

**IN SUPPORT OF**

**LD 372: Providing a Sales and Use Tax Exemption for Sales of Gold and Silver Coins and Bullion**

Submitted before the Committee on Taxation for the Public Hearing on February 12, 2025

Chairman Grohoski and members of the Committee, because the state of Maine has not yet adopted a sales and use tax exemption on retail sales of gold and silver coins and bullion, businesses and citizens of the state suffer economically, and the state government treasury almost certainly collects lower total taxes.

I write in support of LD 372 to establish a sales-and-use-tax exemption in Maine for the retail sales of gold and silver coins and bullion. My name is Patrick A. Heller. After working as a CPA in Michigan, in 1981 I became the owner of Michigan's largest coin dealer, Liberty Coin Service, in Lansing. When Michigan enacted a sales and use tax exemption on retail sales of gold, silver, and platinum bullion and all legal tender coins in 1999, the House and Senate fiscal agencies and the Michigan Treasury used my calculation of forsaken tax collections in their analyses. I also conservatively forecasted the likely increase in Michigan tax collections if the exemption was enacted. I later documented that the actual net increase in Michigan tax collections was nearly double what I had estimated. My 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 and coins in Alabama, Arkansas, Indiana, Iowa, Kansas, Kentucky, Minnesota, Mississippi, Nebraska, New Jersey, North Carolina, Oklahoma, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, Wisconsin, and Wyoming. These same analyses were used to expand the tax exemptions in Texas and Louisiana (and to restore the exemption in Louisiana in 2017 after it was suspended in 2016).

I write to address three issues about which legislators around the country have expressed concern. First, I discuss weaknesses in the methodology used by state governments to calculate the tax expenditure of such exemptions that invariably result in a huge over-projection of lost sales and use tax collections. Second, I discuss the question of whether enacting a sales tax exemption for money and not for other tangible property is fair. Third, I discuss why precious metals and 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.

**1. Methodological weaknesses in calculating the tax expenditure of a precious metal bullion sales tax exemption.**

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 Maine 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 on other Maine state government tax collections.

From my work with the agencies in Michigan, I learned that there is no approved methodology for state treasuries and fiscal agencies to do a dynamic analysis. I believe my findings 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, I tracked 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. For my own company, from 1997 to 2011, total employment and contractors increased 243%, while total payroll increased more than 800%. Michigan Treasury research has determined that 38.5% of payrolls are spent on merchandise for which Michigan sales tax is collected. The increase in coin-dealer payrolls in Michigan generated additional sales tax collections that more than offset tax collections lost (tax expenditure) because of the exemption. I would also like to point out that this coin-dealer employment increase occurred while Michigan as a whole was suffering a decline in employment.
- Industry sales soared. According to Dun & Bradstreet information in 1995, my company accounted for about 15% of sales by coin dealers in Michigan. From 1997 to 2011, my company's out-of-state retail and wholesale sales and Michigan wholesale sales increased about 673%. Our Michigan retail sales during this time increased more than 2,500%. Yes, volume increased across the board, but there was a definite major volume increase specifically resulting from the new tax exemption. Before the exemption was enacted in Michigan, my company rarely saw in-state retail sales of precious-metals bullion or coins amounting to more than \$1,000. An analysis of my company's Michigan retail sales for the year 2011 showed that 94% of total sales volume was for transactions of \$5,000 or higher. (Special note: State treasuries and legislative fiscal agencies do not realize how price-sensitive customers are to have to pay sales and use taxes on precious-metals bullion and coin investments. Therefore, they almost always assume that states that impose such taxes on these sales still have as much per capita in-state retail sales as do states that grant exemptions. There have been several one-time surveys done on coin dealer sales tax collections over three decades up to about 2018 of sales tax collections for the retail sales of precious-metals bullion and coins, almost no state treasuries collected more than \$500,000 per year).
- 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. A national survey conducted in 2016 by the National Coin & Bullion Association (the trade name for the Industry Council for Tangible Assets or ICTA), the coin and precious metals dealer national trade association, found that in states with precious metal bullion and coin sales and use tax exemptions, dealer sales of merchandise still subject to sales tax increased so much that, on average, replace two-thirds of tax collections lost from the exemption.

- As the number of coin dealers increased and their volumes rose, business tax collections from these companies rose.
- For my own company, from 1997 to 2011, our total Michigan tax collections increased 216% despite the drop in sales taxes collected on our Michigan retail sales. Over the same period, our Lansing tax payments increased by more than 1,100% and our local advertising expenditures increased more than 480%!
- 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.
- My research indicated that the Michigan Treasury collected greater sales taxes after the exemption and greater amounts of other taxes was confirmed nationwide by the National Coin & Bullion Association 2016 national survey of actual 2015 sales, sales tax collections, and coin show attendance.

