Streamlined Sales Tax Project

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The Challenge to State and Local Governments From Remote Sales

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It's a matter of simple fairness.

Alliance for Main Street Fairness (AMSF)

Why Change The Law

The Current System Is Flawed: Common sense would dictate if someone buys a product online, they should pay the same sales tax as anyone would if they had gone to the store in person.

But a massive loophole is being exploited whereby online-only retailers aren't collecting sales tax at the point of sale despite the fact that the tax is still due; and small brick-and-mortar businesses are at a significant disadvantage as they are collecting the tax as required by law. This is an antiquated system that needs to be modernized for 21st Century commerce.

The truth is: a sale is a sale is a sale. Whether it takes place online or at a local business, a sale is made, a transaction has occurred and the sales tax is owed. The same rules should apply online that apply on Main Street. It is a question of fairness and evenhandedness.

The Current System Hurts Small Businesses: The unfair disadvantage our local small businesses are experiencing leads to less commerce at brick-and-mortar establishments that contribute so much to our community. These employers can't compete with online giants that don't collect sales taxes and don't have the same local presence in our communities.

Local businesses support our civic organizations, sports teams and are permanent members our community. But unless the system is corrected, local retailers will become endangered species as they are being punished for following the law and collecting sales taxes, while their competitors are not.

The Current System Leaves Individual Consumers Vulnerable: Just because the online merchant doesn't collect the tax, it doesn't mean it is not due. Stores like Amazon and Overstock are leaving individuals who purchase items on their Web sites exposed as these purchasers are responsible for the tax themselves. In fact, individuals can be audited and penalized for any unmet tax obligation that hasn't been paid.

Each year, our tax forms make specific inquiries with regard to purchases made online or through other remote sellers and whether the sales tax was paid. Due to the fact that these online retailers do not collect the tax at the point of sale and do not inform purchasers that it is their responsibility to report the amount of sales tax due and pay it directly to the state, their customers are exposed as they have an unmet tax liability that could result in an audit.

The Current System Means States Will Create New Taxes: If some retailers continue collecting the sales tax at the point of purchase, while others exploit a loophole and do not, states that are currently experiencing massive budget deficits are going to increase other taxes and fees, like property taxes, sales taxes and/or income taxes, which is already happening across the country.

The reality is that states have massive deficits and unfunded mandates they cannot finance without additional revenue or cutting of essential services. It only makes sense to collect a tax that's already due before instituting new taxes on everyone.

It's important to understand that collecting the sales tax won't hurt small businesses that operate online; in fact, there will be exemptions for the smallest sellers and free tax assistance for people like eBay and Etsy sellers.

Lastly, we can take tax revenue generated from online sales that's already due and pay down deficits and get us back on track toward fiscal responsibility.

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Tax Loophole Punishing California & Small Businesses

California Budget Gap At $19 Billion For FY 2011

California Faces 19 Billion Dollar Budget Gap For Fiscal Year 2011

"California begins a new budget year Thursday without a spending plan in place and with no agreement imminent between state legislators and Gov. Arnold Schwarzenegger on how to close a $19.1-billion deficit." (Shane Goldmacher "California Budget Deadline Passes Without A Budget," *Los Angeles Times*, 7/1/10)

California Is On The Verge Of System Failure Due To The Budget Gap

"Case files piling up by the thousands, phones ringing off the hook, forced midweek courthouse closings and occasional brawls as frustrated citizens queue for hours to pay parking fines. 'People think we're becoming a Third World country,' said Ms. Sims, 55. 'They don't understand.' It's a story that's being repeated all across California – and throughout the United States – as cash-strapped state and local governments grapple with collapsed tax revenues and swelling budget gaps. Mass layoffs, slashed health and welfare services, closed parks, crumbling superhighways and ever-larger public school class sizes are all part of the new normal. California's fiscal hole is now so large that the state would have to liberate 168,000 prison inmates and permanently shutter 240 university and community college campuses to balance its budget in the fiscal year that begins July 1. 'We are on the verge of system failure,' warned Jean Ross, Executive Director of the California Budget Project, an independent think tank based in Sacramento." (Barrie McKenna, "California On 'Verge Of System Failure'," CTV News, 6/20/10)

According To A National Conference Of State Legislatures Report, The State Of California Will Face A Budget Deficit Of 35 Billion Dollars For The Fiscal Years 2011/2012. (2010 March Budget Update, National Conference Of State Legislatures)

State Of California Budget Gap For The Fiscal Years 2011 And 2012

2011 California: $13.8 Billion (2010 March Budget Update, National Conference Of State Legislatures)

2012 California: $21.262 Billion (2010 March Budget Update, National Conference Of State Legislatures)

California Will Lose Billions In Revenue From E-Commerce Sales

According To A University Of Tennessee Study, The State Of California Will Lose More Than 3.5 Billion Dollars In Revenue From E-Commerce Sales For The 2011/2012 Fiscal Years. (Donald Bruce, William F. Fox, William B. Stokely & LeAnn Luna, "State And Local Government Sales Tax Revenue Losses From Electronic Commerce," University Of Tennessee, 4/13/09)

Key State E-Commerce Revenue Losses For The Fiscal Year 2011

2011 California: $1.694 Billion (Donald Bruce, William F. Fox, William B. Stokely & LeAnn Luna, "State And Local Government Sales Tax Revenue Losses From Electronic Commerce," University Of Tennessee, 4/13/09)

2012 California: $1.904 Billion (Donald Bruce, William F. Fox, William B. Stokely & LeAnn Luna, "State And Local Government Sales Tax Revenue Losses From Electronic Commerce," University Of Tennessee, 4/13/09)

SSTP Member States Have Collected Over $350 Million In Tax Revenue Since 2005

"Since October 1, 2005, approximately 1,150 remote retailers have volunteered to collect out–of-state sales taxes for these states. To date member states have collected over $350 million in new sales tax revenues from these volunteer sellers, which previously would have been uncollected." (Website, National Conference Of State Legislatures, Accessed 7/11/10)

Streamlined Sales Tax Statistics

State Budget Deficits Highest Since Recession Began

State Budget Deficits Will Be In The Billions For The Fiscal Year 2011

"Indeed, states' budget deficits will likely hit $140 billion in fiscal 2011, the highest since the recession began, said the Center on Budget and Policy Priorities. As a result, up to 900,000 public- and private-sector workers may lose their jobs over the year." (Romy Varghese, "Even State Capitals Feel The Squeeze," *The Wall Street Journal*, 7/7/10)

According To A National Conference Of State Legislatures Report, 39 States Will Face A Budget Deficit Of Nearly $89 Billion Dollars For The Fiscal Year 2011. (2010 March Budget Update, National Conference Of State Legislatures)

Key State Budget Deficits For Fiscal Year 2011

California: $13.8 Billion (2010 March Budget Update, National Conference Of State Legislatures)

Florida: $2.2 Billion (2010 March Budget Update, National Conference Of State Legislatures)

New York: $9.02 Billion (2010 March Budget Update, National Conference Of State Legislatures)

North Carolina: $1.4 Billion (2010 March Budget Update, National Conference Of State Legislatures)

Texas: $4.6 Billion (2010 March Budget Update, National Conference Of State Legislatures)

States Will Lose Billions In Revenue From E-Commerce Sales

According To A University Of Tennessee Study, States Will Lose $10.135 Billion Dollars In Revenue From E-Commerce Sales. (Donald Bruce, William F. Fox, William B. Stokely & LeAnn Luna, "State And Local Government Sales Tax Revenue Losses From Electronic Commerce," University Of Tennessee, 4/13/09)

Key State E-Commerce Revenue Losses For The Fiscal Year 2011

California: $1.694 Billion (Donald Bruce, William F. Fox, William B. Stokely & LeAnn Luna, "State And Local Government Sales Tax Revenue Losses From Electronic Commerce," University Of Tennessee, 4/13/09)

Florida: $715.1 Million (Donald Bruce, William F. Fox, William B. Stokely & LeAnn Luna, "State And Local Government Sales Tax Revenue Losses From Electronic Commerce," University Of Tennessee, 4/13/09)

New York: $770 Million (Donald Bruce, William F. Fox, William B. Stokely & LeAnn Luna, "State And Local Government Sales Tax Revenue Losses From Electronic Commerce," University Of Tennessee, 4/13/09)

North Carolina: $190 Million (Donald Bruce, William F. Fox, William B. Stokely & LeAnn Luna, "State And Local Government Sales Tax Revenue Losses From Electronic Commerce," University Of Tennessee, 4/13/09)

Texas: $774.4 Million (Donald Bruce, William F. Fox, William B. Stokely & LeAnn Luna, "State And Local Government Sales Tax Revenue Losses From Electronic Commerce," University Of Tennessee, 4/13/09)

SSTP Member States Have Collected Over $350 Million In Tax Revenue Since 2005

"Since October 1, 2005, approximately 1,150 remote retailers have volunteered to collect out –of-state sales taxes for these states. To date member states have collected over $350 million in new sales tax revenues from these volunteer sellers, which previously would have been uncollected." (Website, National Conference Of State Legislatures, Accessed 7/11/10)

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MYTH: This is a new tax.

FACT: This is not a new tax. Purchases made online are still subject to the sales tax; however, when an online retailer fails to collect that tax, it falls to the consumer to report that tax on their state income tax return. This is a confusing and unnecessary burden for a consumer that needs to be addressed in a 21st Century economy.

MYTH: Putting in place legislation that requires every retailer – whether brick and mortar or online – to collect the sales tax at the point of purchase is nothing more than a tax increase.

FACT: That is not the case. This is an issue about fundamental fairness. A sale is a sale is a sale. Whether it takes place on the Internet or at a small business, the same rules should apply online that apply on Main Street. A massive loophole is being exploited whereby online-only retailers aren't collecting the sales tax at the point of purchase despite the fact that the tax is still due, and small businesses are at a significant competitive disadvantage as they are collecting the tax as required by law. This is an antiquated system that needs to be modernized for 21st Century commerce.

MYTH: Requiring online retailers to collect the sales tax online will result in less Internet commerce and hurt both the economy of these states and the nation as a whole.

FACT: The unfair disadvantage is being experienced by our local small businesses, and its leads to less commerce at brick-and-mortar establishments that hire our family members and contribute to our communities. These employers can't compete with online giants that don't collect sales taxes and don't have a local presence in our neighborhoods. Unless the system is corrected, local retailers will become endangered species as they are being punished for following the law and collecting sales taxes, while their online-only competitors are not. This is a matter of common sense and basic fairness.

MYTH: Online retailers will simply pull their affiliates from states rather than collect the sales tax.

FACT: One of the reasons it is so important to correct this deeply flawed system, which is hurting our small businesses and exposing individual taxpayers to the risk of tax audits, is that the Internet will only play a more vital role in the marketplace in the decades to come. The increased traffic and purchasing power will mandate that any and every business looking to compete and succeed will need to have a powerful Web presence. We believe this to be true of the online retailers that refuse to collect the sales tax just as it is true of any business.

MYTH: Collecting the sales tax would be extremely burdensome for online retailers as it would require them to develop, test and install new software, which would be costly and time consuming.

FACT: The reality is that the software and Web applications necessary to collect the sales tax have already been developed and put in place by numerous retailers that choose to adhere to the law. The alternative is not the system that we have today where individual taxpayers are required to record purchases they make online and either carry an unmet tax obligation or pay at the end of the year, a responsibility most consumers are not even aware is theirs. The correct solution is for online-only retailers to harness Web applications that already exist for collecting the sales tax and to do so at the point of sale.

MYTH: No one is negatively affected and consumers benefit by being able to purchase goods on the Internet without paying the sales tax.

FACT: Across the board, everyone – including the purchaser – is put at risk by the fact the sales tax is not collected at the point of purchase by online-only retailers. The buyer has an unmet tax liability that could result in an audit. Small businesses that are forced to collect the tax are losing business and may be forced to close. And states, with massive budget deficits are going without revenue that could help ensure they pay down their debt and finance critical services like law enforcement and emergency personnel.

MYTH: Collecting the sales tax will hurt small businesses that operate online.

FACT: It's important to understand that collecting the sales tax won't hurt small businesses that operate online; in fact, there will be exemptions for the smallest sellers and free tax assistance for people like eBay and Etsy sellers.

MYTH: We don't need new laws and regulations that will only slow e-commerce and cost us jobs.

FACT: Most of the laws and court cases governing e-commerce are more than two decades old – before online shopping really even existed. Today, unlike their brick-and-mortar competitors, online-only retailers are not required to collect and remit sales taxes in most cases. This loophole has given online-only retailers a competitive advantage over Main Street businesses. Competition among new businesses and new forms of commerce is important, but it must occur on a level playing field. Ensuring all retailers can operate in a fair and competitive environment will allow small businesses to keep their doors open and keep their workers employed.

MYTH: This is a tax on the Internet.

FACT: This is not a tax on the Internet. The Internet Tax Freedom Act created a moratorium on taxes relating to Internet access and on any new, multiple or discriminatory taxes on the Internet. The Act did not exempt sales taxes on Internet purchases.

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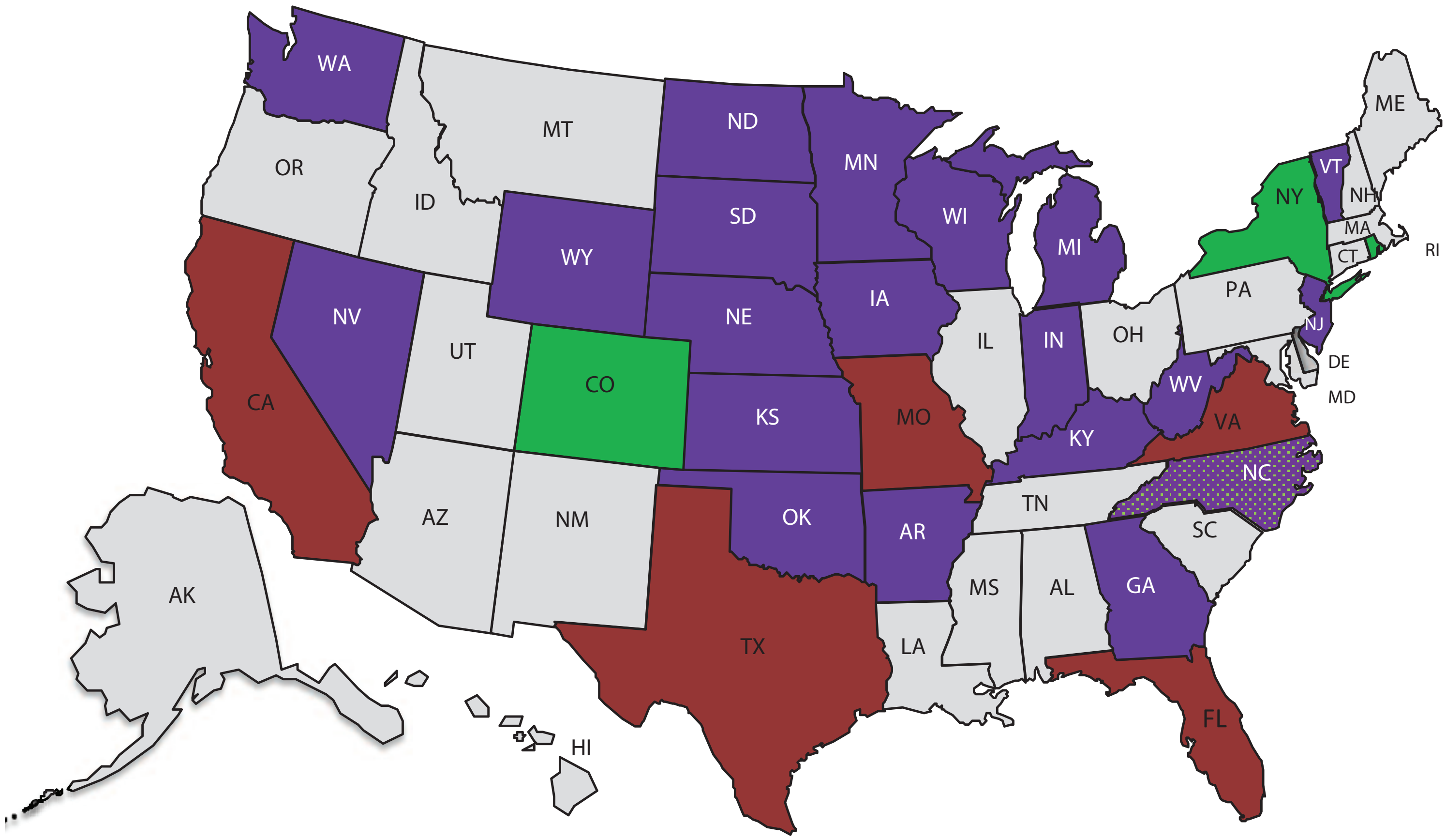
Streamlined Sales Tax Map



States that passed some form of Nexus Legislation

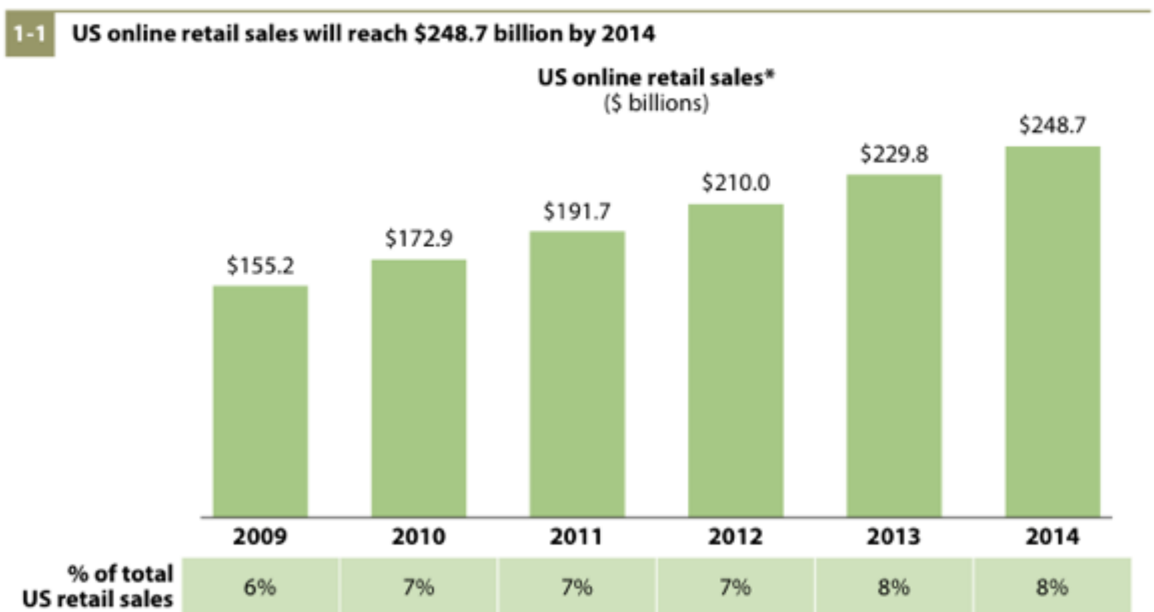
States with action on Nexus or Streamlined Legislation

Streamlined Sales TaxStates: AR, GA, IN, IA, KS, KY, MI, MN, NE, NJ, NC, ND, NV, OK, RI, SD, WA, WV, WI, WY http://techcrunch.com/2010/03/08/forrester-forecast-online-retail-sales-will-grow-to-250-billion-by-2014/

Forrester Forecast: Online Retail Sales Will Grow To $250 Billion By 2014

Erick Schonfeld
Mar 8, 2010

Figure 1 Forecast: US Online Retail Sales, 2009 To 2014



The eBay Story

Annual Meeting of Stockholders

June 19, 2008

If eBay were a retailer …

Retailer	2007 Revenue (B)
1. Wal-Mart	$351
2. Home Depot	$91
3. Kroger	$66
4. Costco	$60
5. Target	$59
6. eBay GMV	$59
7. Sears Holdings (Sears/Kmart)	$53
8. Walgreen	$47
9. Lowe’s	$47
10. CVS	$44

Source: 2007 Fortune 500, Fortune Magazine

every
26 min.
a Ford Mustang is sold

every
2 min.
a major appliance is sold

every
4 sec.
a pair of shoes is sold

1 billion

page views per day

100 million

concurrent listings, updated
more than 500 times per second

Double the transaction volume

of the NYSE

The Long Tail is Longer than You Think:
The Surprisingly Large Extent of Online Sales by Small Volume Sellers

Joe Bailey, Gordon Gao, Wolfgang Jank,
Mingfeng Lin, Hank Lucas, and Siva Viswanathan

The Robert H. Smith School of Business
University of Maryland

May 12, 2008

DRAFT

Abstract

Sales by small volume sellers are systematically undercounted in public and private surveys of ecommerce. The twin results are that the contribution of small sellers to the ecommerce marketplace is considerably larger than generally assumed and the overall market is larger by this difference.

As the costs of selling things online have fallen with cheaper equipment and communications fees, and with the availability of retail platform services provided by eBay, Amazon.com, Google, and many other firms, Internet retailing has grown to include many small businesses and individual occasional sellers, particularly in the United States. But how much do these "small sellers" sell each year?

U.S. Government statistics give some insight into the type and sales volume of online sellers, but the Government's current methods of data collection and analysis are better suited to tracking larger, traditionally organized businesses, rather than "small sellers," whether operating as small businesses or as individuals. Traditionally, small sellers simply were ignored. In traditional retail markets, the number of businesses with low annual revenues may not be significant because the contribution of such small sellers to the overall size of the market is relatively small. However, in Internet retailing, there are millions of small sellers that, in the aggregate, make a large contribution to the overall market. Yet these small sellers are systematically overlooked in government and private data collection and analysis.

In this paper, we estimate the size of Internet retailing in 2004 to have been over 20% above U.S. Government estimates – and the difference is explained by a more accurate accounting of sales by small sellers. We do this through a variety of methods and the development of confidence intervals in our data. We hope that the techniques outlined in this paper will give greater insight into the magnitude of Internet retailing, particularly in the "long tail" of the ecommerce market occupied by small volume sellers.

1. Introduction

Traditionally, estimates of non-B2B ecommerce are derived from investigating sales revenue from some of the largest electronic commerce retailers and sampling revenue from some of the smaller ecommerce companies. For example, the quarterly reports from U.S. Census Bureau's "eStats" that measure the size of electronic commerce is partially derived from the quarterly reporting of publicly-traded firms with quarterly revenue that is often measured in the millions of dollars. Every five years, Census is able to supplement these statistics with a more in-depth analysis of smaller companies that may only have $1 million in revenue per year. Since this more in-depth data gathering and analysis process takes longer, the 2002 data was just released in 2007. Therefore, the timeliness as well as the ability to capture sales information from ecommerce activities from firms of less than $1 million in revenue is a concern.

The concern about ability to capture sales data from small firms is heightened when one considers the increased ability for small Internet retailers to enter the market. A small retail location or individual may use a site such as eBay or Amazon.com to sell goods and services and make a profit with little or no fixed costs. The result of large entry by small firms and individuals into the seller marketplace increases the problem of underestimating ecommerce sales by the methods used by the U.S. Census Bureau.

