Testimony of the National Coin & Bullion Association Industry Issues Advisor Patrick A. Heller

OPPOSING THE REPEAL OF

New York Precious Metals and Coins Statute 1115(a)(27) of the Tax Law

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As confirmed by other states that took this action, should the state of New York repeal Statute 1115(a)(27) to eliminate a sales and use tax on precious metals and coins, the net result would be a further decline in state tax collections.

Thank you for allowing me to submit testimony regarding the State Fiscal Year 2025-26 Executive Budget Proposal. I am 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 analysis 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 have also been involved in four states where existing precious metals bullion and coin sales and use tax exemptions were eliminated or suspended—Colorado, Florida, Louisiana, and Ohio. After it was verified that eliminating these sales and use tax exemptions, all four of these states reinstated the same or similar exemptions.

1. **Colorado.** In the 1990s, Colorado eliminated its precious metals and coin sales and use tax exemption. The legislature overwhelmingly voted to reinstate it, but the governor twice vetoed the reinstatement. After the second veto, the legislature voted to override the governor's veto. One reason that the governor vetoed the reinstatement is that once such a tax exemption became law, a new requirement in the state was that it could only be eliminated by a majority of voters in an election, not by the legislature or administration.

2. **Florida.** Florida also eliminated its precious metals and coin sales and use tax exemption in the 1990s. When this occurred, over 100 coin shows in the state were either cancelled or moved to other states that did have such exemptions. The Orange County Convention & Visitors Bureau issued a statement that the hospitality industry lost $60 million in annual sales on which sales taxes were collected

because of the loss of coin shows. The state government then reinstated the precious metals and coin sales and use tax exemption.

3. **Louisiana.** Low oil and natural gas prices in 2015 led to major declines in severance tax collections in Louisiana, Oklahoma, and Texas. In response, the state government suspended 285 sales and use tax exemptions and tax credits for 27 months beginning in the spring of 2016. The State Senate Revenue and Fiscal Affairs Committee held hearings on each of these exemptions and credits to determine whether they should be reinstated as is at the end of the 27-month suspension, should be modified when reinstated at the end of the 27-month suspension, or whether the suspension should result in permanent elimination. In my testimony during this Senate Committee hearing on the precious metals and coin sales tax exemption, I cited information of what happened in Colorado, Florida, and Ohio where the elimination of this exemption resulted in lower total state tax collections. The Chair of the Committee objected to my testimony, and he was even quoted in the *New Orleans Times-Picayune* the next day attacking my remarks. When this Senator found out that the decrease of lower total tax collections (lower sales taxes, individual income taxes, and business taxes) exceeded my forecast, he was one of three legislators who led a successful effort in 2017 to re-enact a similar exemption. This was one of only four exemptions or credits reinstated before the end of the suspension period.

4. **Ohio.** Ohio's precious metals and coin sales and use tax exemption was eliminated in 2005 because of a political scandal involving a coin dealer. Six months after the revocation, *Coin World* reported that 100 coin dealerships in the state had either closed completely, laid off staff, or moved to another state that still has such a sales and use tax exemption. Further, every scheduled future major coin show in Ohio was cancelled or moved to another state. It took a few years for the effects of the scandal to dissipate, but Ohio enacted a similar precious metals and coin sales and use tax exemption.

A national survey conducted by the National Coin & Bullion Association of coin dealers, found that:

- Dealers in states with precious metals and coin sales tax exemptions compared to dealers in states without such exemptions generated greater in-store traffic, had higher sales and sales tax collection on other still-taxable merchandise such as jewelry, antiques, sports cards, other collectibles, and hobby supplies that, on average, replaced about 2/3 of the exemption's tax expenditure.
- Dealers in states with precious metals and coin sales tax exemptions compared to dealers in states without such exemptions generated +926% higher in-state retail sales of precious metals and coins and also +766% higher out-of-state retail sales of precious metals and coins. This higher volume led to significant industry job creation in states with exemptions, which created higher sales tax collections (a 1990s study by the Michigan Treasury calculated that 38.5% of payrolls were spent on merchandise on which Michigan sales tax was collected), higher individual income tax collections, and higher business

tax collections. Collectively, these higher tax collections may exceed 100% of the exemption's tax expenditure.

- The survey also found far higher attendance at coin shows in states with precious metals and coin sales and use tax exemptions, though it did not quantify how much additional taxes were collected by the hospitality industry.

My own company's experience with gaining a sales and use tax exemption in Michigan was that when we had to charge sales tax on precious metals and coins only about 1% of our in-state retail sales were for transactions of $5,000 or more. Michigan adopted a precious metals and coin sales and use tax exemption in July 1999. By 2011, our in-state sales of precious metals and coins had increased +2,589% from what it was in 1997. Further, 94% of this volume involved transactions of $5,000 or larger!

As we have learned, affluent investors who desire to purchase precious metals and coins have alternative means of acquiring them where no sales taxes would be due. For example, they could purchase shares in a precious metals exchange traded fund, precious metals stored in the vaults of the Royal Canadian Mint, the Perth Mint in Australia, or the Royal Mint in England, commodity futures or options contracts, or precious metals or coins stored in vaults in Delaware or elsewhere out of state. Should the state of New York repeal Statute 1115(a)(27), most precious metals and coin sales now made in-state by New York businesses would either shift to these alternatives or buyers would simply travel to nearby states that do have these exemptions to make their purchases. Effectively, the New York State Treasury would gain minimal additional tax collections from repealing this exemption.

Precious metals and coins are already taxed as non-consumption investments by the Internal Revenue Service and the state of New York when owners sell such assets as a gain. It does not make sense to also subject these same investments as taxable consumption items when purchased.

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. Thank you for your consideration.

Sincerely,

Patrick A. Heller

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