It appears that there is not yet a fiscal note for LD 372. The *2016 Numismatic Dealer Directory* showed 27 coin dealerships in Maine. From the NCBA 2016 dealer directory, the national average of annual coin and bullion sales by dealers in states that assessed sales and use taxes on such products came to just over \$104,000. That indicates annual Maine statewide sales of under \$3 million. At Maine's 5.5% sales tax rate, a potential tax expenditure for in-state businesses would be less than \$165,000. This projection does not include an amount remitted to the Maine Treasury by out-of-state dealers required to collect Maine sales tax.

This result was comparable to a 2020 survey among all coin dealers with brick-and-mortar stores or offices in Arkansas as part of the successful effort in that state in 2021 to adopt a sales and use tax exemption on gold, silver, platinum, and palladium bullion, all legal tender coins, and all legal tender currency. Total sales tax collections from all merchandise came to about \$200,000. However, the business that collected the highest sales taxes of about \$100,000 of this amount was a second-hand store. About \$98,000 of the sales taxes it collected were for merchandise other than bullion, coins, and currency. Arkansas' population is more than double that of Maine.

Retail sales of precious metals bullion, coins, and currency involve much lower profit margins than other retail sales. For gold and silver bullion and coins, for example, the merchant's profit margin is usually 1% to 5%. That makes the imposition of sales and use taxes on gold and silver bullion and coins a major obstacle to potential investors. For example, in 1994, the state of Michigan increased its sales tax rate from 4% to 6%. Our company's sales tax collections in the 12 months before the increase were almost exactly the same as our sales tax collections in the 12 months from the date of the rate increase. That happened because our sales of taxable merchandise fell by almost exactly one-third!

Michigan adopted a precious metals bullion and investment coin sales and use tax exemption in 1999. Our sales taxable sales, almost all for precious metal bullion and coins, were only 12.8% of our total sales in 1997; by 2011 in-state sales tax exempt precious metals bullion and coin sales had climbed to 33.8% of total annual sales.

Having to charge sales tax on the in-state retail sales of precious metals bullion and investment coins is especially significant to more affluent customers. When my company had to charge sales tax on such products, transactions of \$5,000 only accounted for about 1% of our in-state retail sales in 1997. By 2011, when our in-state retail sales had grown more than 2,500% from 1997 (while out-of-state and in-state wholesale sales only rose 500-700%), 94% of our in-state retail sales volume came from transactions of \$5,000 and larger.

Affluent people interested in owning precious metals bullion have a variety of options to make such purchases where no Maine sales or use taxes would be due. Among them are:

- Precious metals commodity futures contracts
- Shares of precious metals exchange traded funds
- Shares of precious metals mining companies
- Purchases of physical precious metals and coins stored in Delaware vaults
- Purchase of certificates of physical precious metals stored in the vaults of the Perth Mint in Australia, Royal Mint in England, or the Royal Canadian Mint

Maine residents have another alternative to acquire precious metals bullion and investment coins. They can drive to New Hampshire or even Massachusetts to make their purchases there and store them in safe deposit boxes in those states. We saw similar actions by Indiana residents before that state adopted its sales tax exemption on precious metals bullion and investment coins. Even though my company's store was seventy miles north of the Indiana border, we had many Indiana residents drive to our store to make purchases, then store them in the safe deposit boxes in one of the seven banks and credit unions around the shopping center where my company operated.

With the experience in Michigan and confirmed in other states that have adopted precious metals bullion and investment coins sales and use tax exemptions, state treasuries can expect a net increase in tax collections because of

- Greater sales of other merchandise sold by coin dealers still subject to sales tax such as jewelry, antiques, sports cards, other collectibles, and hobby supplies. The 2016 dealer survey

found that higher such sales in exempt states generated higher sales tax collections to replace about two-thirds of the tax expenditure of the exemption.

- Higher sales tax collections resulting from greater payrolls in the Maine coin dealer industry. The Michigan Treasury study in the 1990s calculated that 38.5% of payrolls were spent on merchandise on which Michigan sales tax was collected. The increase in Michigan's coin dealer employment replaced more than 100% of the tax expenditure of the exemption.
- The increase in the number of coin dealer businesses also generates additional Maine tax collections. From 1999 when Michigan's sales tax exemption took effect to 2011, the number of businesses rose about two-thirds, of which about half were new businesses and half were existing businesses that expanded their product line.
- States with sales and use tax exemptions on precious metals bullion and investment coins also have a greater number of coin shows and larger attendance at such shows, resulting in greater sales by lodging establishments, restaurants, gasoline stations, and general retailers.