Private surveys of ecommerce have similar flaws. The 2008 *Internet Retailer* list of the Top 500 ecommerce firms shows Amazon.com as the leading retailer, with $14.8B in 2007 revenue, but this figure is a combination of sales by Amazon's retail subsidiary and service fees from sales by other, smaller sellers, through Amazon's retail platform. That is, all of Amazon's own sales are counted, but only the service fees on sales by Amazon's seller customers, which number over one million. The actual sales by these small sellers are not counted.

Moreover, as Amazon pointed out in recent congressional testimony, pure platform and search service providers like eBay and Google don't even make the *Internet Retailer* roster, in spite of the fact that, in the same year (2007) that Amazon had $14.8 billion in revenues, eBay transacted more than $59 billion through its site (gross merchandise volume). In other words, although the top listed retailer (Amazon) had less than $15 billion in revenue shown, little if any of the online sales through eBay – four times that amount – are captured by the *Internet Retailer* list simply because the sales through eBay are mostly by small volume sellers. Also missing are other billions of dollars transacted by small sellers online with the help of service providers such as Google and Microsoft.

In this paper, we introduce an alternative methodology that uses consumer-based ecommerce transactions. By examining the activities of the consumers and, hence, the demand-side of the market, we are able to understand how consumers purchase online from different retailers and individuals without being tied to sales as measured from the supply side of the market.

2. Research Methodology

Our approach to understanding the size of Internet retailing comes from understanding the perspective of an Internet retailer. This perspective helps answer the question, what would an Internet retailer with this level of scale (as measured by annual revenue) do to participate in ecommerce? Our research has divided these firms into three categories:

I. Firms that have significant scale and are likely to invest heavily in technology.
II. Firms that can invest in technology and operate an independent web site but information technology is not core to their operations.
III. Firms that rely on information technology services provided by other firms.

As we identify firms in each of the three categories and rank them from largest to smallest, we would expect an exponential distribution. In other words, the firm with the highest sales rank will contribute the most to Internet retailing. As the sales rank increases, the sales contributed by each firm exponentially decays and approaches the x-axis. This exponential distribution is often referred to as a "long-tailed" distribution. In our analysis, we have decided to examine the long tail based on cumulative sales instead of incremental sales on the y-axis. We have also log transformed the x-axis in order to shrink the long-tailed distribution into a linear representation of this distribution. One important benefit of this transformation of the x-axis is that firms in the three categories identified above have approximately the same area or region size on long-tail graph. It is our hope that this relationship can then be plotted as shown in Figure 1.

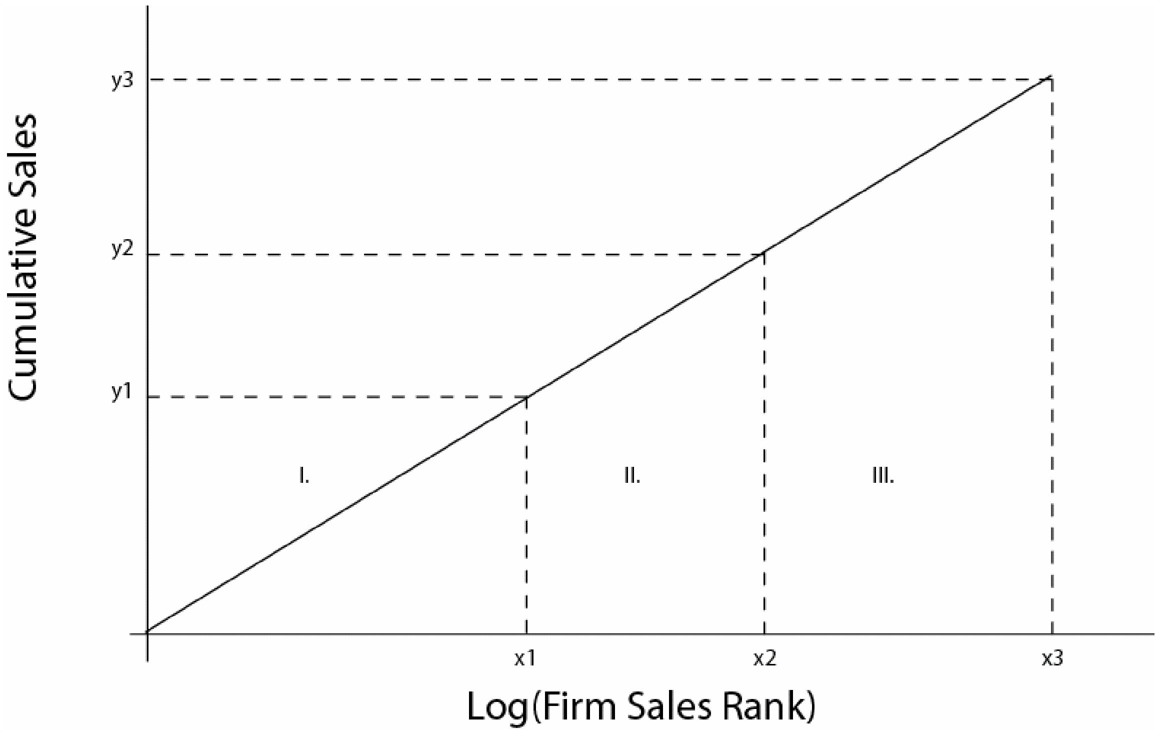


Figure 1. Model of Cumulative Sales vs. Log(Firm Sales Rank)

The goal of our research is to better estimate six variables shown in the graph in Figure 1: x_1, x_2, x_3, y_1, y_2, and y_3. Because our estimates are generated from data sources, sampling, and estimation, it is important for us to provide appropriate confidence intervals with each of these variables. Furthermore, since x_2 depends upon $x_{1,}$ and x_3 depends upon both x_1 and x_2, it is important for us to understand how variance in Region I affects the variance in subsequent Regions for x_2, x_3, y_2, and y_3. Our analysis begins with some general comments about the nature of firms and data availability for Regions I, II, and III.

2.1. Region I

Region I consists of the largest Internet retailers. Fortunately, there is a significant amount of information about these retailers. In this region we use the information from the *Internet Retailer* Top 500 list. As is shown in Figure 2, the actual relationship between cumulative sales and the log of the firm sales rank (shown in blue) fits very well to a linear relationship (shown in red) with an adjusted r^2 value of 94.9%. Given this information, we are able to estimate $x_1 = 500$ and $y_1 = \$55.7$ billion.

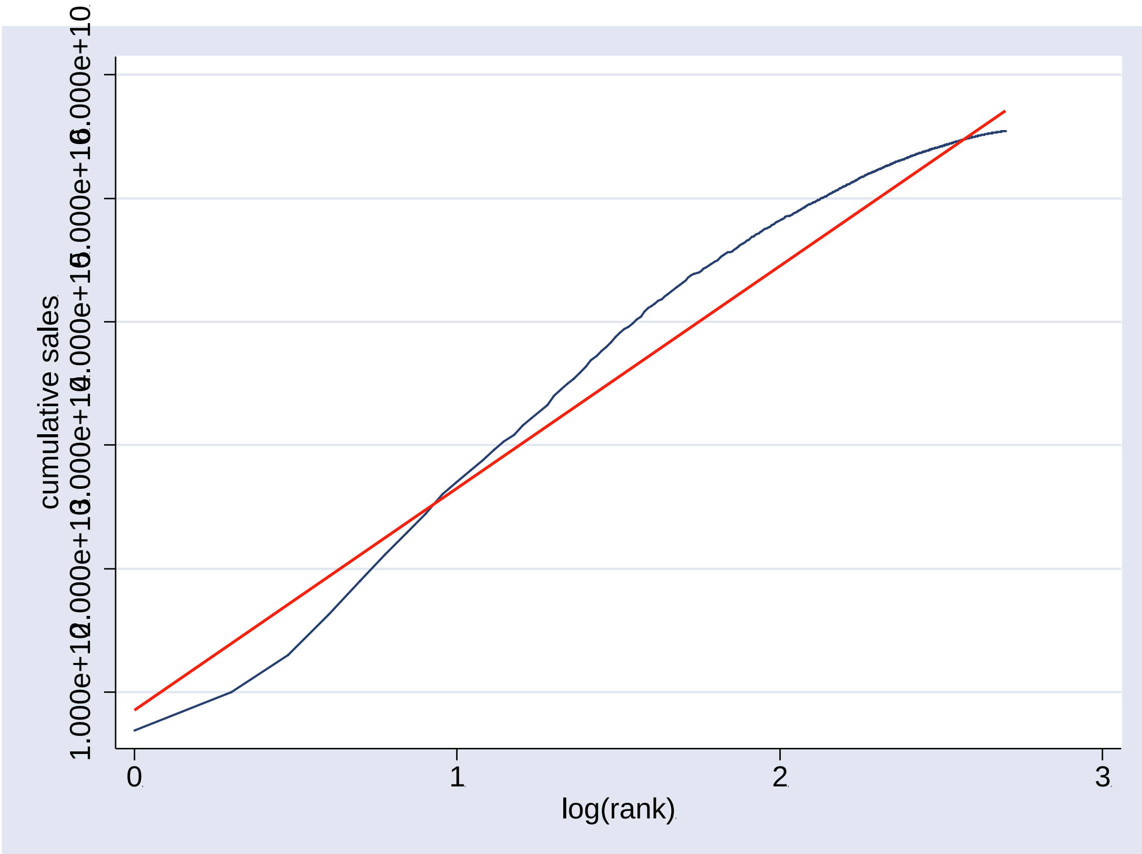


Figure 2. Region I Firm Cumulative Sales vs. Log(Rank)

2.2. Region II

Region II consists of medium-sized Internet retailers that have their own web site but are not captured by the *Internet Retailer* Top 500 directory. These companies have their own web sites and have annual revenue between $1 million and $10 million dollars. Since we were able to determine a representation of the relationship in Region I, we can use this information to extrapolate to Region II.

Based on the relationship between cumulative sales and the log of the firm sales rank , we can calculated the rank of the company which has $1million in revenue. Our estimates indicate that there are approximately an additional 28,128 firms in Region II. Therefore, x_2 = 28,628 (the sum of the number of Region I and Region II firms). We can then use this value along with the fitted curve shown by the red line in Figure 2 to estimate y_2. Based on our formula, our estimate is that y_2 = 85.6 billion.

2.3. Region III

Finally, in Region III, retailers and individual sellers are too small to measure activities at a unique web site. For example, a small business or individual may sell a few thousand dollars worth of merchandise on eBay but would not set up a web site to do so. Within the comScore data, customer purchases from Region III players cannot be aggregated to the seller's website because they do not have one. Fortunately, it may not matter when estimating y_3 since that only depends upon an overall size of ecommerce transactions.

We begin by investigating how many dollars were spent by a sample of 52,028 users who made purchases from Region I companies. This involves aggregating the purchases from these users into the firms we identified in Region I from the *Internet Retailer* list. Then, we use this data and compare our sample to the known revenue of those Region I firms. For example, in 2004 Target.com has an online sales of $756.1 million, while the total purchases from Target.com in the comScore sample is $57,254.92 , resulting a sales ratio of 13,205[1]. In Figure 3 we depict the average of the sales ratios, based on the top companies in the *Internet Retailer* list from top 50 up to top 140.

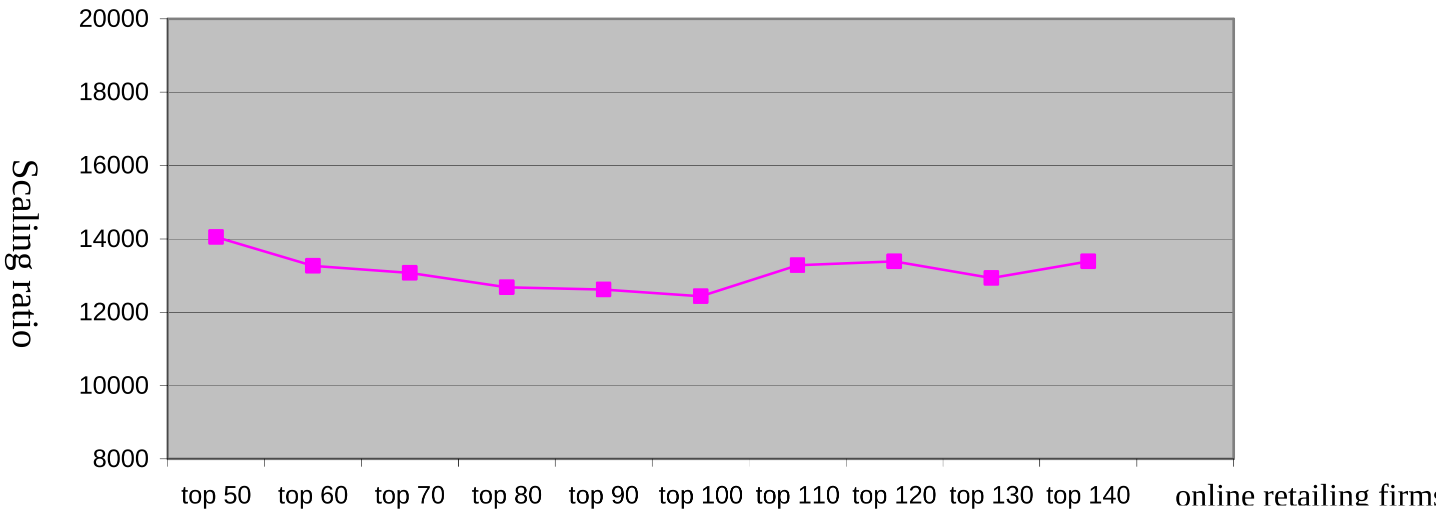


Figure 3. comScore Sampling and Scaling Ratio from Region I

Figure 3 is important because it shows that there appears to be a relatively constant scaling ratio from this sample which can then be used beyond Region I.

We use the comScore data as a sample along with the estimated scaling ratio from Figure 3 to estimate the total sales for ecommerce transactions. Since Figure 3 shows some variability in the data, we use a lower bound scaling ratio of 12,433. We also use bootstrapping to get 95% confidence interval from comScore transaction data, which is [$12.2, $12.9] million dollars. Based on this, the overall magnitude of 2004 sales would

[1] 7561000000/57254.92 = 13205.68

be between \$151 billion and \$160 billion. We use the conservative estimate of \$151 billion as our value for y_3.

Finally, x_3 is estimated at approximately 5 million. This number comes from publicly-available eBay data that discloses the number of sellers as well as the number of transactions it supports. Therefore, a summary of our estimates may be found in Figure 4.

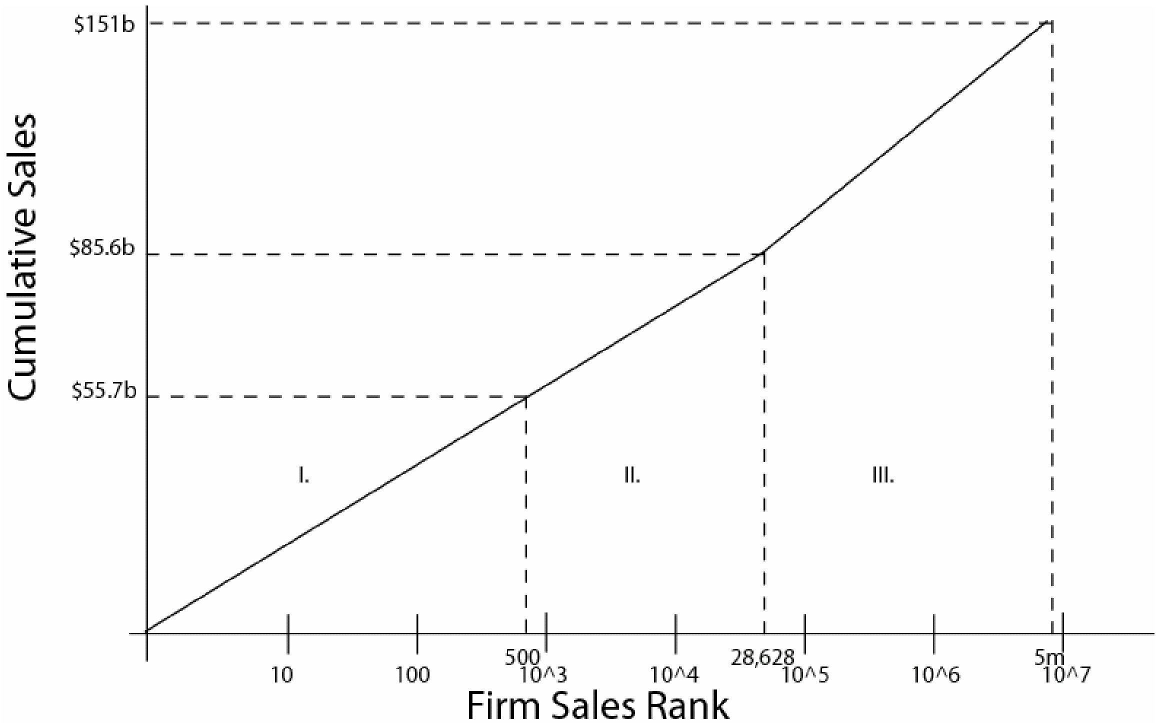


Figure 4. Cumulative Sales vs. Log(Firm Sales Rank)

3. Conclusions

Our estimates of the magnitude of ecommerce indicate that the U.S. Census Bureau and private surveys have underestimated the participation of small volume sellers – and the overall size of the electronic commerce in 2004 by as much as \$30 billion. Our approach of using consumer purchasing information that is not tied to sellers with a certain sales volume has the benefit of not overlooking the small retailers and individuals who participate in electronic commerce. In other markets where the number of participants in Region III is small, ignoring these participants may not be a problem since their total sales are too small relative to the whole. However, on the Internet, the number and resulting sales of these participants is too large to ignore. When millions of small ecommerce participant sales are measured, it can lead to significant changes in the estimates.

Given the booming “long tail” phenomenon in recent years, we expect that the omitted part will be even bigger. In the near future, we plan to estimate the size of U.S. ecommerce by utilizing the 2007 data.

Top 500 Internet Retailers

Rank, Company, Number of States They Remit Sales Tax

Rank	Retailer	States
1	Amazon.com Inc.	5
2	Staples Inc.	40+
3	Dell Inc.	40+
4	Apple Inc.	40+
5	Office Depot Inc.	40+
6	Walmart.com	40+
7	OfficeMax Inc.	40+
8	Sears Holdings Corp.	40+
9	CDW Corp.	40+
10	Best Buy Co.	40+
11	Liberty Media Corp. (QVC, Liberty E-Commerce)	40+
12	Newegg Inc.	3
13	SonyStyle.com	40+
14	Netflix Inc.	40+
15	Costco Wholesale Corp.	40+
16	J.C. Penney Co. Inc.	40+
17	HP Home & Home Office Store	40+
18	Victoria's Secret	40+
19	W.W. Grainger Inc.	?
20	Macy's Inc.	40+
21	Target Corp.	40+
22	Systemax Inc.	3
23	Gap Inc. Direct	40+
24	L.L. Bean Inc.	9
25	HSN Inc.	3
26	Williams-Sonoma Inc.	40+
27	Amway Global	40+
28	Overstock.com Inc.	
29	Nordstrom Inc.	29
30	Avon Products Inc.	40+
31	Redcats USA	4
32	Buy.com Inc.	5
33	Symantec Corp.	40+
34	Blockbuster Inc.	40+
35	Cabela's Inc.	22
36	Vistaprint Ltd.	2
37	Toys 'R' Us Inc.	40+
38	Musician's Friend Inc.	2
39	The Home Depot Inc.	40+
40	1-800-Flowers.com Inc.	11
41	The Neiman Marcus Group Inc.	21
42	Barnesand Noble.com Inc.	40+
43	Kohl's Corp.	40+
44	PC Connection Inc.	40+
45	Saks Direct	29
46	drugstore.com Inc.	1
47	Peapod LLC	10 states served
48	Nike Inc.	31
49	Scholastic Inc.	3
50	J. Crew Group Inc.	40+
51	American Eagle Outfitters Inc.	
52	Foot Locker Inc.	
53	Urban Outfitters Inc.	
54	Market America	
55	Follett Higher Education Group	
56	NutriSystem Inc.	
57	Oriental Trading Co. Inc.	
58	Blue Nile Inc.	
59	FTD Group Inc.	
60	Crate and Barrel	
61	CSN Stores LLC	
62	Recreational Equipment Inc.	
63	Orchard Brands Corp.	
64	Signature Styles LLC	

65	Abercrombie & Fitch Co.	
66	Disney Shopping Inc.	
67	Shutterfly Inc.	
68	Walgreen Co.	
69	Hayneedle Inc.	
70	FreshDirect LLC	
71	Northern Tool + Equipment Co.	
72	Bass Pro Outdoor Online LLC	
73	CVS Caremark Corp.	
74	Sierra Trading Post Inc.	
75	Army & Air Force Exchange Service	
76	Ralph Lauren Media LLC	
77	Shoebuy.com Inc.	
78	Coldwater Creek Inc.	
79	Weight Watchers International Inc.	
80	Vitacost.com Inc.	
81	Lowe's Cos. Inc.	
82	Etronics Inc.	
83	Net-a-Porter LLC	

84	Harry and David Holdings Inc.	
85	Diapers.com	
86	Eddie Bauer	
87	The Swiss Colony Inc.	
88	ShopNBC.com	
89	Bluestem Brands Inc.	
90	School Specialty Online	
91	U.S. Auto Parts Network	
92	Safeway Inc.	
93	YOOX Group	
94	Hanover Direct Inc.	
95	1-800 Contacts Inc.	
96	Green Mountain Coffee Roasters Inc.	
97	Build.com Inc. (formerly Improvement Direct)	
98	PC Mall Inc.	
99	RealNetworks Inc.	
100	Art.com Inc.	
101	PetMed Express Inc.	
102	American Girl LLC	

103	RueLaLa.com (GSI Commerce Inc.)	
104	Restoration Hardware Inc.	
105	Drs. Foster and Smith	
106	J&R Electronics Inc.	
107	Talbots Inc.	
108	Crutchfield Corp.	
109	AutoZone Inc.	
110	Coastal Contacts Inc.	
111	Tiffany & Co.	
112	Sephora USA Inc.	
113	OmahaSteaks.com Inc.	
114	Boston Apparel Group	
115	GameStop Corp.	
116	Alibris Inc.	
117	eBags.com	
118	Aéropostale Inc.	
119	Whitney Automotive Group	
120	CafePress.com	
121	National Football League	
122	Ann Taylor Stores Corp.	

