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Taxation of Internet and Catalog Sales

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In-state retailers, whether downtown or at the mall, compete directly with on-line and catalog retailers for customers. A healthy local retail sector is an important source of local government revenue and local service employment. It is also an important dimension of quality of life that attracts and retains business firms and higher income residents. But the internet and catalog vendors with whom local retailers compete are in many cases not required to collect and remit sales taxes to state and local governments. The customer has an obligation to pay use tax, but the state has no power to require these out-of-state vendors to collect sales tax on its behalf under several Supreme Court decisions. Some online retailers have warehouses and retail outlets that create a physical presence of nexus in the state that allows a state to require them to collect the sales tax—Barnes and Noble, for example, or Sears or Target, which have both on-line retailing as well as many local stores. Some use tax is also collected through the state income tax with a line for voluntary declaration by individuals. The revenue loss is substantial. A University of Tennessee study estimated that uncollected sales taxes on e-commerce cost states \$7.7 billion in 2008—about \$170 million a year for the average state.

In-state retailers in South Carolina are operating under a 6% price disadvantage compared to their internet competitors—7% in the 29 counties with local option sales taxes. While internet vendors argue that they have to incur shipping costs, local retailers also have high costs for maintaining a physical facility (including parking) and a local sales staff. There is no reason why the state of South Carolina should consent to creating a 6% to 7% handicap for our retail firms, who also create local jobs and contribute property tax revenue, business license fee revenue, and sales tax revenue to the South Carolina public sector.

The sales tax is a destination principle tax. That is, economic theory supports the contention that most of the burden of this tax falls on the buyer rather than the seller, even if it is the responsibility of the seller to collect and remit the tax. The sales tax is also a measure of ability to pay taxes, based on consumption spending. Those buyers who evade sales taxes by purchasing through catalogs or over the internet are not contributing their fair share to the cost of the public services that they enjoy, shifting that burden to other citizens and other taxes, such as the property tax. Because internet access is less available to low income households, the exemption of most internet sales from state and local sales taxes makes those taxes even more regressive.

The Supreme Court decision in the Quill case (1994) turned the issue of permitting taxation of interstate mail order and internet sales back to Congress to decide by saying that it was not a due process issue, merely regulation of interstate commerce. In other words, Congress has the power to permit states to require internet vendors to collect sales tax. The Multistate Tax Commission has worked hard to make state sales tax bases more uniform in order to facilitate compliance with state and local sales taxes by catalog and internet vendors. The State of South Carolina could take part in this effort to equalize the playing field between in-state retailers and internet vendors by urging our Congressional delegation to support legislation that would allow states to collect sales taxes on internet and catalog sales in their respective jurisdictions.



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