## **2. Is it fair to exempt money but no other tangible property?**

Precious metal bullion and coins 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, coins and precious metal bullion 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 Maine Revenue Services confirm that precious metal bullion and coins are capital assets that are not consumed. The IRS anticipates 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 precious metals bullion purchases from the public.

## **3. Why it is appropriate to “draw the line” with a coin and precious metal bullion exemption?**

- It parallels the intent of Federal legislation that permits Individual Retirement Accounts to own many of these products but no other tangible personal property.
- It parallels legislation or regulations in forty-one 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.
- Coins and currency 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 coins and proof versions of circulating coinage. It sells them at prices well above precious metal or face value. The United States Bureau of Engraving & Printing manufactures commemorative versions of circulating currency that it sells at prices above face value. The U.S. government has no other programs to manufacture and sell art, antiques, gems, and so forth.
- Investment brokerage firms have often established investment funds for the sole purpose of acquiring 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.

## **OTHER QUESTIONS AND CONCERNS**

### **Why would Maine coin dealers experience such growth after an exemption was established?**

- Affluent investors have almost no financial benefit from enactment of this exemption since they already can afford to 1) purchase in bulk quantities out of state and have their purchases stored at specialized depositories in Delaware, 2) purchase shares of gold, silver, platinum, or palladium exchange traded funds, 3) purchase gold, silver, platinum, or palladium commodity futures or options contracts such as on the New York COMEX, or 4) purchase certificates of precious metals bars stored in the vaults of the Perth Mint in Perth, Australia, Royal Mint in the suburbs of London, England, or the Royal Canadian Mint in Ottawa, Canada—all of which are exempt from payment of Maine sales and use taxes. However, our experience is that many such purchasers would prefer to deal face-to-face when making sizeable transactions. In the circumstances of Liberty Coin Service, retail sales of \$5,000 or more only accounted for about 1% of our in-state retail coins and precious metals bullion sales in 1997 but rose to

account for 94% of our in-state retail coins and precious metals bullion sales in 2011 (where our total in-state retail coins and precious metals bullion sales in 2011 rose 2,500% from 1997).

- Because of thin profit margins on bullion products, the sales tax is a major impediment to potential buyers. In 1994, Michigan raised the sales tax rate from 4% to 6%. My company's in-state retail sales for the 12 months following the increase fell by almost exactly one-third from the 12 months before the rate increase. Therefore, our sales tax collections did not increase.

### **Who would benefit from the exemption?**

Maine residents can easily purchase precious metals bullion and coins from sellers in 46 states and then arrange for out-of-state storage. Generally, the more affluent use such arrangements.

There are several constituencies that would benefit from enacting LD 372 in Maine. Among the beneficiaries would be:

- Maine state government, with increased tax collections
- Existing Maine businesses, with higher profits
- Future owners and employees of new business that will be made possible
- Maine workers, with more jobs and higher pay
- Maine smaller-scale investors, who can deal locally without the burden of sales and use taxes, which affluent investors can easily achieve by purchasing commodities, shares of exchange traded funds, certificates of bullion stored outside of the US, or arranging for storage in Delaware.
- Maine consumers, who are better protected by dealing with local businesses than with strangers
- Maine senior citizens, who will have more resources to avoid scam artists
- Affluent Maine citizens, while not really benefiting financially, will be more willing to conduct business with local Maine businesses.

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

In Michigan, a high percentage of sales tax collections is explicitly allocated to education funding. For this reason, the Michigan Education Association automatically opposes sales tax exemptions. However, the MEA did not oppose this exemption and was rewarded when total sales tax collections increased.

As a final observation, LD 372 would establish a narrow sales and use tax exemption, covering only gold and silver coins and bullion. The other 46 states with no sales tax or have adopted similar exemptions almost all also provide an exemption for platinum and palladium bullion and all legal tender coins. Over the past decade,

the adopted exemptions mostly also exempt sales of legal tender currencies as well. On average, the wider the exemption, the greater business and jobs growth that results in even higher state tax collections.

Thank you for the opportunity to submit this written testimony. Should you have any questions, you are welcome to call me at 800-933-4720 or email me at [path@libertycoinservice.com](mailto:path@libertycoinservice.com). Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Patrick A. Heller". The signature is written in black ink and is positioned below the word "Sincerely,".

Patrick A. Heller

Industry Issues Advisor, National Coin & Bullion Association (2020–)

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Liberty Coin Service, Communications Officer and Owner Emeritus (2015-present), and Owner (1981–2014)