123	The Children's Place Retail Stores Inc.	
124	The Orvis Co. Inc.	
125	Bidz.com Inc.	
126	LifeWay Christian Resources	
127	LEGO Brand Retail Inc.	
128	Charming Shoppes Inc.	
129	Boden USA	
130	Dick’s Sporting Goods Inc.	
131	NBTY Inc.	
132	Dillard's Inc.	
133	The Estee Lauder Cos. Inc.	
134	Shoplet	
135	Onlineshoes.com	
136	Big Fish Games Inc.	
137	Infinity Resources Inc.	
138	Gander Direct Marketing Services LLC	
139	B&H Photo-Video-Pro Audio	
140	Gilt Groupe	
141	AJ Madison Inc.	

142	Boston Proper Inc.	
143	Abt Electronics Inc.	
144	Express LLC	
145	Potpourri Group Inc.	
146	Ritz Interactive Inc.	
147	Hallmark Cards Inc.	
148	Lamps Plus Inc.	
149	Fragrance Net.com Inc.	
150	ShoeMall.com	
151	Crocs Inc.	
152	dELiA*s Inc.	
153	Jewelry Television	
154	Bed Bath & Beyond Inc.	
155	Ross-Simons Inc.	
156	The Shopping Channel, a division of Rogers Media	
157	GameFly Inc.	
158	eCOST.com Inc.	
159	iHerb Inc.	
160	American Greetings Corp.	
161	Indigo Books & Music Inc.	

162	Panasonic Corp. of North America	
163	Bluefly Inc.	
164	Coach Inc.	
165	eMusic.com Inc.	
166	The Finish Line Inc.	
167	Cymax Stores Inc.	
168	Brooks Brothers	
169	SkyMall Inc.	
170	Deckers Outdoor Corp.	
171	Replacements Ltd.	
172	OvernightPrints.com	
173	DrJays.com	
174	CDWow.com Ltd.	
175	OneCall.com	
176	Woot.com	
177	VitaminShoppe.com	
178	Cooking.com Inc.	
179	MLB Advanced Media	
180	Comp-U-Plus	
181	Brookstone Inc.	
182	Shoes.com Inc., a subsidiary of Brown Shoe Co.	
183	Benchmark Brands Inc.	
184	DSW Inc.	

185	OpticsPlanet Inc.	
186	adidas America Inc.	
187	Road Runner Sports Inc.	
188	CustomInk.com	
189	Zale Corp.	
190	Chico's FAS Inc.	
191	HauteLook	
192	Team Express Inc.	
193	Jos. A. Bank Clothiers Inc.	
194	Borders Direct	
195	Karmaloop LLC	
196	Motorcycle Superstore Inc.	
197	Ice.com Inc.	
198	FansEdge Inc.	
199	Hot Topic Inc.	
200	Furniture.com Inc.	
201	Jomashop.com	
202	PETCO Animal Supplies Inc.	
203	Computer Geeks	
204	AutoAnything	
205	The Sports Authority Inc.	

206	LD Products	
207	PersonalCreations.com	
208	AmericanBlinds.com	
209	IKEA.com	
210	Football Fanatics Inc.	
211	Zazzle Inc.	
212	Hickory Farms Inc.	
213	National Business Furniture	
214	The Discovery Channel Store Inc.	
215	Under Armour Inc.	
216	Thompson and Company of Tampa Inc.	
217	The Buckle Inc.	
218	Tempur-Pedic International Inc.	
219	Jones Retail Corp.	
220	Pacific Sunwear of California Inc.	
221	TimeLife.com	
222	Rooms To Go Inc.	
223	The Vermont Teddy Bear Co.	
224	PersonalizationMall.com	

225	Cheaper Than Dirt	
226	Fossil Inc.	
227	Tiny Prints Inc.	
228	Frys.com	
229	Wine.com Inc.	
230	TABcom	
231	Blinds.com	
232	ThinkGeek Inc.	
233	Sam Ash Music Corp.	
234	Hanna Andersson Corp.	
235	Bare Necessities	
236	CD Universe	
237	General Nutrition Centers Inc.	
238	Databazaar.com	
239	Decorative Product Source Inc.	
240	RadioShack Corp.	
241	NB Web Express	
242	Golfsmith International Holdings Inc.	
243	Barneys New York Inc.	
244	Chelsea & Scott Ltd.	
245	LumberLiquidators.com	
246	eCampus.com	

247	American Musical Supply Inc.	
248	Bose Corp.	
249	Oakley Inc.	
250	Tech for Less LLC	
251	Frederick's of Hollywood Inc.	
252	Vera Bradley Retail Stores LLC	
253	Folica Inc.	
254	Hammach er Schlemmer & Co. Inc.	
255	eForCity Corp.	
256	Sweetwate r.com	
257	New York & Co. Inc.	
258	Miles Kimball Co.	
259	Living Direct Inc.	
260	Turn5 Inc.	
261	Softchoice Corp.	
262	Guess? Inc.	
263	Joann.com	
264	BikeBandit. com	
265	Gaiam Inc.	
266	DVD Empire	
267	The North Face	
268	Playboy Enterprises Inc.	

269	American Apparel Inc.	
270	SuperMedi aStore.co m	
271	Softmart	
272	Instawares LLC	
273	A/X Armani Exchange	
274	PropertyRo om.com Inc.	
275	Select Shops	
276	Lillian Vernon Corp.	
277	Moosejaw Mountaine ering	
278	Tween Brands Inc.	
279	Levenger Co.	
280	Fathead LLC	
281	PetSmart Inc.	
282	BabyAge.c om Inc.	
283	Boscov's Departmen t Store LLC	
284	National Hockey League	
285	PartStore.c om	
286	Lakeshore Learning Materials	
287	Rock Bottom Golf	
288	Callaway Golf Interactive	
289	Golden Eagle Coins	

290	TheWatch ery.com	
291	National Geographi c Society	
292	Sonic Electronix	
293	Better World Books	
294	Diamond Nexus Labs	
295	Textbooks. com	
296	Campmor Inc.	
297	Barrie Pace	
298	Philips Electronics N.V.	
299	AmeriMark Direct LLC	
300	AC Lens	
301	The Gymboree Corp.	
302	Select Comfort Corp.	
303	Power Equipment Direct Inc.	
304	Patagonia Inc.	
305	pcRUSH.c om	
306	Unbeatabl eSale.com Inc.	
307	Bellacor Inc.	
308	Directron.c om	
309	Dover Saddlery Inc.	
310	iRobot Corp.	

311	Casual Male Retail Group Inc.	
312	YesAsia.com Ltd.	
313	Payless ShoeSource Inc.	
314	Christopher & Banks	
315	Super Warehouse	
316	1800Mattress.com	
317	J&P Cycles	
318	InterWorld Highway LLC	
319	LeatherUp.com	
320	Lakeside Collection	
321	David's Bridal Inc.	
322	Phat Fashions LLC	
323	Rugs USA	
324	BuyOnlineNow.com	
325	bebe stores inc.	
326	International Software Solutions Systems Inc.	
327	Liz Claiborne Inc.	
328	Lifetime Brands (operates Pfaltzgraff & Mikasa.com)	
329	Garmin Ltd.	
330	Bowflex.com	
331	Tool King LLC	
332	The Container Store Inc.	
333	JJBuckley.com	
334	Sheet Music Plus LLC	
335	The Knot Inc.	
336	BlissWorld LLC	
337	Levi Strauss & Co.	
338	The Wet Seal Inc.	
339	SmoothFitness.com	
340	SuperBiiz.com	
341	Franklin Covey Products LLC	
342	The Yankee Candle Co. Inc.	
343	Stacks and Stacks	
344	Discount Dance Supply	
345	Sterling Jewelers	
346	Online Stores Inc.	
347	Camping World Inc.	
348	Jeffers Inc.	
349	Rugs Direct	
350	Books-A-Million Inc.	
351	TigerGPS.com	
352	Rockler Woodworking and Hardware	
353	National Trade Supply	
354	Skechers USA Inc.	
355	Chasing Fireflies	
356	ULTA Salon, Cosmetics & Fragrance Inc.	
357	Parts Express International Inc.	
358	Belk Ecommerce LLC	
359	Toolup.com	
360	Bealls Inc.	
361	Sally Beauty	
362	Meijer Inc.	
363	NBA Media Ventures LLC	
364	Powell's Books Inc.	
365	ReStockIt.com	
366	Charlotte Russe Holding Inc.	
367	Biblio Inc.	
368	Christian Book Distributors Inc.	
369	CPA2Biz Inc.	
370	Jockey International Inc.	
371	Sur La Table Inc.	

372	K&L Wine Merchants	
373	Spanx Inc.	
374	ShoppersChoice.com LLC	
375	PrintingForLess.com Inc.	
376	Everything Furniture Inc.	
377	ALDO Group	
378	Lancome-USA.com	
379	Mountain Equipment Co-op	
380	ivgStores LLC	
381	Hat World Inc.	
382	West Marine Products	
383	Action Village Inc.	
384	Beauty Encounter Inc.	
385	LeapFrog Enterprises Inc.	
386	AED Superstore	
387	JustFlowers.com Inc.	
388	Artbeads.com	
389	Manufacturers Resource Network	
390	Ira Wood & Sons Inc.	
391	Peruvian Connection Ltd.	
392	Beach Audio Inc.	

393	SolidSignal.com	
394	Touch of Class	
395	eDiets.com Inc.	
396	Boston Green Goods Inc.	
397	3balls.com Inc.	
398	LuLuLemon Athletica Inc.	
399	Calendars.com LLC	
400	American Power Conversion	
401	Niche Retail LLC	
402	Kenneth Cole Productions Inc.	
403	Calumet Photographic Inc.	
404	Altrec.com Inc.	
405	NASCAR.com Superstore	
406	One Way Furniture Inc.	
407	SportsGiant LLC	
408	Scentiments.com	
409	Design Within Reach Inc.	
410	Fins, Furs, and Feathers Inc.	
411	Stroll LLC	
412	Vintage Tub and Bath	

413	DiscountOfficeItems.com	
414	Cost Plus Inc.	
415	Gardener's Supply Co.	
416	ID Wholesaler	
417	Shop PBS	
418	SkinCareRX	
419	Luggage Online Inc.	
420	eHobbies.com	
421	Beckett Media LLP	
422	Eastern Mountain Sports Inc.	
423	AmericaRX.com	
424	World Wrestling Entertainment Inc.	
425	Discount Ramps.com LLC	
426	Avelle.com	
427	Danskin.com	
428	The Original HoneyBaked Ham Co. of Georgia	
429	evo	
430	Forever 21	
431	W.E. Aubuchon Inc.	
432	Ashford	
433	Adorama Camera Inc.	
434	Limoges Jewelry	

435	RoyalDiscount.com	
436	The Timberland Co.	
437	GiftTree.com	
438	Working Persons Enterprises Inc.	
439	PC Universe Inc.	
440	Goldspeed.com Inc.	
441	Toolfetch.com LLC	
442	Fat Brain Toys	
443	Burberry Ltd.	
444	RitzPix.com	
445	Eileen Fisher Inc.	
446	CoffeeForLess.com	
447	HamGo Corp.	
448	Sheplers Inc.	
449	Batteries.com Inc.	
450	CableOrganizer.com Inc.	
451	The Betty Mills Co.	
452	Entertainment Earth Inc.	
453	Boot Barn Inc.	
454	Action Envelope	
455	Title 9 Sports Inc.	

456	King Arthur Flour Co. Inc.	
457	Children's Wear Digest Inc.	
458	Mattress USA Inc.	
459	BJ's Wholesale Club	
460	GourmetGiftBaskets.com	
461	Everything2go.com LLC	
462	BatteriesPlus LLC	
463	AZ3 Inc. dba BCBG Max Azria	
464	Air & Water Inc.	
465	Marc Ecko Enterprises	
466	Alice.com	
467	Net Direct Merchants	
468	Leather Tree Inc.	
469	Tupperware Brands Corp.	
470	Your Electronic Warehouse	
471	CompSource Inc.	
472	Dyscern	
473	Wisteria	
474	BrickHouseSecurity.com	
475	MyMMs.com	
476	Novica.com	
477	FirstStreet	

478	Magellan's International Travel Corp.	
479	Artful Home	
480	MaxFurniture.com	
481	Ace Hardware Corp.	
482	KitchenSource.com	
483	Nebraska Furniture Mart	
484	U.S. Toy Co. Inc.	
485	Bulbs.com	
486	Organize.com Inc.	
487	Golfballs.com Inc.	
488	Paragon Sporting Goods Co. LLC	
489	InkSell.com	
490	Xtremez.com	
491	Aqua Superstore	
492	HobbyTron.com	
493	Build-A-Bear Workshop Inc.	
494	Shop4tech.com	
495	DrillSpot.com	
496	Musicnotes Inc.	
497	Henry Modell & Co. Inc.	
498	Lion Brand Yarn Co.	

499	Highland Products Group	
500	Costume Craze LLC	
		#REF!

Streamlined Sales Tax Project

Streamlined Sales and Use Tax Agreement

ISSUE:

45 states plus the District of Columbia use sales taxes as an integral part of their revenue systems. Changes in the nation's economy and in the way consumers make purchases are eroding sales tax revenues. For example, the Business Research Center at the University of Tennessee estimates that state and local governments may have lost as much as $18 - 20 billion in 2008 because they were not able to collect taxes on Internet sales. The Report estimates that in 2012 the loss will grow to over $23.3 billion. These losses clearly exacerbate the severe budget gaps states are currently facing and affect legislatures' ability to provide essential services such as education, emergency preparedness, homeland security, health care, transportation and corrections.

The National Conference of State Legislatures' interest in streamlining sales taxes originated with two U.S. Supreme Court decisions—the 1967 *Bellas Hess* case and the 1992 *Quill v. North Dakota* case—which acknowledged that consumers owe the sales tax when they purchase goods through catalogues or over the Internet, but ruled that states cannot force retailers to collect the tax. The Quill case, though, offered critical clues about what states could do to overcome the court's objections. Most importantly, the court placed the problem with the complexity of many state sales tax systems and the burden that imposes on a out-of-state retailer in determining the tax owed.

SOLUTION:

The Streamlined Sales and Use Tax Agreement is a significant attempt to modernize sales and use tax systems and to save them as viable components in state revenue mixes. The Agreement was developed by legislators, tax administrators and private sector representatives from 35 states whose legislatures earlier had passed model legislation authorizing their discussions. We believe the Streamlined Sales and Use Tax Agreement substantially simplifies state and local sales tax systems, removes the burdens to interstate commerce that were of concern to the Supreme Court, and protects state sovereignty. In addition, the agreement "levels the playing field" between local and out-of-state merchants and benefits all retailers by reducing their administrative costs.

As of May 2009, twenty-three states have complied with the Agreement, over 1,100 sellers have volunteered to begin collecting taxes on out of state purchases and over $450 million in new revenues for state and local governments have been collected by these sellers which previously would have gone uncollected.

Participation in the agreement, of course, is voluntary. However, it is our hope that the agreement will serve as the basis for Congress to grant authority to states to require all sellers, regardless of location, to collect sales and use taxes. The Streamlined Sales and Use Tax Interstate Agreement provides the states with a blueprint to create a simplified sales and use tax collection system that when implemented, allows justification for Congress to overturn the *Bellas Hess* and *Quill* decisions.

SIMPLIFICATIONS INCLUDE:

State-level Administration of State and Local Sales and Use Taxes; Limits on State and Local Rates and Rate Changes; Central Seller Registration; Uniform Product Definitions; Uniform Sourcing Rules; Uniform Procedures for Exemptions; Uniform Tax Returns; Uniform Administrative Definitions; Standardization for sales tax holidays; Elimination of caps and thresholds; Amnesty for Participating Voluntary Sellers; Uniform Rounding Rule; Uniform Customer Remedy Procedures.

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Streamlined Sales Tax Project

"E-retail puts together back-to-back double-digit growth quarters"

- "The U.S. Commerce Department reported that e-commerce sales grew 14.3% in the first quarter, following the fourth's quarter 14.6% gain."
- "E-commerce grew 14.3% compared to the first quarter of 2009, after adjusting for seasonal variations, total retail sales grew only 6.3%."
- "Counting retail sales of all types, the web accounted for 4.0% of total sales in the first quarter of 2010 versus 3.7% a year earlier."
- Source: **Internet Retailer's Daily News Service (May 18, 2010)**

Remote sales: What is at stake?

- "State and Local Government Sales Tax Revenue Losses from Electronic Commerce," April 2009 update to report by professors Bill Fox, Don Bruce and LeAnn Luna at Univ. of Tennessee: State and local governments will fail to collect **$6.9 billion** in sales ax in 2009 **just** from electronic commerce
- Trend increases: By 2012 the projected loss for state and local governments is **$23.3 billion,** including **$11.4 billion** from remote commerce, **$6.8 billion** from business-to-consumer catalog sales, and **$5 billion** from business-to-business catalog sales

State Tax Revenues

- State tax revenues dropped for the fifth straight quarter in the fourth quarter of 2009, the longest decline on record, according to the latest update from the Rockefeller Institute of Government
- Preliminary data shows all three major tax types dipped, with individual income dropping 4.5 percent, sales dropping 4.2 percent and corporate income dropping 5.8 percent
- Averaged and adjusted for inflation, the total drop was 4.8 percent
- Revenues dropped in 39 of the 46 states

Effect of the sales tax gap
(in millions – source NCSL)

- California:
  - 2010 budget deficit - $19,500.0
  - Uncollected use tax - $3,624.0
- National total:
  - 2010 budget deficit - $68,167.9
  - Uncollected use tax - $23,300.0

Why doesn't seller always collect sales tax?

- For decades, states have sought to require out-of-state retailers to collect their tax
- 1992 Supreme Court decision in Quill Corp. v. North Dakota held: requiring collection of tax by out-of-state retailers **with no physical presence** in a state would be burden on interstate commerce and would therefore violate Commerce Clause of U.S. Constitution

Remote sales: What is at stake?

- Compliance with sales tax laws by multi-state corporations is too complex
- Local merchants suffer from lack of level playing field
- Significant losses of revenue expected due to growth in electronic commerce and inability of states to administer use tax with consumers

What retailer's say makes the system complex

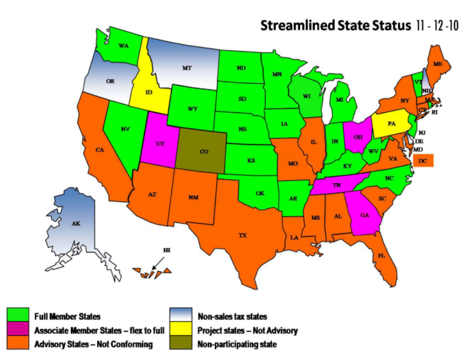
- State and local tax administration in some state
- Unclear rules on who has the right to tax a transaction
- Too many tax rates within each state and locality
- State and locals tax different items
- Too many definitions for the same product
- The retailer is liable when a buyer lies or fails to provide proof of an exempt sale

Goals of the Streamlined Effort:

- Create a simpler system for administering the various state and local sales taxes
- Make processes uniform if they cannot be made simple
- Balance the interests of a state's sovereignty. with the interests of simplicity and uniformity
- Leverage the use of technology to ease the retailer's tax collection
- Balance simplicity with state sovereignty

Streamlined Sales and Use Tax Agreement (SSUTA)

- SSUTA effective December 1, 2010
- Current membership:
  - 20 Full members
    - ✓ Arkansas, Kansas, Kentucky, Indiana, Iowa, Michigan, Minnesota, Nebraska, New Jersey, Nevada, North Carolina, North Dakota, Oklahoma, Rhode Island, South Dakota, Vermont, Washington, West Virginia, Wisconsin, Wyoming
  - 4 Associate members
    - ✓ Ohio, Tennessee, Utah. Georgia



SSUTA: Key Features

- State level administration of local sales and use taxes
- Rate simplification:
  - One general state rate per state, with a second rate (which could be zero) on food and drugs
  - One single local rate per jurisdiction
- No caps and thresholds

SSUTA: Key Features

- Common state and local tax bases within a state
- Uniform sourcing rule for goods and services:
  - Destination based, but states can choose origin sourcing for intrastate delivered products and direct mail
- Uniform sourcing rule for:
  - Telecommunications
  - Lease or rental of property
  - Direct mail

SSUTA: Key Features

Uniform Definitions

- Food and food ingredients
- Prepared food
- Candy
- Soft drinks
- Dietary supplement
- Clothing
- Lease or rental
- Tangible personal property
- Bundled Transaction
- Drugs
- Durable Medical Equipment
- Computer Software
- Prewritten Computer Software
- Delivered Electronically
- Load and Leave
- Sales Price
- Specified digital products

SSUTA: Key Features

- Uniform treatment of bank holidays
- Uniform rules for sales tax holidays:
  - limited to defined products and within administrative guidelines
- Uniform drop shipment rule
- Uniform rule for bad debt credits

SSUTA: Key Features

- Simplified electronic tax return
- Uniform exemption certificate and simplified exemption processing
- Uniform rounding rule

SST Agreement Key Features: Amnesty Provisions

- Sellers who register to collect tax receive amnesty against liability for prior sales regardless of nexus
- The state must offer the amnesty from date it joins the Governing Board until one year after it has been a full Member State
- The amnesty is not available:
  - To any seller that has received an audit notice from a state
  - To any seller who was registered with state during preceding year
  - To any seller that is being audited
- Sellers must remain registered and collect sales tax for 36 months
- The amnesty only applies to the seller's sales tax liability
- Currently available in Ohio, Tennessee, Utah, and Wisconsin

Taxability matrix

- A state database that tells sellers what is and what is not taxable
- A list of uniformly defined products and services, but will eventually include more
- Sellers are not liable for errors in how something is taxed if they follow what is in the taxability matrix

SST Technology: The "Certified Service Provider" (CSP)

- CSP is a third party that provides "cradle to grave" tax service that includes liability determination, return filing and tax remittance
- CSP software applications must apply certification standards and must receive approval by the Governing Board:
  - Calculation accuracy standards
  - Technology standards (e.g., ISO 17799, SAS70)
- Six CSPs have contract with Governing Board:
  - Accurate Tax
  - Avalara
  - Fed-Tax
  - Exactor
  - ADP Taxware
  - Speedtax
- Businesses who volunteer to collect tax in state may use CSP's at no cost – states pay CSP for services to volunteer sellers

CSP - Responsibilities & Liabilities

- Integration of software with seller's order processing system
- Applied data & tax calculations
- Tax liability & statistical reporting
- Funds transfers
- System performance & security

CAS - Responsibilities & Liabilities

- Integration of software with seller's order processing system
- Applied data & tax calculations
- Tax liability & statistical reporting
- System performance & security

Central Registration System

- As of July 1, 2010 there were 1,249 companies registered on the central registration system
- As of July 1, 2010 those companies had collected $592.8 million in sales tax for the Streamline states

Why “Affiliate Nexus” Is Not the Solution

List of Merchants That Have Dropped NY Affiliates

4Checks (Shareasale)
Acorn Media (Linkshare)
Amerimark (Linkshare)
Baby Universe (Linkshare)
Backcountry.com (CJ, Avantlink)
Binoculars.com (CJ)
Bodybuilding.com (CJ)
Brecks (Performics)
Cafepress (CJ)
CCVideo (Linkshare)
Checks In The Mail (CJ)
Checks Unlimited (Shareasale)
Collectors' Choice Music (Affiliate Future)
Compact Appliance (CJ)
CSN Stores (Shareasale)
Deep Discount (Affiliate Future)
DVD Planet (CJ)
Eastwood Company (CJ)
eToys (Linkshare)
Fingerhut (Linkshare)
Footsmart (CJ, Performics)
Gaiam.com (Linkshare)
Garden's Alive (Performics)
Geeks.com (CJ)
Gurneys (Performics)
Henry Fields (Performics)
Jewelry Television (CJ)
J&P Cycles (CJ)
Justflowers (CJ)
Karmaloop (Linkshare)
KB Toys (Linkshare)
LampsPlus (Linkshare)
Leaps And Bounds (Performics)
LinenSource (Linkshare)
Luggage.com (Shareasale)
Michigan Bulb (Performics)
Musicians Friend (CJ)
MyTwinn (Linkshare)
NetShops
Northern Tool (CJ)
One Step Ahead (Performics)
OnlineShoes.com (Linkshare)
Oriental Trading (Linkshare)
Overstock (Linkshare)
Palo Alto Software (Independent)
Red Envelope (Performics)
ReStock It (CJ, Shareasale)
Ritz Camera (CJ)
ShopNBC (Linkshare)
ShoppersChoice (CJ)
Silhouettes (CJ)
Spilsbury (Affiliate Future)
Spring Hill (Performics)
Thompson Cigars (Linkshare)
Tirerack (CJ)
uBid.com (CJ)

LEGAL ALERT

November 8, 2010

Litigation Challenging New York's Controversial Nexus Statute Continues

On November 4, an appellate court held that the New York affiliate nexus law does not violate the Equal Protection Clause and is facially constitutional under the Due Process and Commerce Clauses. However, the court remanded the case to further explore whether the New York law violates the Due Process and Commerce Clauses as applied to the taxpayer.[1] As summarized in a previous A Pinch of SALT column, New York amended its tax law in 2008 to impose a sales and use tax collection requirement on out-of-state sellers who engage a New York resident to solicit business through an Internet Web site (New York's "click-through nexus statute").[2] Amazon.com LLC, its affiliate Amazon Services LLC, and Overstock.com, Inc. (Plaintiffs) filed declaratory judgment actions challenging the law. A lower court dismissed the complaints in their entirety, and the Plaintiffs appealed.

