealers increased and their volumes rose, business tax collections from these companies rose.
- Further, the hospitality industry in Michigan increased tax collections as more coin shows were sponsored in the state, which encouraged more out-of-state dealers to spend money in Michigan.
- Michigan Treasury collected greater sales taxes after the exemption and greater amounts of other taxes was confirmed nationwide by the Industry Council for Tangible Assets 2016 national survey of actual 2015 sales, sales tax collections, and coin show attendance.

OTHER QUESTIONS AND CONCERNS

Why would Michigan coin dealers experience such growth after an exemption was established?

- Affluent investors currently can afford to purchase in bulk quantities out of state and have their purchases stored at specialized depositories in Delaware. Our experience is that many such purchasers would prefer to deal face-to-face when make sizeable transactions.
- Alternatively, affluent investors can afford to purchase gold, silver, platinum, or palladium contracts on commodity exchanges, which are purchases not subject to sales and use taxes in any state. If able to purchase comparable physical products from local dealers, many if not most customers alter their buying habits to do so.
- Because of thin profit margins on bullion products, the sales tax is a major impediment to potential buyers.

Who would benefit from the continued exemption?

Ohio residents can easily purchase precious-metals bullion and rare coins from sellers in Michigan, Indiana, Pennsylvania, West Virginia (July 1, 2019) and 33 other states, and then arrange for out-of-state storage. Generally, the more affluent use such arrangements.

There are several constituencies that would benefit from continuing the precious-metals exemption. Among the beneficiaries would be:

- Ohio Treasury, with increased tax collections
- Future owners and employees of new business that will be made possible
- Ohio workers, with more jobs and higher pay
- Ohio smaller-scale investors, who can deal locally without the burden of sales and use taxes, which affluent investors can easily achieve by purchasing commodities or arranging for storage in Delaware.
- Ohio consumers, who are better protected by dealing with local businesses than with strangers
- Ohio senior citizens, who will have more resources to avoid scam artists

All these benefits and more were realized in Michigan with no net cost to the state Treasury or Michigan taxpayers.

Thank you for the opportunity to submit this testimony.