



E-COMMERCE SPECIAL REPORT:

Secrets of Internet Sales Tax

By Robyn Weisman
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Issues like county and city sales taxes, let alone foreign duties, can further complicate an already convoluted scenario, VeriSign's Brian O'Shaughnessy said, noting that a nationwide agreement is essential to solving the online tax dilemma.

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In recent months, a few large e-tailers, including [Target.com](#) and [Walmart.com](#) (NYSE: WMT), started charging sales tax on purchases made through their sites. Although this event took place largely without fanfare, it marked a watershed moment in the history of online commerce.

If more e-businesses hop on the bandwagon in coming months, the trickle may become a trend. The timing certainly seems right: With many state governments facing record budget deficits, pressure to levy sales tax online is likely to increase.

The big question is whether or not e-tailers are ready for the legal labyrinth that awaits them. Just thinking about the Internet sales tax issue can be enough to bring on a migraine headache.

"It's a hugely complicated patchwork of different state, local and county taxes, and then there's the issue of use and excise taxes. I can't imagine changing overnight," [Forrester](#) research director Kate Delhagen told the E-Commerce Times. "There's no rhyme or reason, and it's only gotten more complicated."

How can e-businesses make sense of this mess? And are there any viable solutions to what Delhagen termed "a political hot potato"?

Lingering Quagmire

Paul Ritter, program manager for Internet business strategies at the [Yankee Group](#), described the taxation of e-commerce sales as a quagmire that has been the source of debate and lobbying efforts for years. As such, the issue probably will not be settled anytime soon.

"There are many competing interests, with states, federal government agencies, retailers and pure-play e-tailers each having a different view," Ritter told the E-Commerce Times. "It is unlikely that substantive changes will occur in the near term that won't be the subject of appeal or consumer backlash."

Brian O'Shaughnessy, director of corporate communications at VeriSign, told the E-Commerce Times that it is an onerous task to make sure tax authorities obtain their appropriate dues from online businesses without risking that such fees will negatively impact the health of those businesses.

O'Shaughnessy, whose company processes approximately 25 percent of all transaction payments online, also noted that e-commerce sales are one of the few growing areas of the economy.

The Importance of the Nexus

The U.S. federal government historically has defined the nexus of a company as the place where it maintains a physical presence. For example, if a company's headquarters were located in California, its nexus would be in California, and it would be required to collect sales tax there.

However, the nexus issue does not stop with headquarters. If the same company had stores or branch offices in other states, each of those states would be considered a nexus as well, with the same tax responsibilities applying to the company. If the company had a nationwide presence (as do national chains like Wal-Mart and Target), it would be responsible for collecting taxes in all states.

In a nutshell, Dick Anderson, supervisor of special projects in the sales and use tax department of the California State Board of Equalization, told the E-Commerce Times that a company's nexus determines its responsibility for charging sales tax in a given state.

Anderson added that the U.S. Supreme Court has issued several rulings pertaining to interstate and foreign commerce. In effect, these rulings have stated that companies cannot be forced to collect sales tax unless they have what is considered a sufficient nexus in a particular state.

Where To Tax

According to O'Shaughnessy, however, determining what qualifies as a nexus can be an elusive exercise at a time when Web and other technologies are blurring borders between states -- and even between countries.

He described a scenario in which an Illinois resident, using a California credit card based out of a New Jersey bank, purchases a tangible piece of personal property from a Florida company as he crosses that state's border on his Wi-Fi phone and then specifies that the item be shipped to his aunt in Massachusetts. Who should collect sales tax revenue in this scenario? The answer is clear as mud.

Issues like county and city sales taxes, let alone foreign duties, can further complicate an already convoluted scenario, O'Shaughnessy added.


"The algorithm to figure it out is so immense as to be an impossible task," he said, noting that a nationwide agreement is essential to solving this dilemma.

Herding Tax Cats

Many others seem to have reached a similar conclusion. Forrester's Delhagen noted that in the last couple of years, a coalition of nearly 40

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state governors has been lobbying to simplify the Internet sales tax morass. Given all the variations between what percentage a state (or county or city) charges for sales tax and which items are taxable (for example, clothes are not taxed in Massachusetts, while Oregon has no sales tax whatsoever), the task is akin to "herding cats."

Delhagen explained that in order to simplify the tax code, states must agree to a few common numbers and then decide which categories of items will be taxed. Although an overnight solution is unlikely, she said she expects to see progress on this issue in the next decade.

"Anything with the word 'tax' in it causes blood pressures to rise because the assumption is that taxes will be raised," Delhagen said, "when in fact some consumers may actually benefit" from reform. [ENR](#)

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