Background

The Plaintiffs had entered into agreements with associates located throughout the United States, including New York. These agreements compensated the associates based on a percentage of sales referred to the Plaintiffs. The Plaintiffs filed complaints seeking declaratory and injunctive relief that the click-through nexus statute was unconstitutional, both facially, and as applied to them, under the Commerce, Due Process, and Equal Protection Clauses of the U.S. Constitution.[3] A lower court dismissed the complaints in their entirety, and the Plaintiffs appealed. In the interim, Overstock severed its relationships with its New York associates, and Amazon.com began to collect New York sales and use taxes.

Ripeness

As a gateway issue, the court rejected the state's claim that the lawsuit was not ripe because the state had not assessed the Plaintiffs nor had the Plaintiffs exhausted their administrative remedies. Because the state had made clear that it intended to enforce the click-through nexus statute on the Plaintiffs and that the harm of the enforcement was "direct and immediate," the claims, including the as-applied claims, were ripe. Further, the Appellate Division held that when a taxpayer is challenging the constitutionality of a statute, there is not a requirement that the taxpayer exhaust its administrative remedies.

Facial Challenges

The Appellate Division rejected the Plaintiffs' challenges that the click-through nexus statute is facially unconstitutional noting that the Plaintiffs must meet the heavy burden of showing that no set of

[1] *Amazon.com LLC, et al. v. New York State Department of Taxation and Finance, et al & Overstock.com, Inc v. New York State Department of Taxation and Finance, et al.,* 2010 NY Slip Opinion 07823 (1st Dept. App. November 4, 2010)

[2] N.Y. Tax Law § 1101(b)(8)(vi).

[3] The Plaintiffs originally also asserted unconstitutionality under the state constitution, but the denial of those claims was not appealed.

circumstances exist under which the click-through nexus statute would be valid. Moreover, the Plaintiffs would have to prove the invalidity "beyond a reasonable doubt."

Commerce Clause

The Appellate Division determined that the statute did not violate the Commerce Clause on its face. The court refused to find that the click-through nexus statute facially violated the substantial nexus requirement of the dormant Commerce Clause: "[the click-through nexus statute] imposes a tax collection obligation on an out-of-state vendor only where the vendor enters into a business-referral agreement with a New York State resident, and only when that resident receives a commission based on a sale in New York. The statute does not target the out-of-state vendor's sales through agents who are not New York residents. Thus, the nexus requirement is satisfied."

Sutherland Observation: The court draws an interesting, and perhaps challengeable, distinction between solicitation and passive advertising. Further, the court noted that the state will not enforce tax collection if the out-of-state seller puts in place a written agreement with its New York associates that prohibits the associates from "engaging in any solicitation activities in New York State that refer potential customers to the seller."

The Appellate Division determined that the limited discovery of the Plaintiffs' relationships with New York affiliates did not satisfy the substantial nexus requirement of the dormant Commerce Clause. Because the record lacked sufficient evidence of the scope of the affiliates' duties, it was impossible to conclude as a matter of law that the Plaintiffs' in-state representatives were engaged in activity that was sufficiently meaningful to implicate the state's taxing powers. Therefore, the Appellate Division found that the Plaintiffs should be given the opportunity to develop a record establishing actually, rather than theoretically, whether their representatives were soliciting business or merely advertising on their behalf.

Furthermore, the Appellate Division determined that it could not rule on whether the in-state representatives were engaged in activities that were "significantly associated" with the out-of-state retailer's ability to do business in the state. Whether the Plaintiffs could meet their burden, the Appellate Division said, remained to be seen.

Sutherland Observation: The click-through nexus statute imposes a "guilty until proven innocent" burden on taxpayers. The law requires taxpayers to prove that they do not have nexus, rather than forcing the state to prove the taxpayers are taxable. This burden is a heavy one because taxpayers have to prove the absence of activities, or have to get certifications from all of their affiliates that they are not engaged in solicitation, rather than requiring the state to review a sample of those activities to determine if solicitation is occurring.

Due Process

The Appellate Division rejected the claim that the statute was facially unconstitutional under the Due Process Clause. The Plaintiffs asserted that the statute violates due process because it creates an irrebuttable presumption that it had nexus.

The Appellate Division determined that the presumption is not irrebuttable, because: "Both the out-of-state vendor and the in-state representative seek, quite frankly, to make money. It is not irrational to presume that the in-state representative will engage in various legal methods to enhance earnings. Advertising would be one of those methods, but mere advertising does not implicate the statute. Solicitation, however, in varying forms, is another extremely plausible and likely avenue by which any competent businessperson would seek to improve revenues."

Sutherland Observation: In ruling that the statute was constitutional, the Appellate Division provided additional guidance about its definition of "solicitation." The Appellate Division affirmed that any activity that is "geared to the public at large" is not a solicitation, nor is the "maintenance of a Web site which the visitor must reach on his or her own initiative." However, the Appellate Division stated that an e-mail is no different than a telephone call or a mailing to a customer. "Both constitute active initiatives by a party seeking to generate business by pursuing a sale."

As Applied

Due Process

The Plaintiffs also argued that the statute was irrational and unfair as it irrebuttably applied to them. The Appellate Division opened the door to further argument on this point. The court did state that the determining factor is whether it would be irrational to conclude that the Plaintiffs' agreements with New York-based Web sites is sufficient to establish nexus. The court noted that there is strong evidence in favor of this presumption, but remanded for further discovery to give the Plaintiffs an opportunity to develop a record that their in-state representatives limit their activities to advertising on New York-based sites.

Equal Protection Clause

Amazon contended that the statute violated the Equal Protection Clause as applied to them, because it treated them differently from (1) out-of-state retailers who advertise in New York but do not use a mechanism similar to Amazon's associates program, and (2) out-of-state retailers who do advertise in New York and do utilize a similar program but who compensate their advertisers with a flat fee or on a "pay-per-click" model.

The Appellate Division concluded that Amazon failed to establish a viable equal protection claim. First, it could not claim that it was being exclusively targeted, because it was being treated exactly the same as Overstock. Second, Amazon could not establish that it was treated differently from out-of-state retailers that lack an affiliates program, because those retailers are not similarly situated. Amazon's first example involved businesses that do not directly solicit but only advertise in media. The second example involved representatives who are paid for results that are less beneficial to the out-of-state vendor (referrals rather than actual sales). Thus, the Appellate Division ruled that there was no proof of an impermissible discriminatory motive.

Conclusion

Sutherland will continue to monitor state nexus challenges aimed at Internet retailers. For more information regarding this Legal Alert, please contact a Sutherland State and Local Tax attorney.

Revenue Loss Studies

State and Local Government Sales Tax Revenue Losses from Electronic Commerce[1]

By

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[1] The authors are grateful to Scott Peterson of the Streamlined States Governing Board and an advisory committee including Lorrie Brown, Bart Hildreth, and Jerry Johnson. We also thank Charlie McClure for his helpful comments.

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State and Local Government Sales Tax Revenue Losses from Electronic Commerce

EXECUTIVE SUMMARY

The development of new technologies and digital processes has had a profound effect on the U.S economy as e-commerce sales have grown from $995.0 billion in 1999 to $2,385 billion by 2006. The rapid growth in e-commerce affects state and local economies in several important ways. First, state and local governments continue to lose sales and use tax revenues because of the inability to collect taxes that are due. Second, firms change their best business practices to avoid creating a collection responsibility in certain states. Firms choose to locate their selling or warehousing activities to avoid creating nexus rather than locating where they can operate most efficiently. Also, local vendors face a competitive disadvantage to e-commerce competitors as consumers browse in shops on Main Street but then make their purchases online to evade the tax. Finally, there may be distributional consequences if lower-income consumers are more likely to make purchases in local stores where the tax is collected.

We estimate state and local sales tax losses arising from e-commerce for 46 states and the District of Columbia using both a baseline forecast and an optimistic forecast for e-commerce growth. B2B (business-to-business) sales account for approximately 93 percent of total e-commerce. In the baseline case, we estimate that annual national state and local sales tax losses on e-commerce will grow to $11.4 billion by 2012 for a six-year total loss of $52 billion. The more optimistic growth case estimates losses to reach $12.65 billion by 2012 and an aggregate loss of $56.3 billion.

We view our estimates as lower bounds on the expected sales tax revenue losses. First, we use a conservative methodology for forecasting e-commerce. Second, we did not seek to account for the additional losses associated with non-registered vendors operating in the states. Third, we assume that the taxability of e-commerce transactions is the same as for overall commerce, even though we suspect that the ability to evade the tax should shift the mix of e-commerce more towards taxable sales.

Changing the law to require remote vendors to collect sales and use taxes would recover a significant portion of the estimated losses, although we acknowledge that some noncompliance would remain More importantly, our estimates are revenue losses associated with e-commerce and not all remote sales, and yet the proposed legislation covers other types of remote commerce, such as mail order, telephone orders, and deliveries made across state lines by unregistered businesses. Estimating the sales tax revenue losses associated with all remote commerce is beyond the scope of this study, but we believe the revenue implications are much larger than for e-commerce alone. For example, applying the methodology we used to estimate e-commerce losses, we estimate losses relating only to the B2C (business-to-consumer) component of mail orders sales to be $6.8 billion by 2012. As a result, total revenue gains from requiring various forms of remote vendors to collect sales and use tax will be significantly larger than what we estimate in this report for e-commerce.

INTRODUCTION

The advent and remarkable development of digital technologies and e-commerce have had profound effects on the U.S. economy. New products and innovative ways to sell, deliver and receive goods and services have developed. New technologies are affecting almost every aspect of business processes and every industry, dramatically enhancing productivity of the U.S. economy. Both pre-existing and new firms have benefited from integrating digital technologies into production processes and the advances have been an important factor in the country's economic growth since at least the mid-1990s.

Specifically, using new technologies and digital processes to facilitate remote commerce have been a visible benefit to a wide range of businesses and their customers. E-commerce sales have grown at a vigorous pace for nearly 10 years and we believe that the tempo will remain very strong. According to the U.S. Bureau of the Census, e-commerce sales grew from $995.0 billion in 1999 to $2,385 billion by 2006, a 13.3 percent compound annual growth rate.[2]

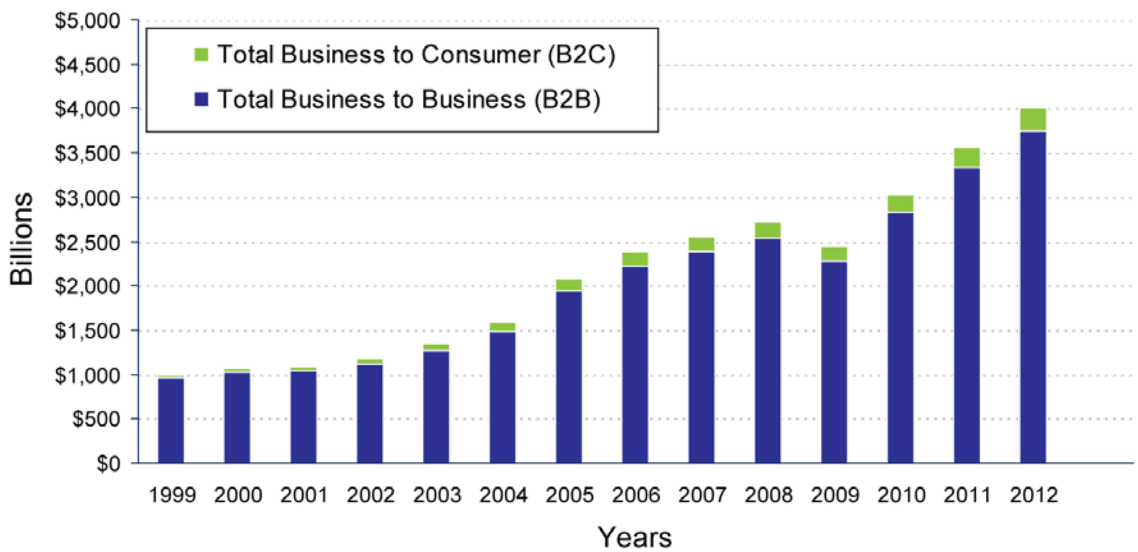
Past and expected future performance of e-commerce sales are illustrated in Figure 1 (including our baseline forecast from 2007 through 2012). We expect e-commerce sales to continue rising through the 2012 forecast horizon. E-commerce activity slowed during the recession at the beginning of the decade and is likely to slow again along with the rest of the economy during the current recession. Nonetheless, it should be noted that despite the current recession, the initial analysis of *Internet Retailer* suggests that 2008 e-commerce sales expanded 21.4 percent from the previous year.[3] We are forecasting a sound, though less vibrant, 9.0 percent annual increase from 2006 through 2012. Most e-commerce sales continue to be business to business (B2B) transactions.[4] B2B represented 92.8 percent of e-commerce sales in 2003, and rose slightly to 93.3 percent in 2006. The balance is of course business to consumer (B2C) sales. These findings evidence that the greatest implications of e-commerce to date have been on the ways that businesses work with each other rather than the ways that businesses relate to final consumers.

[2] See http://www.census.gov/eos/www/2006/all2006tables.html.
[3] See http://www.internetretailer.com/dailyNews.asp?id=29389.
[4] For general discussion purposes in this report, B2B sales are those made by manufacturers and wholesalers and B2C sales are those made by retailers. We recognize that manufacturers and wholesalers sell to individual consumers and retailers sell to businesses but we have no data allowing us to provide a detailed analysis of individual buyers. Sales by service providers are split evenly between B2B and B2C.

IMPLICATIONS FOR SALES TAX REVENUES

Concerns about state and local governments' ability to collect sales taxes on remote commerce have been expressed at least dating back to the writings of John Due in the 1960s. Much of the collection problem arises because states are unable to require remote vendors to remit the tax given the nexus restrictions arising from *Quill v. North Dakota.*[5] Perhaps the biggest consequence is that the US economy is harmed as firms change their best business practices to avoid creating a collection responsibility in certain states. For example, firms choose where to locate their sales or warehousing operations to avoid creating nexus rather than locating where they can operate most efficiently. We all lose from the higher economic costs associated with these decisions. Also, local vendors face a competitive disadvantage as consumers browse in shops on Main Street but then make their purchases online to evade the tax. There might also be distributional consequences if lower income consumers are more likely to make purchases in local stores where the tax is collected. Lost sales tax revenues have been an increasingly important issue as catalog sales grew and more recently with the dramatic rise in electronic commerce.

Figure 1: Estimated Total E-Commerce Sales



*Sales-taxing states only.

Several inclusive study groups have been formed during the past decade to investigate wide dimensions of e-commerce transactions and the relationship with state-local taxation, including whether e-commerce transactions should be incorporated into the sales tax base and if so how best to integrate these

[5] *Quill Corp. v. North Dakota*, 504 U.S. 298 (1992).

transactions into the base. The National Tax Association's *Communications and Electronic Commerce Project* was one of the first careful investigations into e-commerce tax implications. It was followed closely by the congressionally-initiated *Advisory Commission on Electronic Commerce*. More recently and more comprehensively, the *Streamlined Sales Tax Project* has tackled these issues through the operations of the Streamlined Sales Tax Governing Board and associated activities.

At the same time, a number of studies have been conducted on the revenue losses associated with the inability of state and local governments to enforce sales and use tax collections on transactions conducted through e-commerce. Among the earlier studies are three performed by us (Bruce and Fox, 2000, 2001, and 2004). These studies were based on the available information of the day, but were constrained by very limited experience with the extent of e-commerce and its taxability. This study updates estimates of the amount of sales and use taxes that states are unable to collect because of transactions that take place through e-commerce. The current analysis benefits from much richer history and data on the levels of e-commerce activity, the industries in which e-commerce transactions are conducted, and the taxability of these transactions.

The remainder of the report is broken into three sections. The first provides our estimates of the sales tax losses by state and the aggregate for the nation through 2012. The second provides several extensions of our analysis, including the effects of proposed legislation with a small seller exemption. The final section discusses our methodology in significant detail.

FINDINGS

National Findings

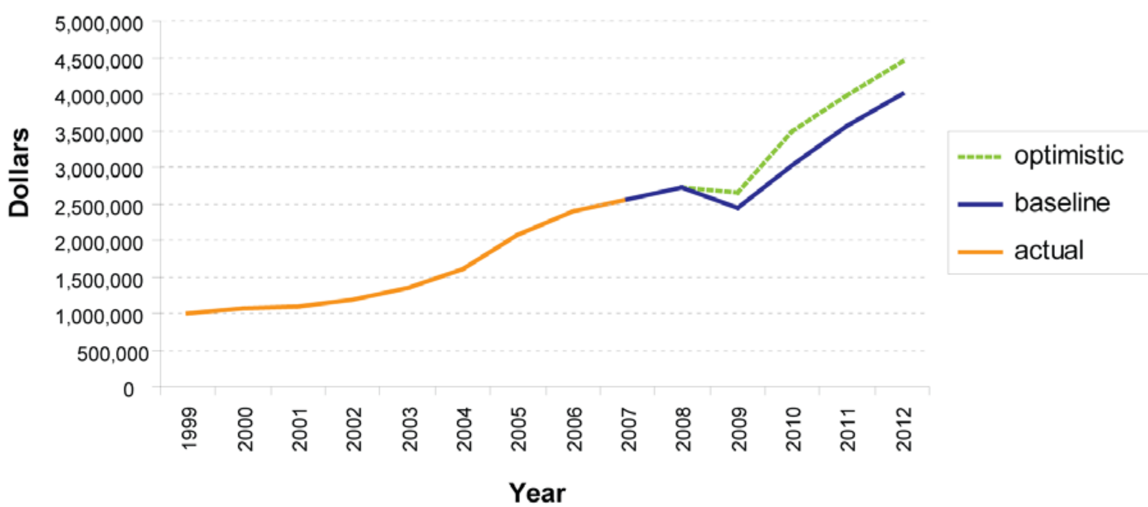
Estimated state and local sales tax revenue losses are reported in Table 1 for every sales-taxing state including Alaska, [6] using both a baseline forecast and an optimistic forecast for the economy.[7] The only difference between these two cases is the rate of economic growth, which results in a more vigorous forecast of e-commerce sales in the optimistic scenario. Details of the methodology used to prepare the e-commerce estimates are provided below.

Figure 2 shows actual e-commerce growth for the period 1999-2006 and our baseline and optimistic estimates for 2007-2012.[8] In the baseline case we forecast e-commerce sales to rise from $3.0 trillion in 2010 to $4.0 trillion in 2012. The national state and local sales tax loss on these transactions is

[6] Alaska has no state sales tax but has local sales taxes. Thus, the aggregate of Alaska local governments is included in our estimates for sales taxing jurisdictions.
[7] As we note in the methodology section, we believe the estimates presented are the lower bounds of the sales tax revenue losses from e-commerce based on two different forecasts of e-commerce growth.
[8] Our forecast horizon must begin at the end of the Census data, even though the first two years have already occurred.

expected to grow from $8.6 billion in 2010, the first year following the recession, to $11.4 billion in 2012. The losses total $52.1 billion over our six year forecast horizon. These losses are equal to what states would collect if they could achieve 100 percent compliance on the sales and use taxes due on e-commerce sales and arise because states are unable to enforce collection, particularly because of limitations such as those imposed by *Quill v. North Dakota*. The losses arise because 25 percent of taxes due on e-commerce go uncollected. The revenue losses associated with a more optimistic estimate of e-commerce growth are about 10 percent higher. It is important to realize that the estimated sales and use taxes that are currently collected on these transactions are much greater than our estimates of the loss. We estimate sales tax collections on e-commerce transactions to rise from about $26.1 billion in 2010 to $34.5 billion in 2012.

Figure 2: E-Commerce History and Forecasts



To be sure, the revenue losses in Table 1 are not necessarily what states would stand to collect if Congress permitted states to require remote vendors to collect and remit taxes. Our estimates also depend on whether the legislation includes a small vendor exception. Some noncompliance would remain after such a policy change, but several facets of our methodology lead us to view our estimates as lower bounds on the expected revenue losses. First, we used a conservative methodology for forecasting e-commerce. Second, we did not seek to account for the additional losses associated with non-registered vendors operating in states. Third, we assumed that the taxability of e-commerce transactions is the same as for overall commerce even though we suspect that the ability to evade the tax should shift the mix of e-commerce more towards taxable sales.

More importantly, our estimates are revenue losses associated with e-commerce and not all remote sales. We rely on U.S. Census definitions of e-commerce which begin with data from the Bureau's various surveys. One example is the survey underlying the 2006 Annual Retail Trade Report, which employs the following definition, "E-commerce sales and other operating receipts are sales of goods and services where an order is placed by the buyer; or price and terms of the sale are negotiated over an Internet, extranet, EDI network, electronic mail or other online system. Payment may or may not be made online."[9] Thus, sales that are consummated or negotiated via telephone or the mail are not included in our analysis but federal legislation allowing states to require remote vendors to collect the tax would also apply to these transactions. Further, vendors that sell to businesses and residents in surrounding states (and other non-registered vendors operating in the states) are not likely to collect the tax on many sales that are delivered to the other states. Again, the legislation would apply to these transactions. Proposed legislation may also pertain to taxation of telecommunications and this is not considered in this report.

Estimating the sales tax revenue losses associated with all remote commerce is beyond the scope of this study, but we believe the revenue implications are much larger than for e-commerce alone. One indication is the revenue loss associated with non-e-commerce sales by non-store retailers,[10] which are one category of B2C transactions. These non-store retailers had $115.6 billion in 2006 sales beyond their $75.2 billion in electronic commerce sales, evidencing that e-commerce only comprises 40 percent of the sales of non-store retailers. These are the B2C sales by retailers that operate without a store front, and this amount does not include similar B2B sales. Given that B2B dominates the e-commerce side, the B2B remote sales conducted in means other than e-commerce are presumably much larger than B2C.[11]

To get some sense of the additional revenue impact of federal legislation on non-e-commerce sales, we forecasted the non-e-commerce sales forward to 2012. We then added the non-e-commerce remote sales (for example, catalog sales by retailers with stores) by retailers with stores (except for the sales of motor vehicles), which are a little less than one-tenth as large as the non-store retailers. We then applied the same methodology as we describe below for e-commerce and estimated that states are losing $6.8 billion in sales tax collections on these transactions. This loss in tax revenues for the non-e-commerce sales is very large, and it is more than one half as large as our total estimates of losses from e-commerce sales (which amounted to $11.4 billion in 2012). It is important to keep in mind that the $6.8 billion estimate does not include two other forms of non-e-commerce remote transactions that we believe account for even larger tax revenue losses: remote B2B sales other than e-commerce and non-registered vendors and other activity along state borders.

[9] See http://www.census.gov/svsd/retlann/pdf/06sa44c.pdf.
[10] These are large and small retailers that sell through various channels that include online, catalog, and television, but do not sell through retail stores. The specific firms categorized as non-store retailers are determined through the Census survey process but could include retailers such as Amazon, Zappos, and 1-800-flowers. The Census separately categorizes the online sales from the other types of sales for these vendors.
[11] Unfortunately, the Census does not report comparable sales for B2B.

Our approach is described in detail in the methodology section beginning on page 13. This paragraph provides an overview of some aggregate results. In general, state sales taxes apply to sales of tangible goods unless the state otherwise exempts them, but apply only to specifically identified services. States vary widely to the extent that they exempt goods and impose the sales tax on services. Using the (non-DC) average taxability for each NAICS category along with each category's share of total e-commerce, we find that 18.2 percent of e-commerce transactions is taxable, with a range from 9.0 percent in Michigan to over 20 percent in a number of states (see Table 2).[12] Thus, we estimate that five-sixths of e-commerce sales are not taxable under current statutes. Determination of taxability is described in greater detail below. We estimate a compliance rate of about three-fourths (75.1 percent) on the taxable sales, with non-compliance on the remaining taxes that are due. Combined, we estimate that taxes are uncollected on a little more than four percent of e-commerce.

[12] See discussion on taxability of e-commerce sales starting on page 15.

Table 1: National Total State and Local E-Commerce and Revenue Losses ($millions)

	2007	2008	2009	2010	2011	2012
Baseline E-Commerce Growth Scenario						
Total Business-to-Business E-commerce	2,325,701	2,480,011	2,231,283	2,767,010	3,253,412	3,656,856
Total Business-to-Consumer E-commerce	168,081	179,233	161,257	199,975	235,128	264,285
Total E-Commerce	2,493,782	2,659,244	2,392,540	2,966,985	3,488,540	3,921,140
Estimated Taxes Due	29,177	31,113	27,992	34,713	40,815	45,877
Estimated Taxes Collected	21,931	23,386	21,041	26,093	30,679	34,484
Estimated Total State and Local Revenue Loss	**7,246**	**7,726**	**6,951**	**8,620**	**10,136**	**11,393**
Optimistic E-Commerce Growth Scenario						
Total Business-to-Business E-commerce	2,325,701	2,486,222	2,408,247	3,184,050	3,634,500	4,060,293
Total Business-to-Consumer E-commerce	168,081	179,682	174,047	230,115	262,669	293,442
Total E-Commerce	2,493,782	2,665,904	2,582,294	3,414,165	3,897,170	4,353,735
Estimated Taxes Due	29,177	31,191	30,212	39,945	45,596	50,938
Estimated Taxes Collected	21,931	23,445	22,710	30,025	34,273	38,288
Estimated Total State and Local Revenue Loss	**7,246**	**7,746**	**7,503**	**9,920**	**11,323**	**12,650**

Table 2: Overall Taxability of Electronic Commerce

State	Percent Taxable
Arkansas	11.61
Arizona	18.14
Colorado	16.16
Connecticut	10.59
District of Columbia	22.89
Florida	16.83
Illinois	23.28
Kansas	21.60
Kentucky	17.84
Louisiana	22.89
Massachusetts	18.71
Michigan	8.97
Minnesota	21.01
North Carolina	14.40
North Dakota	11.86
Nebraska	16.45
New Jersey	10.49
Nevada	22.38
Ohio	15.43
Oklahoma	15.45
Pennsylvania	19.08
Rhode Island	14.01
South Carolina	18.32
South Dakota	15.53
Tennessee	16.33
Texas	11.80
Vermont	16.39
Washington	12.59
West Virginia	19.24
Non-DC Average*	18.24

*Note: This value is assigned to all non-responding states.

State Findings

State level calculations are provided in Tables 3 through 6. These tables contain our estimates for the combination of state and local governments under the baseline scenario.[13] Results for the optimistic scenario are in Appendix A.[14] Table 3 provides our estimates of the tax revenue that are due on taxable e-commerce transactions given our estimates of taxability and our forecasts of e-commerce purchases by residents and businesses within each state. We anticipate that $34.7 billion in sales taxes will be due in 2010, and this amount will rise to $45.9 billion by 2012. The amounts vary radically across states depending on the size of each state's economy and characteristics of each state's sales tax structure. For example, $5.8 billion will be due in California alone in 2010.

Table 4 reports our estimates of the sales taxes that are actually collected on e-commerce for each state. Again, the collections vary dramatically by state with over $2.1 billion expected to be collected in New York alone in 2010. Table 5 contains our estimates of the uncollected taxes, or the losses associated with the inability to collect taxes that are due. The losses are equal to the values that are due as reported in Table 3 minus those that are collected, as reported in Table 4. We estimate that California will fail to collect more than $1.4 billion in 2010 and more than $8.7 billion over our six year forecast horizon[15] because of limitations arising from nexus and other restrictions on administrative options. Finally, to better illustrate the overall budgetary impact of the estimated e-commerce revenue losses, we show e-commerce sales tax revenue losses as a percent of the 2007 adjusted state and local sales tax revenues from all sources in each state in Table 6. We find that the losses average 2.9 percent of collections in 2010, and 3.8 percent of collections in 2012. The lowest percentage loss is estimated to occur in Michigan (excluding Alaska) and the highest in Louisiana. The differences in the relative loss arise because of variation in the state tax structures including tax rates and the share of transactions that are taxable.

We also estimated the revenue losses for New York City and Chicago (Cook County). The losses attributable to these cities, which include losses for both state and local taxes, account for nearly half of their respective states' totals (see Table 7). For example, New York City will lose $433 million in 2012 and Chicago will lose $254 million in 2012.

[13] The loss is based on the state rate plus the weighted average local rate. The weighted average local rate is calculated as local sales tax collections divided by the state sales tax base. The loss allocated to local governments can be calculated by using the ratio of the weighted average local rate to the total rate.
[14] While the revenue losses under the optimistic scenario are larger than the loss under the baseline scenario, the revenues collected would also be higher under the optimistic scenario.
[15] Of course, California has already foregone the revenue in 2007 and 2008, two years that were important to development of a large fiscal gap that necessitated a higher sales tax rate among other policy responses.

Table 3: Total State and Local Sales and Use Taxes Due on E-Commerce ($millions)

	Baseline Scenario						
	2007	2008	2009	2010	2011	2012	Total
Alabama	429.7	458.2	412.3	511.2	601.1	675.7	3,088.2
Alaska	3.8	4.0	3.6	4.5	5.3	6.0	27.3
Arizona	928.2	989.8	890.5	1,104.3	1,298.5	1,459.5	6,670.8
Arkansas	285.5	304.4	273.9	339.7	399.4	448.9	2,051.7
California	4,898.3	5,223.3	4,699.5	5,827.8	6,852.3	7,702.0	35,203.2
Colorado	438.0	467.0	420.2	521.1	612.7	688.6	3,147.5
Connecticut	161.3	172.0	154.7	191.9	225.6	253.6	1,159.0
District of Columbia	90.1	96.0	86.4	107.2	126.0	141.6	647.3
Florida	2,056.0	2,192.4	1,972.5	2,446.1	2,876.1	3,232.7	14,775.7
Georgia	1,043.5	1,112.8	1,001.2	1,241.5	1,459.8	1,640.8	7,499.6
Hawaii	149.5	159.4	143.4	177.9	209.2	235.1	1,074.5
Idaho	117.1	124.9	112.4	139.3	163.8	184.2	841.7
Illinois	1,299.9	1,386.1	1,247.1	1,546.5	1,818.4	2,043.9	9,341.8
Indiana	497.2	530.2	477.0	591.5	695.5	781.8	3,573.3
Iowa	223.0	237.8	214.0	265.3	312.0	350.7	1,602.7
Kansas	380.0	405.2	364.6	452.1	531.6	597.5	2,731.2
Kentucky	291.5	310.9	279.7	346.9	407.8	458.4	2,095.3
Louisiana	989.1	1,054.7	948.9	1,176.8	1,383.6	1,555.2	7,108.4
Maine	80.6	85.9	77.3	95.9	112.7	126.7	579.1
Maryland	467.3	498.3	448.3	556.0	653.7	734.7	3,358.3
Massachusetts	331.7	353.7	318.3	394.7	464.0	521.6	2,384.0
Michigan	360.0	383.9	345.4	428.3	503.6	566.1	2,587.3
Minnesota	590.1	629.3	566.2	702.1	825.5	927.9	4,241.1
Mississippi	338.4	360.9	324.7	402.7	473.4	532.2	2,432.3
Missouri	534.9	570.4	513.2	636.4	748.3	841.1	3,844.4
Nebraska	153.9	164.1	147.6	183.1	215.3	242.0	1,105.9
Nevada	431.3	460.0	413.8	513.2	603.4	678.2	3,099.9
New Jersey	513.4	547.5	492.6	610.9	718.3	807.3	3,690.0
New Mexico	304.0	324.1	291.6	361.6	425.2	477.9	2,184.4
New York	2,334.3	2,489.1	2,239.5	2,777.2	3,265.4	3,670.3	16,775.8
North Carolina	545.7	581.9	523.6	649.3	763.4	858.1	3,921.9
North Dakota	39.9	42.6	38.3	47.5	55.9	62.8	287.1
Ohio	783.0	834.9	751.2	931.6	1,095.3	1,231.2	5,627.2
Oklahoma	354.6	378.2	340.2	421.9	496.1	557.6	2,548.7
Pennsylvania	871.2	929.0	835.8	1,036.5	1,218.7	1,369.9	6,261.2
Rhode Island	72.0	76.7	69.0	85.6	100.7	113.1	517.1
South Carolina	315.0	335.9	302.2	374.7	440.6	495.2	2,263.5
South Dakota	72.2	77.0	69.3	85.9	101.0	113.5	519.0
Tennessee	1,047.7	1,117.2	1,005.1	1,246.5	1,465.6	1,647.3	7,529.3
Texas	2,230.4	2,378.3	2,139.8	2,653.6	3,120.0	3,506.9	16,029.1
Utah	224.8	239.7	215.7	267.4	314.5	353.4	1,615.5
Vermont	60.7	64.7	58.2	72.2	84.9	95.4	436.1
Virginia	528.1	563.1	506.7	628.3	738.8	830.4	3,795.4
Washington	753.3	803.2	722.7	896.2	1,053.7	1,184.4	5,413.6
West Virginia	126.0	134.3	120.9	149.9	176.2	198.1	905.4
Wisconsin	360.1	384.0	345.5	428.5	503.8	566.2	2,588.1
Wyoming	70.5	75.2	67.7	83.9	98.7	110.9	506.9
TOTAL	29,176.8	31,112.6	27,992.3	34,713.2	40,815.2	45,876.6	209,686.7

Table 4: Total State and Local Sales and Use Tax Collections on E-Commerce Sales ($millions)

	Baseline Scenario						
	2007	2008	2009	2010	2011	2012	Total
Alabama	321.4	342.7	308.3	382.3	449.6	505.3	2,309.6
Alaska	2.8	3.0	2.7	3.4	4.0	4.5	20.4
Arizona	693.0	739.0	664.9	824.5	969.5	1,089.7	4,980.5
Arkansas	213.1	227.2	204.4	253.5	298.1	335.0	1,531.2
California	3,687.1	3,931.7	3,537.4	4,386.7	5,157.9	5,797.5	26,498.4
Colorado	328.1	349.9	314.8	390.4	459.0	515.9	2,358.0
Connecticut	120.7	128.7	115.8	143.6	168.9	189.8	867.5
District of Columbia	67.5	71.9	64.7	80.3	94.4	106.1	484.8
Florida	1,544.8	1,647.3	1,482.0	1,837.9	2,161.0	2,428.9	11,101.8
Georgia	782.6	834.5	750.8	931.1	1,094.8	1,230.5	5,624.4
Hawaii	111.4	118.7	106.8	132.5	155.8	175.1	800.3
Idaho	87.6	93.5	84.1	104.3	122.6	137.8	629.8
Illinois	977.5	1,042.4	937.8	1,163.0	1,367.4	1,537.0	7,025.2
Indiana	373.0	397.7	357.8	443.8	521.8	586.5	2,680.5
Iowa	166.6	177.7	159.9	198.2	233.1	262.0	1,197.5
Kansas	289.1	308.3	277.4	344.0	404.5	454.6	2,077.9
Kentucky	221.6	236.3	212.6	263.7	310.0	348.5	1,592.7
Louisiana	737.3	786.2	707.4	877.2	1,031.4	1,159.3	5,298.9
Maine	60.2	64.2	57.7	71.6	84.2	94.6	432.6
Maryland	350.2	373.4	336.0	416.6	489.9	550.6	2,516.7
Massachusetts	248.2	264.7	238.2	295.3	347.3	390.3	1,784.0
Michigan	270.0	287.9	259.1	321.3	377.7	424.6	1,940.6
Minnesota	440.5	469.7	422.6	524.1	616.2	692.6	3,165.7
Mississippi	252.7	269.4	242.4	300.6	353.4	397.3	1,815.8
Missouri	400.9	427.5	384.6	477.0	560.9	630.4	2,881.4
Nebraska	114.9	122.5	110.2	136.7	160.7	180.6	825.6
Nevada	323.9	345.4	310.8	385.4	453.1	509.3	2,327.8
New Jersey	384.7	410.2	369.1	457.7	538.1	604.8	2,764.5
New Mexico	227.3	242.4	218.1	270.5	318.0	357.5	1,633.9
New York	1,783.8	1,902.2	1,711.4	2,122.3	2,495.4	2,804.9	12,820.1
North Carolina	409.8	436.9	393.1	487.5	573.2	644.3	2,944.8
North Dakota	30.2	32.2	29.0	35.9	42.2	47.5	217.0
Ohio	587.2	626.1	563.3	698.6	821.4	923.2	4,219.7
Oklahoma	265.1	282.7	254.3	315.4	370.8	416.8	1,905.2
Pennsylvania	651.2	694.4	624.8	774.8	911.0	1,024.0	4,680.3
Rhode Island	53.5	57.0	51.3	63.6	74.8	84.1	384.4
South Carolina	235.7	251.4	226.2	280.5	329.8	370.7	1,694.3
South Dakota	53.3	56.8	51.1	63.4	74.5	83.8	382.9
Tennessee	786.4	838.6	754.5	935.6	1,100.1	1,236.5	5,651.6
Texas	1,676.8	1,788.1	1,608.7	1,995.0	2,345.7	2,636.5	12,050.8
Utah	168.5	179.7	161.7	200.5	235.8	265.0	1,211.2
Vermont	44.7	47.7	42.9	53.2	62.5	70.3	321.3
Virginia	396.5	422.8	380.4	471.7	554.6	623.4	2,849.3
Washington	574.0	612.0	550.7	682.9	802.9	902.5	4,124.9
West Virginia	93.8	100.0	90.0	111.6	131.2	147.5	674.0
Wisconsin	269.7	287.6	258.8	320.9	377.3	424.1	1,938.4
Wyoming	52.3	55.8	50.2	62.3	73.2	82.3	376.1
TOTAL	21,931.2	23,386.3	21,040.8	26,092.7	30,679.5	34,483.9	157,614.4

Table 5: Total State and Local Sales and Use Tax Revenue Losses from E-Commerce Sales ($millions)

	Baseline Scenario						
	2007	2008	2009	2010	2011	2012	Total
Alabama	108.3	115.5	103.9	128.9	151.6	170.4	778.6
Alaska	1.0	1.0	0.9	1.1	1.3	1.5	6.8
Arizona	235.2	250.8	225.6	279.8	329.0	369.8	1,690.3
Arkansas	72.4	77.2	69.5	86.2	101.3	113.9	520.4
California	1,211.2	1,291.6	1,162.1	1,441.1	1,694.4	1,904.5	8,704.8
Colorado	109.9	117.1	105.4	130.7	153.7	172.7	789.5
Connecticut	40.6	43.2	38.9	48.3	56.7	63.8	291.5
District of Columbia	22.6	24.1	21.7	26.9	31.6	35.5	162.5
Florida	511.2	545.1	490.4	608.2	715.1	803.8	3,673.9
Georgia	260.9	278.2	250.3	310.4	365.0	410.3	1,875.2
Hawaii	38.2	40.7	36.6	45.4	53.4	60.0	274.2
Idaho	29.5	31.4	28.3	35.1	41.2	46.4	211.9
Illinois	322.3	343.7	309.3	383.5	450.9	506.8	2,316.6
Indiana	124.2	132.5	119.2	147.8	173.8	195.3	892.8
Iowa	56.4	60.1	54.1	67.1	78.9	88.7	405.3
Kansas	90.9	96.9	87.2	108.1	127.1	142.9	653.2
Kentucky	69.9	74.6	67.1	83.2	97.8	109.9	502.5
Louisiana	251.8	268.5	241.6	299.6	352.2	395.9	1,809.5
Maine	20.4	21.7	19.6	24.3	28.5	32.1	146.6
Maryland	117.1	124.9	112.4	139.3	163.8	184.1	841.6
Massachusetts	83.5	89.0	80.1	99.3	116.8	131.3	600.0
Michigan	90.0	96.0	86.3	107.1	125.9	141.5	646.7
Minnesota	149.6	159.6	143.6	178.0	209.3	235.3	1,075.3
Mississippi	85.8	91.5	82.3	102.1	120.0	134.9	616.5
Missouri	134.0	142.9	128.6	159.4	187.5	210.7	963.0
Nebraska	39.0	41.6	37.4	46.4	54.6	61.3	280.4
Nevada	107.4	114.6	103.1	127.8	150.3	168.9	772.1
New Jersey	128.8	137.3	123.5	153.2	180.1	202.5	925.5
New Mexico	76.6	81.7	73.5	91.1	107.2	120.5	550.5
New York	550.4	586.9	528.1	654.9	770.0	865.5	3,955.7
North Carolina	136.0	145.0	130.4	161.8	190.2	213.8	977.1
North Dakota	9.8	10.4	9.4	11.6	13.6	15.3	70.1
Ohio	195.8	208.8	187.9	233.0	274.0	307.9	1,407.5
Oklahoma	89.5	95.5	85.9	106.5	125.3	140.8	643.5
Pennsylvania	220.0	234.6	211.0	261.7	307.7	345.9	1,580.9
Rhode Island	18.5	19.7	17.7	22.0	25.8	29.0	132.7
South Carolina	79.2	84.5	76.0	94.2	110.8	124.5	569.3
South Dakota	18.9	20.2	18.2	22.5	26.5	29.8	136.1
Tennessee	261.3	278.6	250.7	310.9	365.5	410.8	1,877.7
Texas	553.6	590.3	531.1	658.6	774.4	870.4	3,978.3
Utah	56.3	60.0	54.0	66.9	78.7	88.5	404.3
Vermont	16.0	17.0	15.3	19.0	22.3	25.1	114.8
Virginia	131.6	140.4	126.3	156.6	184.1	207.0	946.0
Washington	179.3	191.2	172.0	213.3	250.8	281.9	1,288.7
West Virginia	32.2	34.3	30.9	38.3	45.0	50.6	231.4
Wisconsin	90.4	96.4	86.7	107.6	126.5	142.1	649.7
Wyoming	18.2	19.4	17.5	21.6	25.4	28.6	130.7
TOTAL	7,245.6	7,726.3	6,951.4	8,620.4	10,135.8	11,392.7	52,072.2

Table 6: Total State and Local Sales and Use Tax Revenue Losses from E-Commerce Sales as a Percentage of 2007 Sales and Use Tax Collections

	Baseline Scenario					
	2007	2008	2009	2010	2011	2012
Alabama	2.67	2.84	2.56	3.17	3.73	4.19
Alaska	0.56	0.59	0.53	0.66	0.78	0.87
Arizona	3.00	3.20	2.88	3.57	4.19	4.71
Arkansas	1.92	2.05	1.84	2.29	2.69	3.02
California	2.96	3.16	2.84	3.52	4.14	4.65
Colorado	2.25	2.39	2.15	2.67	3.14	3.53
Connecticut	1.34	1.43	1.28	1.59	1.87	2.10
District of Columbia	2.77	2.95	2.65	3.29	3.87	4.35
Florida	2.22	2.37	2.13	2.65	3.11	3.50
Georgia	2.50	2.67	2.40	2.97	3.50	3.93
Hawaii	1.56	1.66	1.50	1.86	2.18	2.45
Idaho	2.31	2.46	2.21	2.75	3.23	3.63
Illinois	3.53	3.76	3.39	4.20	4.94	5.55
Indiana	2.29	2.44	2.20	2.73	3.20	3.60
Iowa	2.44	2.60	2.34	2.90	3.41	3.83
Kansas	3.05	3.25	2.93	3.63	4.27	4.79
Kentucky	2.16	2.30	2.07	2.57	3.02	3.39
Louisiana	3.76	4.01	3.60	4.47	5.26	5.91
Maine	1.93	2.06	1.85	2.30	2.70	3.04
Maryland	2.30	2.45	2.20	2.73	3.21	3.61
Massachusetts	1.97	2.10	1.89	2.35	2.76	3.10
Michigan	1.13	1.20	1.08	1.34	1.58	1.77
Minnesota	2.95	3.14	2.83	3.50	4.12	4.63
Mississippi	2.71	2.89	2.60	3.23	3.79	4.26
Missouri	2.57	2.74	2.47	3.06	3.60	4.05
Nebraska	2.25	2.40	2.16	2.67	3.14	3.53
Nevada	3.19	3.40	3.06	3.79	4.46	5.01
New Jersey	1.54	1.65	1.48	1.84	2.16	2.43
New Mexico	2.73	2.91	2.62	3.25	3.82	4.29
New York	2.79	2.97	2.68	3.32	3.90	4.39
North Carolina	1.83	1.95	1.75	2.17	2.56	2.87
North Dakota	1.45	1.54	1.39	1.72	2.03	2.28
Ohio	2.12	2.26	2.03	2.52	2.96	3.33
Oklahoma	2.59	2.76	2.48	3.08	3.62	4.07
Pennsylvania	2.48	2.64	2.38	2.95	3.47	3.90
Rhode Island	2.11	2.25	2.02	2.51	2.95	3.32
South Carolina	2.37	2.53	2.28	2.82	3.32	3.73
South Dakota	1.84	1.96	1.76	2.18	2.57	2.89
Tennessee	3.04	3.24	2.91	3.61	4.25	4.78
Texas	1.89	2.02	1.81	2.25	2.64	2.97
Utah	2.29	2.44	2.19	2.72	3.20	3.60
Vermont	2.56	2.73	2.45	3.04	3.58	4.02
Virginia	2.38	2.54	2.28	2.83	3.33	3.74
Washington	1.92	2.05	1.84	2.28	2.68	3.02
West Virginia	2.47	2.64	2.37	2.94	3.46	3.89
Wisconsin	2.04	2.18	1.96	2.43	2.86	3.21
Wyoming	2.03	2.16	1.94	2.41	2.83	3.19
TOTAL	2.43	2.60	2.33	2.90	3.40	3.83

Note: 2007 Collections are actually the adjusted 2007 state base multiplied by the sum of the state and local sales and use tax rates. The lone exception is Alaska, for which actual 2007 collections are used.

Table 7: Total State and Local Sales and Use Tax Revenue Losses from E-Commerce Sales ($millions) Chicago and New York City

	Baseline Scenario					
	2007	2008	2009	2010	2011	2012
Illinois Total	322.3	343.7	309.3	383.5	450.9	506.8
Chicago	145.6	155.3	139.7	173.3	203.7	229.0
Non-Chicago Illinois	176.7	188.4	169.5	210.2	247.2	277.9
New York Total	550.4	586.9	528.1	654.9	770.0	865.5
New York City	248.4	264.9	238.3	295.5	347.5	390.6
Non-NYC New York	302.0	322.1	289.8	359.3	422.5	474.9
	Optimistic Scenario					
Illinois Total	322.3	344.6	333.8	441.3	503.7	562.8
Chicago	145.6	155.7	150.8	199.4	227.6	254.3
Non-Chicago Illinois	176.7	188.9	183.0	241.9	276.2	308.5
New York Total	550.4	588.4	570.0	753.6	860.2	960.9
New York City	248.4	265.5	257.2	340.1	388.2	433.7
Non-NYC New York	302.0	322.9	312.7	413.5	472.0	527.3

Effects of a *de minimis* Rule in the Context of Enhanced Vendor Compliance

A federal law permitting states to require remote vendors to collect the sales and use taxes has been proposed in various formats. In some cases, a *de minimis* rule has been included as one aspect of the legislation. We estimated the reduction in revenues that states could expect to collect with federal legislation that did not impose a collection responsibility on firms with e-commerce sales below certain thresholds. The *de minimis* rule would have a different effect if it is based on total sales of the vendor, since their total sales could be much greater than their e-commerce sales. Also, the effects would be very different if the *de minimis* rule applied to all firms with sales under the threshold and not only to remote vendors.

The effects are relatively large based on the expectation that a significant share of e-commerce is conducted by small vendors. Specifically, we find that a *de minimis* threshold of $1 million would lower expected state collections by $2.6 billion in 2010, after taking into account use tax collection paid by buyers. The amount would rise to nearly $3.4 billion by 2012. This means, for example, that the price tag for a $1 million small vendor exception is 30.0 percent as large as our estimate of losses in 2012. As shown in Table 8, the impact on expected collections varies with the chosen *de minimis* threshold.

Table 8: Effects of de minimis Rules on Potential Revenue Gains from Enhanced Vendor Compliance ($millions)

de minimis Threshold	2007	2008	2009	2010	2011	2012
Below $500,000	1,489.7	1,588.6	1,429.3	1,772.4	2,084.0	2,342.4
Below $1,000,000	2,173.6	2,317.8	2,085.3	2,586.0	3,040.6	3,417.6
Below $5,000,000	2,670.4	2,847.6	2,562.0	3,177.2	3,735.7	4,198.9

Note: Entries represent reductions in the potential revenue gains at various levels of the *de minimis* threshold.

COMPARISON WITH PREVIOUS FORECASTS

Some concerns have been raised over the years about our earlier estimates. The primary issue has regarded inclusion of B2B e-commerce in our analysis. We believe that it is imperative to include B2B, and in fact do not understand any argument for excluding these transactions from a comprehensive study. Our goal is to measure the inability to collect sales and use taxes that are due on e-commerce transactions, and B2B represents over 90 percent of e-commerce sales. As shown below, about 13.0 percent of B2B e-commerce transactions are taxable. Further, we have both anecdotal evidence from state Departments of Revenue and the Washington State Compliance studies[16] evidencing that significant shares of use taxes go unpaid on business purchases of taxable goods and services. Therefore, we believe the B2B sales must be included in any comprehensive analysis of sales tax losses.

The estimates of sales tax revenue losses presented here are lower than our previous estimates. One reason for this reduction is that, as documented below, we have sought to provide a lower bound to the revenue losses that will result. The actual losses could be even greater. The lower revenue loss estimates occur despite a much higher current forecast for aggregate e-commerce sales than we previously anticipated. For example, we now believe that 2008 e-commerce transactions will total $2.7 trillion, up markedly from our previous estimate of $1.7 trillion (see Bruce and Fox, 2004). The key difference in the forecast of total transactions is that the Census data evidence a much larger baseline of e-commerce transactions than was used in our earlier analysis. In fact, the Census Bureau reports 2006 e-commerce sales as $2.4 trillion, well above our previous estimate for 2008, but Census also reports much higher e-commerce in earlier years, such as 1999, than when we made in our earlier forecasts.

The lower revenue loss results primarily because B2B sales have grown faster and remained a more dominant share of e-commerce than we had previously expected. B2C transactions are somewhat lower than those used in our earlier forecasts. This has two key effects on our results. First, a much smaller share of the transactions is taxable, since B2B is less likely to be taxable than B2C. Based on survey responses from state revenue departments, we

[16] See http://dor.wa.gov/Docs/Reports/Compliance_Study/compliance_study_2008.pdf.

expect that 13.0 percent of B2B e-commerce transactions are taxable versus 69.6 percent of B2C transactions. Second, use tax compliance for B2B is much better than for B2C, so more of the taxes that are due are collected. Indeed, compliance is generally much better than was anticipated in our earlier work. We believe that the Streamlined Project has been an important cause of better compliance, both because it has drawn attention to the taxes that are due and because the simplification provisions have facilitated collection and remittance of the tax. The combination of lower taxability and higher compliance over the last five years works together to reduce the revenue loss estimates.

METHODOLOGY

We develop estimates of the tax revenue losses associated with e-commerce using a six-step process. The steps involve differing degrees of complexity. Our analysis begins with a forecast of e-commerce activity for the years 2007 through 2012. Second, we distribute e-commerce sales to the states to yield the potential amount of taxable transactions in each state. Third, we determine the degree to which e-commerce transactions are taxable in each state. Fourth, we estimate the sales tax revenues that are due using state-specific estimates of e-commerce transactions and taxability alongside current state and local tax rates. Fifth, we determine the expected sales and use tax compliance on e-commerce transactions and therefore the expected tax collections on these transactions. Sixth and finally, we subtract the taxes collected from the taxes that are due to yield the uncollected taxes, the main goal of the study.

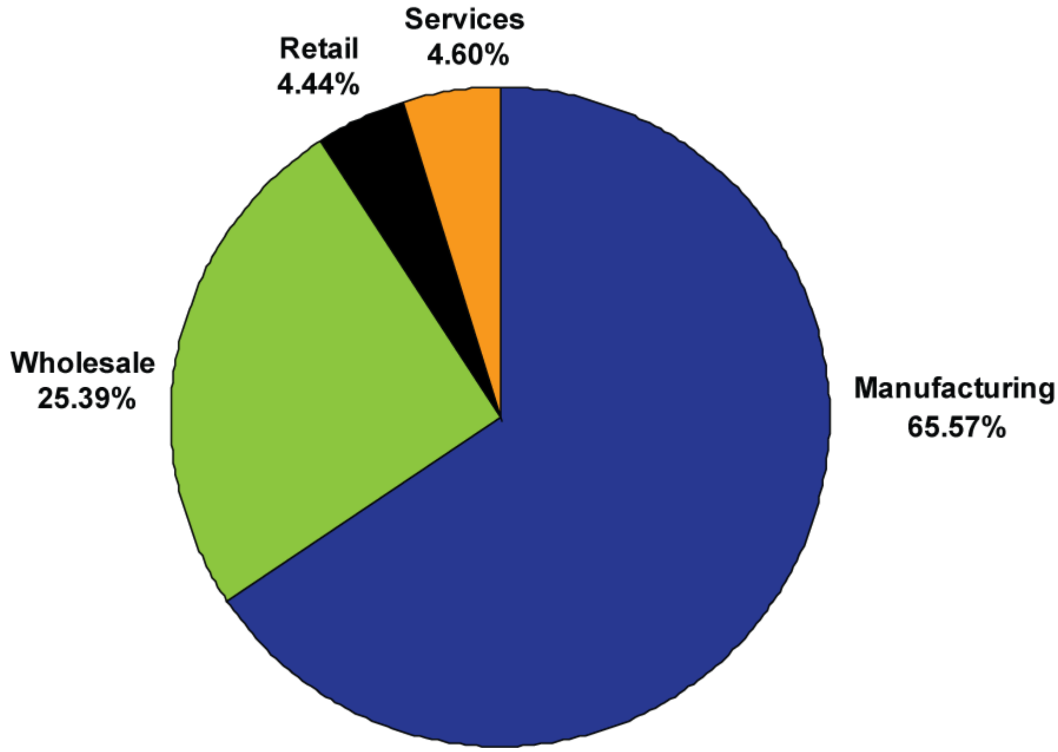
Forecasting E-Commerce Sales

E-commerce sales are available from the U.S. Bureau of the Census E-Stats data for multiple NAICS industries from 1998 through 2006. The industries are not fully consistent across the history of data, but include approximately 21 manufacturing, 19 wholesale, 18 services, and 12 retail industry groupings. These data serve as the basis for forecasts for e-commerce sales from 2007 through 2012.

We first develop a relationship between aggregate e-commerce sales and the economy by regressing the log of e-commerce shipments on the log of nominal GDP and the real GDP growth rate for 1999 through 2006. The resulting coefficients are used together with Global Insight's November 2008 baseline and optimistic forecasts for GDP and the real GDP growth rate to prepare both baseline and optimistic forecasts for aggregate e-commerce sales from 2007 through 2012. The history of e-commerce sales plus our forecasts for the baseline are illustrated in Figure 1 above.

E-commerce sales by industry are necessary to maximize the usefulness of the forecasts because taxability is best determined at the industry level rather than in aggregate. We calculated the distribution of e-commerce sales by industry for 2006 and assumed that it would remain the same over the forecast horizon. These shares are illustrated for the broad industry groupings in Figure 3, though our analysis is undertaken for more disaggregated industry categories.[17]

Figure 3: Industry Share of E-Commerce 2006



Distribution of E-Commerce Sales to the States

No consistent data are available on the geographic distribution of e-commerce purchases, and specifically by state, so it was necessary to develop a methodology to approximate the state-level allocations. First, we assume that the percent of purchases by residents and businesses in non-sales-tax states (Delaware, Montana, New Hampshire, and Oregon) is identical to these states' share of total national personal income. Thus, 2.17 percent of e-commerce sales

[17] We considered forecasting varying industry shares through 2012 but discarded this idea. The constant industry data series available to prepare the forecasts lasts only from 2002 through 2006 and the growth paths of the shares was heavily influenced by commodity price increases. Escalation of commodity prices has been substantially wrung out of the economy by the recession and our judgment is that the forecast based on this history is less reliable than simply accepting the 2006 shares.

is allocated to non-sales taxing states and the remaining 97.83 percent to sales taxing states.

Second, e-commerce transactions for sales-taxing states were distributed across states in proportion to the percentage of national aggregate adjusted state and local sales tax revenues collected in each state. This approach allows the e-commerce share to rise with the size of the state economy, breadth of the adjusted tax base, and level of sales tax rates. The estimated e-commerce share is positively related to the tax rate because the incentives for businesses and people to shop online rise with the tax rate.[18] The adjusted tax base is drawn from estimates developed by John Mikesell (2008), as we discuss below.

Taxability of E-Commerce Sales

Uncollected sales tax revenues cannot be estimated without first approximating the sales taxes that are due. Thus, we must have estimates of the share of e-commerce sales that are taxable in each state. For this purpose it is necessary to approximate the share of e-commerce transactions that is taxable and *not* the share on which taxes are collected. The task is made more complex because the taxability of transactions can depend on the purchaser[19] but the e-commerce sales data are available by vendor industry.

For purposes of determining taxability, we categorize as sales taxes all taxes that operate in a similar fashion. Thus, a number of states, such as Kentucky, North Dakota, and South Carolina, collect a tax on motor vehicle transactions but do not consider the collections as part of their sales taxes. However, for our purposes these are considered as sales taxes. A paper by John Mikesell (2008) details the propensity for states to have sales-tax-like taxes that are categorized in other pots and is used as the basis for including these related taxes.

We relied on the insights of research staffs in individual state Departments of Revenue and Taxation to estimate taxability. We asked each Department to provide detailed estimates of the expected shares of transactions in each NAICS code that are likely to be taxable in their respective state. A detailed survey instrument was sent to each Department asking them to approximate the share of sales for 51 vendor industries that would be taxable in their state. The survey instrument, provided in Appendix B, was distributed to the states through the cooperation of the Federation of Tax Administrators.[20]

[18] For example, see Goolsbee (2000) and Ellison and Ellison (2006).
[19] For example, purchases by governments and some by not-for-profits are exempt in many states.
[20] We thank Jim Eads and Ron Alt of the FTA, and respondents from 29 states plus DC (listed in Appendix 3), for their generous support of this survey effort. A conference call was held to allow states to ask questions about the survey and we participated with state officials in a number of individual calls and emails to enhance the quality of responses.

Twenty-nine states plus the District of Columbia responded to the survey, though some states did not fill in every element of the survey.[21] States were more likely to respond to the B2C portions of the survey than to the B2B, but most sought to respond with information for both types of transactions. Based on our discussions with state officials, we recognize that the best they can do is to approximate taxability of e-commerce sales for the many categories that we requested. We indicated to the states that we would use their responses as guidance but would make adjustments as appropriate. We believe that the survey provides a broad perspective on the degree of taxability and the qualitative differences across states but also believe that adjustments are appropriate in some cases. Average values from the survey are used for non-responding states and for responding states with missing values. Further, we place an upper limit on the weighted average taxability in each state to tighten the distribution of responses. This assumption, which affected two places, served to lessen our estimates of the revenue losses.

We asked states whether they used data or professional judgment in determining their answers. About two-thirds of the states relied upon data they have for gross sales (either through compliance based on tax returns or from the Economic Census) and for taxable sales. In these cases, states determined taxability by dividing the taxable sales by the gross sales. These calculations are imprecise on the portion of sales that are taxable for a number of reasons including that the categories used in state data files and the Census NAICS data may not be the same. More importantly, these calculations can at most measure taxes *collected* and not taxes that are *due*.

We believe there are three reasons that the survey responses based on data understate the actual tax that is due on e-commerce transactions. These were recognized in advance of collecting survey responses and the appropriate adjustments were discussed early on. First, actual sales tax collections reported for a particular NAICS code (the numerator in the states' calculations) in state data files normally do not include the use tax payments made on sales from the industry, so the actual sales tax collections understate the total revenues collected on transactions from the industry. Adding use tax collections associated with transactions from each industry to the sales tax collections will yield all of the taxes that are actually collected on sales from a particular industry. Second, actual sales and use tax collections do not include the amount of vendor and use tax non-compliance. Since the non-compliance also represents taxes that are due, revenue implications of non-compliance must be added to actual collections to yield taxes due as opposed to taxes collected. Third, differences between the taxability of the average *e-commerce* transaction and the average across all transactions by vendors may differ because of the mix of items sold online versus in bricks-and-mortar stores. Thus, a correction is appropriate for differences in the taxability across the mixes of transactions.

[21] Responding states are those listed in Table 2.

We corrected for the failure to include use tax collections in the survey responses and for revenues associated with non-compliance. Data reported in Due and Mikesell (1994) suggest that use tax receipts represent about 10 percent of combined sales and use tax collections.[22] We estimated the appropriate adjustments using this estimate of use tax collections along with the State of Washington's 2008 compliance study indicating 74.5 percent business compliance with the use tax and 98.3 percent compliance with the sales tax.[23] Further, we assumed 5 percent use tax compliance by consumers except for automobiles, where we assume 100 percent compliance. The result is an estimate that the tax due should be 1.226 times greater than the state estimates provided in the survey responses for those states developing their estimates with data. This approach is supported by the observation that the adjusted average taxability for states whose responses were based on data is very similar to the unadjusted average for those whose responses were based on judgment.

We chose not to make further adjustments to account for differences in the mix of transactions. We have no information on the difference in mix of goods and services sold between e-commerce and all transactions, though we suspect e-commerce transactions are more likely to be taxable because people have a greater incentive to buy taxable transactions online if they believe the sales and use taxes can be evaded. This is consistent with our attempts to develop estimates that are on the lower bound of the revenue loss.

Based on the methodology described in this section we find that 13.0 percent of B2B transactions are taxable sales in the average state and 69.6 percent of B2C transactions are taxable in the average state. State-by-state calculations are included in Table 2. These state-specific percentages are multiplied by the state e-commerce estimates to develop estimates of the sales tax base for e-commerce.

Taxes Due

The taxes that are due are calculated by multiplying each state's general sales tax rate plus its average local sales tax rate by the estimated e-commerce sales tax base. The state tax rates are taken from the Sales Tax Clearinghouse, while local tax rates are calculated as local collections divided by the state sales tax base (which itself is state sales tax collections divided by the state sales tax rate).[24]

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[22] Use tax collections are surely a much larger share of receipts today because of increasing amounts of remote sales and growth in the global economy, so the older data result in an understatement of taxability.
[23] The sales and use tax compliance estimates for registered vendors only, so they are underestimates of all non-compliance by businesses. Further, we think the tendency for non-registered firms to operate in states is relatively large. We believe that use tax non-compliance by non-registered vendors is more likely to be a problem than sales tax non-compliance. Thus, we expect that the potential revenue gain from expanding sales tax collections responsibilities would be relatively greater than would occur for registered vendors and is another reason our estimates are on the low side.
[24] http://www.thestc.com/STrates.stm.

Sales and Use Tax Compliance

In our analysis, compliance has two components, vendor remittance of the tax and use tax compliance by the purchaser. We estimate use tax compliance separately for B2B and B2C sales. Vendor compliance exists when the seller collects the sales or use tax and remits the tax liability directly to the tax authorities. Use tax compliance exists when the purchaser remits the tax that is due directly to the tax authorities.

Vendor compliance is presumed to take place first, and use tax compliance is the propensity to pay taxes on the portion not collected by vendors. We assume that vendors collect the tax that is due (less sales tax non-compliance), but only for states where the vendor has nexus or has agreed to collect the tax. The vendor tax compliance was informed using results from the University of Maryland Long Tail study (Bailey et.al. 2008). The study evidences that 37 percent of e-commerce is conducted by large vendors, 20 percent by medium size vendors that generally maintain their own website and have annual gross receipts between $1 million and $10 million, and 43 percent by vendors that operate on a platform other than their own and have sales under $1 million.[25] Compliance is estimated as a weighted average of the compliance for these groups of firms. We assume that the mid-size firms comply only in the state where they are located, which means an average compliance rate of two percent. We assume that small vendors only comply part of the time even within their home state, so we assume 1 percent compliance.

We estimated large vendor compliance by selecting 100 firms from Internet Retailer's *Top 500 Guide, 2007 Edition.* Specifically we use the largest 50 firms and a random sample of 50 more firms.[26] We examined each firm's website to determine the states for which the firm collects and remits the sales and use tax. We then calculated a weighted average compliance rate for purchases from large vendors, where the 2007 e-commerce sales by firm serve as the weights. We assume that large firm vendor compliance in cases where they appear to collect based on their website is consistent with the Washington compliance study, which estimates 98.3 percent compliance for the sales tax. The average compliance for the large vendors for each state is given in Table 9. We estimate compliance by large vendors to be between 46.1 percent in Vermont and 89.3 percent in New York. Compliance is much better than existed when we developed our earlier estimates, and we believe that the Streamlined effort is an important cause.

We assume that half of B2B faces vendor compliance, and apply the above weighted average vendor compliance. The portion of this first half of B2B

[25] The small and medium size vendors may be much larger firms than is implied by these categories since only their e-commerce is included in these categorizations.
[26] Two firms were omitted from the 100 that we had randomly selected because no website could be found. Thus, our survey is based on 98 firms. For more details, see http://www.internetretailer.com/top500/.

on which vendors do not collect sales tax is assumed to be subject to use tax. The second half of B2B is assumed to only face use tax compliance.[27] B2B use tax compliance is estimated based on the Washington compliance study which provides compliance estimates derived from tax audits for a sample of registered firms. The study concludes there is 74.5 percent compliance with the use tax, so we assume this level of compliance on the taxes due on B2B sales that were not collected by vendors, though this includes no adjustment for non-registered businesses. Little data are available on individual use tax compliance except for a clear understanding that individuals seldom comply even when they are offered the opportunity to pay through their individual income tax return. Compliance for automobiles will be much better. We assume 5 percent use tax compliance by individuals for non-auto purchases and 100 percent compliance for autos.

Tax Losses

The tax losses, or uncollected taxes, are calculated as the taxes due minus the compliance.

[27] Note that this implicitly assumes that one half of B2B transactions is subject to direct reporting rather than vendor compliance.

Table 9: Compliance Rate for Large Retailers
B2C Transactions

State	Compliance Rate	State	Compliance Rate
Alaska*	65.3%	Missouri	66.1%
Alabama	63.5%	Nebraksa	61.3%
Arizona	61.5%	Nevada	68.4%
Arkansas	61.1%	New Jersey	65.6%
California	71.2%	New Mexico	63.7%
Colorado	65.6%	New York	89.3%
Connecticut	64.5%	North Carolina	68.3%
District of Columbia*	65.3%	North Dakota	76.0%
Florida	69.0%	Ohio	66.7%
Georgia	66.8%	Oklahoma	63.0%
Hawaii	58.6%	Pennsylvania	63.0%
Idaho	64.2%	Rhode Island	56.5%
Illinois	70.1%	South Carolina	64.5%
Indiana	67.1%	South Dakota	47.6%
Iowa	62.4%	Tennessee	67.9%
Kansas	84.0%	Texas	69.7%
Kentucky	82.9%	Utah	66.5%
Lousisiana	59.7%	Vermont	46.1%
Maine	62.0%	Virginia	68.1%
Maryland	65.9%	Washington	85.7%
Massachusetts	64.3%	West Virginia	58.1%
Michigan	67.0%	Wisconsin	65.3%
Minnesota	61.3%	Wyoming	54.3%
Mississipi	61.4%		

*Compliance rates represent the median of all other states.

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APPENDIX A

Appendix A Table 1: Total State and Local Sales and Use Taxes Due on E-Commerce ($millions)

	Optimistic Scenario						
	2007	2008	2009	2010	2011	2012	Total
Alabama	429.7	459.4	445.0	588.3	671.5	750.2	3,344.1
Alaska	3.8	4.1	3.9	5.2	5.9	6.6	29.5
Arizona	928.2	992.3	961.2	1,270.8	1,450.6	1,620.5	7,223.5
Arkansas	285.5	305.2	295.6	390.8	446.1	498.4	2,221.7
California	4,898.3	5,236.4	5,072.2	6,706.2	7,654.9	8,551.7	38,119.7
Colorado	438.0	468.2	453.5	599.6	684.4	764.6	3,408.2
Connecticut	161.3	172.4	167.0	220.8	252.0	281.6	1,255.0
District of Columbia	90.1	96.3	93.3	123.3	140.7	157.2	700.9
Florida	2,056.0	2,197.9	2,128.9	2,814.8	3,213.0	3,589.4	15,999.9
Georgia	1,043.5	1,115.5	1,080.6	1,428.7	1,630.8	1,821.8	8,120.9
Hawaii	149.5	159.8	154.8	204.7	233.6	261.0	1,163.5
Idaho	117.1	125.2	121.3	160.3	183.0	204.5	911.4
Illinois	1,299.9	1,389.6	1,346.0	1,779.6	2,031.4	2,269.3	10,115.8
Indiana	497.2	531.5	514.9	680.7	777.0	868.0	3,869.3
Iowa	223.0	238.4	230.9	305.3	348.5	389.3	1,735.5
Kansas	380.0	406.3	393.5	520.3	593.9	663.5	2,957.4
Kentucky	291.5	311.7	301.9	399.1	455.6	509.0	2,268.8
Louisiana	989.1	1,057.4	1,024.2	1,354.1	1,545.7	1,726.8	7,697.3
Maine	80.6	86.1	83.4	110.3	125.9	140.7	627.1
Maryland	467.3	499.5	483.9	639.7	730.3	815.8	3,636.5
Massachusetts	331.7	354.6	343.5	454.1	518.4	579.1	2,581.5
Michigan	360.0	384.9	372.8	492.9	562.6	628.5	2,801.7
Minnesota	590.1	630.9	611.1	807.9	922.2	1,030.3	4,592.4
Mississippi	338.4	361.8	350.5	463.3	528.9	590.9	2,633.8
Missouri	534.9	571.8	553.9	732.4	836.0	933.9	4,162.9
Nebraska	153.9	164.5	159.3	210.7	240.5	268.7	1,197.6
Nevada	431.3	461.1	446.6	590.5	674.1	753.0	3,356.7
New Jersey	513.4	548.9	531.7	702.9	802.4	896.4	3,995.7
New Mexico	304.0	324.9	314.7	416.1	475.0	530.6	2,365.4
New York	2,334.3	2,495.4	2,417.1	3,195.8	3,647.9	4,075.2	18,165.6
North Carolina	545.7	583.4	565.1	747.1	852.8	952.7	4,246.8
North Dakota	39.9	42.7	41.4	54.7	62.4	69.7	310.8
Ohio	783.0	837.0	810.8	1,072.0	1,223.6	1,367.0	6,093.4
Oklahoma	354.6	379.1	367.2	485.5	554.2	619.1	2,759.8
Pennsylvania	871.2	931.3	902.1	1,192.8	1,361.5	1,521.0	6,779.9
Rhode Island	72.0	76.9	74.5	98.5	112.4	125.6	560.0
South Carolina	315.0	336.7	326.1	431.2	492.2	549.9	2,451.0
South Dakota	72.2	77.2	74.8	98.9	112.9	126.1	562.0
Tennessee	1,047.7	1,120.0	1,084.9	1,434.3	1,637.2	1,829.1	8,153.1
Texas	2,230.4	2,384.3	2,309.5	3,053.5	3,485.5	3,893.8	17,357.0
Utah	224.8	240.3	232.8	307.8	351.3	392.4	1,749.3
Vermont	60.7	64.9	62.8	83.1	94.8	105.9	472.2
Virginia	528.1	564.6	546.8	723.0	825.3	922.0	4,109.8
Washington	753.3	805.3	780.0	1,031.3	1,177.2	1,315.1	5,862.1
West Virginia	126.0	134.7	130.5	172.5	196.9	219.9	980.4
Wisconsin	360.1	385.0	372.9	493.0	562.8	628.7	2,802.5
Wyoming	70.5	75.4	73.0	96.6	110.2	123.1	548.8
TOTAL	29,176.8	31,190.6	30,212.3	39,945.1	45,596.1	50,937.9	227,058.8

Appendix A Table 2: Total State and Local Sales and Use Tax Collections on E-Commerce Sales ($millions)

	Optimistic Scenario						
	2007	2008	2009	2010	2011	2012	Total
Alabama	321.4	343.5	332.8	440.0	502.2	561.0	2,500.9
Alaska	2.8	3.0	2.9	3.9	4.4	5.0	22.1
Arizona	693.0	740.8	717.6	948.8	1,083.0	1,209.9	5,393.2
Arkansas	213.1	227.8	220.6	291.7	333.0	372.0	1,658.1
California	3,687.1	3,941.6	3,818.0	5,047.9	5,762.0	6,437.1	28,693.7
Colorado	328.1	350.7	339.7	449.2	512.7	572.8	2,553.3
Connecticut	120.7	129.0	125.0	165.3	188.6	210.7	939.4
District of Columbia	67.5	72.1	69.9	92.4	105.4	117.8	525.0
Florida	1,544.8	1,651.4	1,599.6	2,114.9	2,414.1	2,696.9	12,021.6
Georgia	782.6	836.6	810.4	1,071.4	1,223.0	1,366.3	6,090.3
Hawaii	111.4	119.0	115.3	152.4	174.0	194.4	866.6
Idaho	87.6	93.7	90.8	120.0	137.0	153.0	682.0
Illinois	977.5	1,045.0	1,012.2	1,338.3	1,527.6	1,706.6	7,607.2
Indiana	373.0	398.7	386.2	510.6	582.9	651.2	2,902.6
Iowa	166.6	178.1	172.5	228.1	260.4	290.9	1,296.7
Kansas	289.1	309.1	299.4	395.8	451.8	504.8	2,250.1
Kentucky	221.6	236.9	229.5	303.4	346.3	386.9	1,724.7
Louisiana	737.3	788.2	763.5	1,009.4	1,152.2	1,287.2	5,737.9
Maine	60.2	64.3	62.3	82.4	94.1	105.1	468.4
Maryland	350.2	374.4	362.6	479.4	547.2	611.4	2,725.2
Massachusetts	248.2	265.4	257.0	339.9	387.9	433.4	1,931.8
Michigan	270.0	288.7	279.6	369.7	422.0	471.4	2,101.4
Minnesota	440.5	470.9	456.1	603.1	688.4	769.0	3,428.0
Mississippi	252.7	270.1	261.6	345.9	394.8	441.1	1,966.2
Missouri	400.9	428.6	415.2	548.9	626.5	699.9	3,120.1
Nebraska	114.9	122.8	119.0	157.3	179.5	200.6	894.0
Nevada	323.9	346.3	335.4	443.4	506.2	565.5	2,520.7
New Jersey	384.7	411.2	398.3	526.6	601.1	671.6	2,993.6
New Mexico	227.3	243.0	235.4	311.3	355.3	396.9	1,769.2
New York	1,783.8	1,907.0	1,847.2	2,442.2	2,787.7	3,114.3	13,882.2
North Carolina	409.8	438.0	424.3	561.0	640.3	715.4	3,188.8
North Dakota	30.2	32.3	31.3	41.3	47.2	52.7	234.9
Ohio	587.2	627.7	608.0	803.9	917.6	1,025.1	4,569.3
Oklahoma	265.1	283.4	274.5	362.9	414.3	462.8	2,063.0
Pennsylvania	651.2	696.2	674.4	891.6	1,017.7	1,137.0	5,068.0
Rhode Island	53.5	57.2	55.4	73.2	83.6	93.4	416.3
South Carolina	235.7	252.0	244.1	322.8	368.4	411.6	1,834.6
South Dakota	53.3	57.0	55.2	72.9	83.3	93.0	414.6
Tennessee	786.4	840.7	814.3	1,076.6	1,228.9	1,372.9	6,119.9
Texas	1,676.8	1,792.5	1,736.3	2,295.7	2,620.4	2,927.4	13,049.2
Utah	168.5	180.2	174.5	230.7	263.4	294.2	1,311.6
Vermont	44.7	47.8	46.3	61.2	69.9	78.1	347.9
Virginia	396.5	423.8	410.5	542.8	619.6	692.2	3,085.4
Washington	574.0	613.6	594.3	785.8	897.0	1,002.0	4,466.6
West Virginia	93.8	100.3	97.1	128.4	146.6	163.7	729.8
Wisconsin	269.7	288.3	279.3	369.3	421.5	470.9	2,099.0
Wyoming	52.3	55.9	54.2	71.6	81.8	91.4	407.3
TOTAL	21,931.2	23,444.9	22,709.6	30,025.4	34,273.1	38,288.3	170,672.5

Appendix A Table 3: Total State and Local Sales and Use Tax Revenue Losses from E-Commerce Sales ($millions)

	Optimistic Scenario						
	2007	2008	2009	2010	2011	2012	Total
Alabama	108.3	115.8	112.2	148.3	169.3	189.2	843.1
Alaska	1.0	1.0	1.0	1.3	1.5	1.7	7.4
Arizona	235.2	251.4	243.5	322.0	367.6	410.6	1,830.3
Arkansas	72.4	77.4	75.0	99.1	113.2	126.4	563.5
California	1,211.2	1,294.8	1,254.2	1,658.3	1,892.9	2,114.6	9,426.0
Colorado	109.9	117.4	113.8	150.4	171.7	191.8	854.9
Connecticut	40.6	43.4	42.0	55.5	63.4	70.8	315.6
District of Columbia	22.6	24.2	23.4	31.0	35.3	39.5	175.9
Florida	511.2	546.5	529.3	699.9	798.9	892.5	3,978.3
Georgia	260.9	278.9	270.2	357.2	407.8	455.5	2,030.5
Hawaii	38.2	40.8	39.5	52.2	59.6	66.6	297.0
Idaho	29.5	31.5	30.5	40.4	46.1	51.5	229.4
Illinois	322.3	344.6	333.8	441.3	503.7	562.8	2,508.5
Indiana	124.2	132.8	128.6	170.1	194.1	216.9	966.7
Iowa	56.4	60.3	58.4	77.2	88.1	98.4	438.8
Kansas	90.9	97.2	94.1	124.4	142.0	158.7	707.3
Kentucky	69.9	74.8	72.4	95.7	109.3	122.1	544.2
Louisiana	251.8	269.2	260.7	344.7	393.5	439.6	1,959.4
Maine	20.4	21.8	21.1	27.9	31.9	35.6	158.7
Maryland	117.1	125.2	121.3	160.3	183.0	204.4	911.3
Massachusetts	83.5	89.2	86.4	114.3	130.5	145.7	649.7
Michigan	90.0	96.2	93.2	123.2	140.6	157.1	700.3
Minnesota	149.6	160.0	154.9	204.9	233.8	261.2	1,164.4
Mississippi	85.8	91.7	88.8	117.4	134.1	149.8	667.6
Missouri	134.0	143.2	138.8	183.5	209.4	233.9	1,042.8
Nebraska	39.0	41.7	40.4	53.4	61.0	68.1	303.6
Nevada	107.4	114.8	111.2	147.1	167.9	187.6	836.0
New Jersey	128.8	137.7	133.3	176.3	201.2	224.8	1,002.1
New Mexico	76.6	81.9	79.3	104.9	119.7	133.7	596.2
New York	550.4	588.4	570.0	753.6	860.2	960.9	4,283.4
North Carolina	136.0	145.3	140.8	186.1	212.5	237.4	1,058.0
North Dakota	9.8	10.4	10.1	13.4	15.2	17.0	75.9
Ohio	195.8	209.4	202.8	268.1	306.1	341.9	1,524.1
Oklahoma	89.5	95.7	92.7	122.6	139.9	156.3	696.8
Pennsylvania	220.0	235.2	227.8	301.2	343.8	384.0	1,711.9
Rhode Island	18.5	19.7	19.1	25.3	28.9	32.2	143.7
South Carolina	79.2	84.7	82.0	108.4	123.8	138.3	616.4
South Dakota	18.9	20.2	19.6	25.9	29.6	33.1	147.4
Tennessee	261.3	279.3	270.5	357.7	408.3	456.1	2,033.3
Texas	553.6	591.8	573.2	757.9	865.1	966.4	4,307.9
Utah	56.3	60.1	58.3	77.0	87.9	98.2	437.8
Vermont	16.0	17.1	16.5	21.9	25.0	27.9	124.3
Virginia	131.6	140.7	136.3	180.2	205.7	229.8	1,024.4
Washington	179.3	191.7	185.7	245.5	280.2	313.1	1,395.5
West Virginia	32.2	34.4	33.3	44.1	50.3	56.2	250.6
Wisconsin	90.4	96.6	93.6	123.8	141.3	157.8	703.5
Wyoming	18.2	19.4	18.8	24.9	28.4	31.8	141.6
TOTAL	7,245.6	7,745.7	7,502.7	9,919.7	11,323.1	12,649.6	56,386.3

Appendix A Table 4: Total State and Local Sales and Use Tax Revenue Losses from E-Commerce Sales as a Percentage of 2007 Sales and Use Tax Collections

	Optimistic Scenario					
	2007	2008	2009	2010	2011	2012
Alabama	2.67	2.85	2.76	3.65	4.17	4.65
Alaska	0.56	0.59	0.58	0.76	0.87	0.97
Arizona	3.00	3.21	3.10	4.10	4.69	5.23
Arkansas	1.92	2.05	1.99	2.63	3.00	3.35
California	2.96	3.16	3.06	4.05	4.62	5.17
Colorado	2.25	2.40	2.33	3.07	3.51	3.92
Connecticut	1.34	1.43	1.39	1.83	2.09	2.34
District of Columbia	2.77	2.96	2.87	3.79	4.32	4.83
Florida	2.22	2.38	2.30	3.04	3.47	3.88
Georgia	2.50	2.67	2.59	3.42	3.91	4.36
Hawaii	1.56	1.67	1.62	2.14	2.44	2.72
Idaho	2.31	2.47	2.39	3.16	3.61	4.03
Illinois	3.53	3.77	3.66	4.83	5.52	6.16
Indiana	2.29	2.45	2.37	3.14	3.58	4.00
Iowa	2.44	2.61	2.52	3.34	3.81	4.26
Kansas	3.05	3.26	3.16	4.17	4.76	5.32
Kentucky	2.16	2.31	2.23	2.95	3.37	3.77
Louisiana	3.76	4.02	3.89	5.14	5.87	6.56
Maine	1.93	2.07	2.00	2.65	3.02	3.38
Maryland	2.30	2.46	2.38	3.15	3.59	4.01
Massachusetts	1.97	2.11	2.04	2.70	3.08	3.44
Michigan	1.13	1.20	1.17	1.54	1.76	1.97
Minnesota	2.95	3.15	3.05	4.03	4.60	5.14
Mississippi	2.71	2.90	2.81	3.71	4.24	4.73
Missouri	2.57	2.75	2.66	3.52	4.02	4.49
Nebraska	2.25	2.40	2.33	3.08	3.51	3.92
Nevada	3.19	3.41	3.30	4.36	4.98	5.56
New Jersey	1.54	1.65	1.60	2.11	2.41	2.69
New Mexico	2.73	2.92	2.83	3.74	4.27	4.77
New York	2.79	2.98	2.89	3.82	4.36	4.87
North Carolina	1.83	1.95	1.89	2.50	2.85	3.19
North Dakota	1.45	1.55	1.50	1.98	2.26	2.53
Ohio	2.12	2.26	2.19	2.90	3.31	3.69
Oklahoma	2.59	2.76	2.68	3.54	4.04	4.51
Pennsylvania	2.48	2.65	2.57	3.40	3.88	4.33
Rhode Island	2.11	2.25	2.18	2.89	3.30	3.68
South Carolina	2.37	2.54	2.46	3.25	3.71	4.14
South Dakota	1.84	1.96	1.90	2.51	2.87	3.21
Tennessee	3.04	3.25	3.15	4.16	4.75	5.30
Texas	1.89	2.02	1.96	2.59	2.95	3.30
Utah	2.29	2.44	2.37	3.13	3.57	3.99
Vermont	2.56	2.73	2.65	3.50	4.00	4.46
Virginia	2.38	2.54	2.46	3.26	3.72	4.16
Washington	1.92	2.05	1.99	2.63	3.00	3.35
West Virginia	2.47	2.64	2.56	3.38	3.86	4.31
Wisconsin	2.04	2.18	2.11	2.80	3.19	3.56
Wyoming	2.03	2.17	2.10	2.77	3.17	3.54
TOTAL	2.43	2.60	2.52	3.33	3.80	4.25

Note: 2007 Collections are actually the adjusted 2007 state base multiplied by the sum of the state and local sales and use tax rates. The lone exception is Alaska, for which actual 2007 collections are used.

APPENDIX B: TAXABLE SALES SURVEY

Due Date: February 4, 2009

Send to: dbruce@utk.edu

State: ____

Contact Name: _____________________________________

Best means for contact: ________________________________

Survey Instructions

There are two options for completing this survey. **Choose one option.** Instructions for each option follow. Under Option 1, you should report the percent of sales on which taxes are due. Under Option 2, you should report the percent of sales on which taxes have been collected. We ask which option you used at the end of these instructions.

Option 1: Report the percentage of sales on which sales and use taxes are due

Please estimate the percentage of total gross receipts that are made by firms in each NAICS code that *would be taxable* if purchased in your state. Sales may not be taxable for several reasons, including (1) the sale of the type of good and service is specifically exempted, (2) your state tax base does not include the transaction, or (3) the purchaser is exempt (e.g., tax exempt organization).

You should assume perfect sales **and** use tax compliance rates. Do **not** reduce the taxability ratio because the sale is out of state because we care about the taxable sales in your state.

Examples:
Note: You do not have to include the detail of exemptions. This is included in the examples for illustrative purposes. We only need the total taxable percentage.

NAICS 441: Your state exempts the following sales of Motor vehicles and Parts:

Sales to residents of Indian reservations	About 1% of sales
Sales of autos to residents of military bases	About 3% of sales
Sales to business when used in manufacturing process	About 2% of sales
Sales to ICC permit holders	About 5% of sales
Total percentage of exempt sales	About 11%

Total Taxable Percentage for NAICS 441 = 89%

Note: Out of state sales are also exempt. However, these sales are included in the taxable percentage because we want to include the taxability of goods and services sold to the residents and businesses of your state that are accounted for through the use tax.

NAICS 334: Your state exempts the following sales made by Computer and Electronic products manufacturers:

Wholesale sales or sale for resale	About 70% of Sales
Products used as component parts in manufacturing	About 3% of Sales
Total Percentage of exempt sales	About 73%

Total Taxable Percentage for NAICS 334 = 27%

Option 2: Report the percentage of sales on which sales and use taxes has been collected

Ignore all instructions for Option 1. If you are not comfortable estimating taxability, please estimate the percent of sales on which you think taxes have been collected. You may choose to prepare the estimates using judgment or actual data. If you use data, you may divide total receipts for each NAICS code by a measure of gross sales, which are available in various Census reports. If you use another measure of gross sales, please describe it briefly below. Professors Fox, Bruce and Luna will make the necessary adjustments to convert taxes collected to taxes due. (A description of their methodology is available on request.)

Please check one of the following boxes:
I have reported percent of sales using

_______ Option 1 (based on taxes due)
_______ Option 2 (based on taxes collected)

If you checked Option 1, skip the following questions.
If you checked Option 2, please answer the following questions.

Which of the following did you use to calculate the ratios?

_______ Professional judgment
_______ Data

If you checked data above, please briefly describe your data source(s).

____

____

____

Three tables follow. Table 1 is for sales by retailers, which are mostly but not exclusively sales to individuals. Similarly, Table 3 is for sales by wholesalers and manufacturers, which are mostly but not exclusively sales to other businesses. Table 2 is for sales by service firms, which are separated into those to consumers and those to businesses.

Please contact the research team at dbruce@utk.edu if you have any questions.

Thank you for your participation.

Table 1: Approximate percent of taxable sales of goods sold by retailers to households and business (consider only the types of goods sold remotely to residents and businesses of your state)

NAICS	Category	Taxable Percent
441	Motor vehicles and parts dealers	
442	Furniture and home furnishings stores	
443	Electronics and appliance stores	
444	Building materials and garden equipment and supplies stores	
445	Food and beverage stores	
446	Health and personal care stores	
447	Gasoline Stations	
448	Clothing and clothing accessories stores	
451	Sporting goods, hobby, book and music stores	
452	General merchandise stores	
453	Miscellaneous store retailers	

Please indicate the approximate percentage of gross receipts for each category of services sold to other businesses (B2B) and to individuals (B2C).

Table 2: Approximate percent of taxable sales by service providers (consider only the types of services sold remotely to residents and businesses of your state)

NAICS	Category	Taxable B2B	Taxable B2C
51	Information		
511	Publishing industries		
517	Telecommunications		
51811	Internet service providers and web search portals		
5231	Securities and commodity contracts intermediation and brokerage		
532	Rental and Leasing Services		
5415	Computer systems design and related services		

56	Administrative and Support and Waste Management and Remediation Services		
5615	Travel arrangement and reservation services		
62	Health Care and Social Assistance Services		
71	Arts, Entertainment, and Recreation Services		
72	Accommodation and Food Services		
811	Repair and maintenance		
813	Religious, grant-making, civic, professional, and similar organizations		

In Table 3, please indicate the approximate taxable percentage of total sales for each category of goods. Codes starting with 31-33 are manufacturing firms; 42 are wholesale trade; 48-49 are transportation and warehousing.

Table 3: Approximate percent of taxable sales by manufacturers and wholesalers (Consider only the types of goods sold remotely to residents and businesses of your state)

NAICS	Vendors	Taxable Percent
311, 4244, 4245	Food products	
313, 314	Textile products	
315, 4243	Apparel	
316	Leather and allied products	
322, 4241	Paper and paper products	
323	Printing and related support activities	
325, 4246	Chemicals	
326	Plastics and rubber products	
327	Nonmetallic mineral products	
331, 4235	Primary metals	
332	Fabricated metal products	
333, 4238	Machinery	
334	Computer and electronic products	
335, 4236	Electrical equipment, appliances, and components	
4231, 336	Motor vehicles and automotive equipment	
4232, 321, 337	Furniture and home furnishings	
4233	Lumber and other construction material	
4234	Professional and commercial equipment and supplies	
42343	Computer equipment and supplies	
4237	Hardware, plumbing and heating equipment	
4242	Drugs, drug proprietaries and druggists' sundries	
324, 4247	Petroleum and petroleum products	
4248, 312	Beer, wine, and distilled beverages and tobacco	
484	Truck transportation	

492	Courier and messengers	
493	Warehousing and storage	

Further Comments:

Uncollected Use tax from all remote sales in 2012

	Non-electronic B2C	Non-electronic B2B	Electronic B2B and B2C	Total
Alabama	101,657,313	75,677,086	170,400,000	347,734,399
Alaska	880,149	655,832	1,500,000	3,035,981
Arizona	220,741,594	118,086,660	369,800,000	708,628,254
Arkansas	67,947,572	54,464,358	113,900,000	236,311,930
California	1,136,801,607	1,118,366,340	1,904,500,000	4,159,667,947
Colorado	103,065,552	76,798,022	172,700,000	352,563,574
Connecticut	38,022,475	50,544,930	63,800,000	152,367,405
District of Columbia	21,211,612	15,805,570	35,500,000	72,517,182
Florida	479,769,709	200,120,301	803,800,000	1,483,690,010
Georgia	244,857,701	182,452,688	410,300,000	837,610,389
Hawaii	35,822,100	26,692,395	60,000,000	122,514,495
Idaho	27,636,706	29,083,776	46,400,000	103,120,482
Illinios	302,507,519	249,542,069	506,800,000	1,058,849,588
Indiana	116,619,861	86,897,847	195,300,000	398,817,708
Iowa	52,897,008	39,415,552	88,700,000	181,012,560
Kansas	85,286,525	51,037,503	142,900,000	279,224,028
Kentucky	65,659,182	48,925,127	109,900,000	224,484,309
Louisiana	236,320,247	176,091,110	395,900,000	808,311,357
Maine	19,099,252	14,231,572	32,100,000	65,430,824
Maryland	109,930,722	81,913,518	184,100,000	375,944,240
Massachusetts	78,333,340	58,369,120	131,300,000	268,002,460
Michigan	84,494,390	62,959,949	141,500,000	288,954,339
Minnesota	140,471,923	79,447,327	235,300,000	455,219,250
Mississippi	80,533,715	87,852,645	134,900,000	303,286,360
Missouri	125,773,420	93,718,508	210,700,000	430,191,928
Nebraska	36,614,235	20,137,833	61,300,000	118,052,068
Nevada	100,865,178	75,158,440	168,900,000	344,923,618
New Jersey	120,844,580	90,045,845	202,500,000	413,390,425
New Mexico	71,908,246	53,581,540	120,500,000	245,989,786
New York	516,559,974	384,908,277	865,500,000	1,766,968,251
North Carolina	127,621,735	95,095,757	213,800,000	436,517,492
North Dakota	9,153,558	6,820,661	15,300,000	31,274,219
Ohio	183,775,298	136,937,891	307,900,000	628,613,189
Oklahoma	84,054,315	71,494,343	140,800,000	296,348,658
Pennsylvania	206,483,165	153,858,377	345,900,000	706,241,542
Rhode Island	17,338,952	24,097,506	29,000,000	70,436,458
South Carolina	74,372,666	55,417,872	124,500,000	254,290,538
South Dakota	17,779,027	13,247,822	29,800,000	60,826,849
Tennessee	245,209,761	92,471,128	410,800,000	748,480,889
Texas	519,552,484	387,138,109	870,400,000	1,777,090,593
Utah	52,808,993	39,349,968	88,500,000	180,658,961
Vermont	14,962,548	4,696,781	25,100,000	44,759,329
Virginia	123,573,045	92,078,926	207,000,000	422,651,971
Washington	168,284,660	90,784,044	281,900,000	540,968,704
West Virginia	30,189,141	22,495,065	50,600,000	103,284,206
Wisconsin	84,846,450	62,059,664	142,100,000	289,006,114
Wyoming	17,074,908	16,069,797	28,600,000	61,744,705
Total	6,800,214,113	5,067,095,451	11,392,700,000	23,260,009,564

Methodology for State-by-State Estimates of the Non-Electronic Remote Sales Tax Gap

Issue:

The 2009 Fox, Bruce and Luna study estimated the uncollected use tax resulting from remote sales in electronic commerce. They commented on and estimated the national amount of uncollected use tax resulting from business-to-consumer (B-to-C) non-electronic remote sales. In addition they commented on, but did not estimate, the amount of uncollected use tax resulting from business-to-business (B-to-C) non-electronic remote sales.

Assignment:

Estimate the amount of uncollected use tax resulting from business-to-business non-electronic remote sales and spread the national number provided by Fox, Bruce and Luna from business-to-consumer non-electronic remote sales across the states.

I. B-to-B Non-Electronic Remote Sales

A) Overall Methodology

1) The Washington State <u>Compliance Study</u> estimates of use tax non-compliance by sector were used to create state-by-state estimates of use tax non-compliance.

a) The measure of use tax in the study represents all B-to-B sales that would be affected by the requirement for vendors to collect remote sales taxes.

b) Adjustments were made to the non-compliance use tax estimates to remove non-remote types of use tax transactions. These transactions are: equipment that is built by the business, in-state dual-purpose purchases by speculative builders, and in-state purchases by businesses that have an agreement to pay use tax instead of sales tax. These adjustments were estimated to be only about 1% of the total use tax non-compliance. But to be conservative, a 5% adjustment was made.

c) An adjustment was made to remove the electronic portion of B-to-B use tax noncompliance, which had already been measured by Fox, Bruce and Luna. The Fox, Bruce and Luna estimate of the electronic B-to-B sales tax gap was subtracted. Based on an e-mail from Fox, the B-to-B electronic tax gap equaled 31.7% of Washington's total electronic tax gap as reported by Fox, Bruce and Luna. This offset 53.5% of Washington's estimated total use tax noncompliance. The remaining 46.5% of each industry's use tax noncompliance was assumed to be from non-electronic remote sales.

d) It was decided that other adjustments did not have to be made to make the Washington numbers consistent with other states for the following reasons:

i) Nexus – It was decided that using the broadest measure of what constitutes nexus would best represent what states would receive if vendors were collecting remote sales taxes. Because of this, the Washington study is good because Washington's nexus definition is one of the broadest.

ii) Compliance -- Washington has relatively high compliance rates. Since it does not have an income tax, Washington probably puts more efforts into sales and use tax non-compliance. For these two reasons, using the Washington measure of compliance gives a conservative estimate.

B) Applying the Washington non-compliance estimates to other states.

There were three different methodologies for applying the Washington compliance estimates to other states depending on the level of data available from the state. States were surveyed for their use tax data. Only data on use tax paid by businesses was used; use tax paid by households was removed.

1) For states (13) that provided use tax collections data by industry (the highest level of detail).
   a) Washington adjusted non-compliance rates for each industry were used. The rates equaled total adjusted non-compliance (see above regarding adjustments) divided by total use tax collections.
   b) The resulting non-electronic B-to-B non-compliance estimates for each industry were summed to give a total.

2) For States (8) that provided total use tax collections without industry breakdowns.
   a) To adjust for state differences in industry mix, Gross State Product for each industry was multiplied by the Washington ratio of use tax to Gross State Product for that industry to yield an estimated use tax for that industry. Because the resulting total differed from the state's actual total use tax, the estimated use tax for each industry was scaled back proportionately.
   b) The Washington adjusted non-compliance rate for each industry was used to calculate the state's total use tax non-electronic B-to-B non-compliance.

3) For states that did not provide data.
   a) The relationship between the B-to-B non-electronic sales tax losses and the Fox, Bruce and Luna estimates of electronic commerce sales tax losses, for states that provided data, was extrapolated to the remaining states. For the 21 states that did provide data, a weighted ratio of their B-to-B non-electronic remote sales tax losses divided by their total electronic remote sales tax losses (the Fox, Bruce and Luna estimates) was calculated.
   b) This ratio was multiplied by each state's estimate of total electronic remote sales tax losses (the Fox, Bruce and Luna estimates).

C) Growth from 2008 through 2012. A growth rate of 8.88% each year was used. This growth rate came from Bill Fox and was used in the Fox, Bruce and Luna estimate on non-electronic B-to-C estimates. Note that non-electronic remote sales have been growing at a slower growth rate than electronic remote sales.

D) Underlying Assumptions
1) Other states use tax non-compliance rates are assumed to be the same as Washington's. This is a conservative assumption. Washington probably has a higher than average use tax compliance rate because more effort is put into these taxes given Washington's reliance on sales and use tax. Washington also has a higher than average audit presence.

2) The Washington assumption that 95% of business use tax represents business purchases made out-of-state is assumed to apply to other states. This assumption is also thought to be conservative. The 95% assumption for Washington is lower than estimated.

3) It is assumed that non-electronic B-to-B accounts for 46.5% of the estimated total use tax gap in each industry in each state. This is based on Bill Fox's estimate that 31.7% of Washington's e-commerce gap is B-to-B – which offset 53.5% of the estimated total use tax gap in Washington.

4) For states that did not provide use tax data, the underlying assumption is that the relationship between electronic remote sales and non-electronic B-to-B sales is consistent with the average relationship for states that provided data. This assumption seems reasonable for most states. For the states that did provide data, other than a couple of outliers, most had approximately the same ratio.

II. Allocation to individual states of the Fox, Bruce and Luna national B-to-C estimate. Each state's share of the Fox, Bruce and Luna national estimate of the B-to-C non-electronic tax gap was assumed to be the same as that state's share of the Fox, Bruce and Luna national electronic sales tax gap estimate.

Remote sales tax gap estimates in Millions

	2008 Fox estimate	B to C 2008 (Allocation of Fox estimate	2008 Non-elec B to B	Total 2008	% of total Fox Electonic	% of total Non-elec B2C	% of total Non-elec B2B
Alabama	115.5	72.3	53.8	241.7	48%	30%	22%
Alaska	1.0	0.6	0.5	2.1	48%	30%	22%
Arizona	250.8	157.1	84.0	491.9	51%	32%	17%
Arkansas	77.2	48.3	38.8	164.3	47%	29%	24%
CA	1,291.6	808.9	795.8	2,896.3	45%	28%	27%
Colorado	117.1	73.3	54.6	245.1	48%	30%	22%
Conn	43.2	27.1	36.0	106.2	41%	25%	34%
DC	24.1	15.1	11.2	50.4	48%	30%	22%
Fl	545.1	341.4	142.4	1,028.9	53%	33%	14%
Georgia	278.2	174.2	129.8	582.3	48%	30%	22%
Hawaii	40.7	25.5	19.0	85.2	48%	30%	22%
Idaho	31.4	19.7	20.7	71.8	44%	27%	29%
Illinios	343.7	215.3	177.6	736.5	47%	29%	24%
Indiana	132.5	83.0	61.8	277.3	48%	30%	22%
Iowa	60.1	37.6	28.0	125.8	48%	30%	22%
Kansas	96.9	60.7	36.3	193.9	50%	31%	19%
Kentucky	74.6	46.7	34.8	156.1	48%	30%	22%
Louisiana	268.5	168.2	125.3	562.0	48%	30%	22%
Maine	21.7	13.6	10.1	45.4	48%	30%	22%
Maryland	124.9	78.2	58.3	261.4	48%	30%	22%
Mass	89.0	55.7	41.5	186.3	48%	30%	22%
Michigan	96.0	60.1	44.8	200.9	48%	30%	22%
Minn	159.6	100.0	56.5	316.1	50%	32%	18%
Mississippi	91.5	57.3	62.5	211.3	43%	27%	30%
Missouri	142.9	89.5	66.7	299.1	48%	30%	22%
Nebraska	41.6	26.1	14.3	82.0	51%	32%	17%
Nevada	114.6	71.8	53.5	239.9	48%	30%	22%
New Jerse	137.3	86.0	64.1	287.4	48%	30%	22%
New Mexic	81.7	51.2	38.1	171.0	48%	30%	22%
New York	586.9	367.6	273.9	1,228.3	48%	30%	22%
NC	145.0	90.8	67.7	303.5	48%	30%	22%
ND	10.4	6.5	4.9	21.8	48%	30%	22%
Ohio	208.8	130.8	97.4	437.0	48%	30%	22%
OK	95.5	59.8	50.9	206.2	46%	29%	25%
Penn	234.6	146.9	109.5	491.0	48%	30%	22%
RI	19.7	12.3	17.1	49.2	40%	25%	35%
SC	84.5	52.9	39.4	176.9	48%	30%	22%
SD	20.2	12.7	9.4	42.3	48%	30%	22%
Tenn	278.6	174.5	65.8	518.9	54%	34%	13%
Texas	590.3	369.7	275.5	1,235.5	48%	30%	22%
Utah	60.0	37.6	28.0	125.6	48%	30%	22%
Vermont	17.0	10.6	3.3	31.0	55%	34%	11%
Virginia	140.4	87.9	65.5	293.8	48%	30%	22%
Washingto	191.2	119.7	64.6	375.5	51%	32%	17%
WV	34.3	21.5	16.0	71.8	48%	30%	22%
Wisconsin	96.4	60.4	44.2	200.9	48%	30%	22%
WY	19.4	12.1	11.4	43.0	45%	28%	27%
total	7,726.2	4,838.7	3,605.5	16,170.4	48%	30%	22%

Non - Electronic B2C, Forecast to 2012 (in Millions)

	B to C 2008 (Allocation of Fox estimate	2009	2010	2011	2012
Alabama	72.3	78.8	85.8	93.4	101.7
Alaska	0.6	0.7	0.7	0.8	0.9
Arizona	157.1	171.0	186.2	202.7	220.7
Arkansas	48.3	52.6	57.3	62.4	67.9
CA	808.9	880.7	958.9	1,044.1	1,136.8
Colorado	73.3	79.8	86.9	94.7	103.1
Conn	27.1	29.5	32.1	34.9	38.0
DC	15.1	16.4	17.9	19.5	21.2
Fl	341.4	371.7	404.7	440.6	479.8
Georgia	174.2	189.7	206.5	224.9	244.9
Hawaii	25.5	27.8	30.2	32.9	35.8
Idaho	19.7	21.4	23.3	25.4	27.6
Illinios	215.3	234.4	255.2	277.8	302.5
Indiana	83.0	90.4	98.4	107.1	116.6
Iowa	37.6	41.0	44.6	48.6	52.9
Kansas	60.7	66.1	71.9	78.3	85.3
Kentucky	46.7	50.9	55.4	60.3	65.7
Louisiana	168.2	183.1	199.3	217.0	236.3
Maine	13.6	14.8	16.1	17.5	19.1
Maryland	78.2	85.2	92.7	101.0	109.9
Mass	55.7	60.7	66.1	71.9	78.3
Michigan	60.1	65.5	71.3	77.6	84.5
Minn	100.0	108.8	118.5	129.0	140.5
Mississippi	57.3	62.4	67.9	74.0	80.5
Missouri	89.5	97.4	106.1	115.5	125.8
Nebraska	26.1	28.4	30.9	33.6	36.6
Nevada	71.8	78.1	85.1	92.6	100.9
New Jersey	86.0	93.6	101.9	111.0	120.8
New Mexico	51.2	55.7	60.7	66.0	71.9
New York	367.6	400.2	435.7	474.4	516.6
NC	90.8	98.9	107.7	117.2	127.6
ND	6.5	7.1	7.7	8.4	9.2
Ohio	130.8	142.4	155.0	168.8	183.8
OK	59.8	65.1	70.9	77.2	84.1
Penn	146.9	160.0	174.2	189.6	206.5
RI	12.3	13.4	14.6	15.9	17.3
SC	52.9	57.6	62.7	68.3	74.4
SD	12.7	13.8	15.0	16.3	17.8
Tenn	174.5	190.0	206.8	225.2	245.2
Texas	369.7	402.5	438.3	477.2	519.6
Utah	37.6	40.9	44.5	48.5	52.8
Vermont	10.6	11.6	12.6	13.7	15.0
Virginia	87.9	95.7	104.2	113.5	123.6
Washington	119.7	130.4	142.0	154.6	168.3
WV	21.5	23.4	25.5	27.7	30.2
Wisconsin	60.4	65.7	71.6	77.9	84.8
WY	12.1	13.2	14.4	15.7	17.1
total	4,838.7	5,268.4	5,736.2	6,245.6	6,800.2

Non-Electronic B2B forecast (in Millions)

	B to B 2008	2009	2010	2011	2012
Alabama	53.8	58.6	63.8	69.5	75.7
Alaska	0.5	0.5	0.6	0.6	0.7
Arizona	84.0	91.5	99.6	108.5	118.1
Arkansas	38.8	42.2	45.9	50.0	54.5
CA	795.8	866.4	943.4	1,027.2	1,118.4
Colorado	54.6	59.5	64.8	70.5	76.8
Conn	36.0	39.2	42.6	46.4	50.5
DC	11.2	12.2	13.3	14.5	15.8
Fl	142.4	155.0	168.8	183.8	200.1
Georgia	129.8	141.4	153.9	167.6	182.5
Hawaii	19.0	20.7	22.5	24.5	26.7
Idaho	20.7	22.5	24.5	26.7	29.1
Illinios	177.6	193.3	210.5	229.2	249.5
Indiana	61.8	67.3	73.3	79.8	86.9
Iowa	28.0	30.5	33.2	36.2	39.4
Kansas	36.3	39.5	43.1	46.9	51.0
Kentucky	34.8	37.9	41.3	44.9	48.9
Louisiana	125.3	136.4	148.5	161.7	176.1
Maine	10.1	11.0	12.0	13.1	14.2
Maryland	58.3	63.5	69.1	75.2	81.9
Mass	41.5	45.2	49.2	53.6	58.4
Michigan	44.8	48.8	53.1	57.8	63.0
Minn	56.5	61.6	67.0	73.0	79.4
Mississippi	62.5	68.1	74.1	80.7	87.9
Missouri	66.7	72.6	79.1	86.1	93.7
Nebraska	14.3	15.6	17.0	18.5	20.1
Nevada	53.5	58.2	63.4	69.0	75.2
New Jersey	64.1	69.8	76.0	82.7	90.0
New Mexico	38.1	41.5	45.2	49.2	53.6
New York	273.9	298.2	324.7	353.5	384.9
NC	67.7	73.7	80.2	87.3	95.1
ND	4.9	5.3	5.8	6.3	6.8
Ohio	97.4	106.1	115.5	125.8	136.9
OK	50.9	55.4	60.3	65.7	71.5
Penn	109.5	119.2	129.8	141.3	153.9
RI	17.1	18.7	20.3	22.1	24.1
SC	39.4	42.9	46.7	50.9	55.4
SD	9.4	10.3	11.2	12.2	13.2
Tenn	65.8	71.6	78.0	84.9	92.5
Texas	275.5	299.9	326.6	355.6	387.1
Utah	28.0	30.5	33.2	36.1	39.3
Vermont	3.3	3.6	4.0	4.3	4.7
Virginia	65.5	71.3	77.7	84.6	92.1
Washington	64.6	70.3	76.6	83.4	90.8
WV	16.0	17.4	19.0	20.7	22.5
Wisconsin	44.2	48.1	52.3	57.0	62.1
WY	11.4	12.4	13.6	14.8	16.1
total	3,605.5	3,925.7	4,274.3	4,653.8	5,067.1

What Others Are Saying...

Fox&Hounds DAILY
KEEPING TABS ON CALIFORNIA BUSINESS AND POLITICS

It's Time To Level The Playing Field & Support California's Small Businesses

By Ruben Guerra
Latin Business Association Chairman
Thu, August 26th, 2010

With our state struggling with one of the highest unemployment rates in the nation, we need our elected officials to support our small businesses. They are the backbone of our economy.

Unfortunately, right now, small businesses in our state are fighting an unfair set of rules that give a huge advantage to out-of-state, online-only retailers.

Here is the problem: small businesses in our state are required to collect state sales taxes at the point of purchase. But an out-of-state, online-only retailer that sells the same product does not have to collect this tax - essentially giving them a competitive advantage over California businesses that provide jobs and revenue for important services.

This creates an unfair advantage for the out-of-state, online-only businesses. Why shouldn't out-of-state, online-only companies comply with the same requirements that California small businesses follow?

The last thing our economy needs is for state and federal elected representatives to continue to allow out-of-state, online-only retailers to exploit a loophole in the law that harms our local economies and gives these companies a competitive advantage over small businesses located in California.

This disadvantage to our local businesses costs us jobs and revenue that support our communities. This is bad for the local economy and bad for the local community.

Just look at the numbers. A recent University of Tennessee study has found that the total state and local revenue losses from this loophole being exploited are over $3.5 billion for 2011/2012. All of this because California

Thursday, September 02, 2010 Edition

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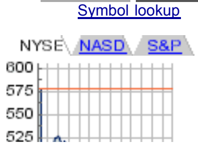

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Public Forum / Fair tax system would raise revenues

By John Evans / Co-owner, Diesel A Bookstore

Published:
Wednesday, September 1, 2010 11:55 AM PDT

As consumers and retailers, we expect that economic competition will be based on opportunity and fairness, but in California that's not the case. Common sense would dictate that when you buy something online you would pay sales tax, just as if you had made that same purchase in my store. Unfortunately, for both the state and me, out-of-state online retailers have practiced sales tax avoidance for years. As a result, hundreds of millions of dollars in sales taxes go uncollected. That's money that current law says is due and that could help bridge our massive budget gap and help protect us against further tax increases.

The good news is that a proposed state budget plan includes a provision that makes clear that online retailers with affiliates in California have a legal presence in our state and, therefore, must collect sales tax, just as I and every other in-state retailer does.

Not surprisingly, giant out-of-state retailers are lobbying hard to keep the status quo. By not collecting sales tax, they maintain a crucial price advantage over in-state retailers. But a sale is a sale, is a sale, and the current, unfair situation undermines locally owned stores such as mine, businesses that studies have shown contribute far more economic benefit to our communities. I and thousands of other local retailers create new jobs that are crucial in an economic recovery.

According to estimates from the University of Tennessee, California's loss of total state and local sales tax revenue for 2011-2012 is more than $3.5 billion. Enacting the proposed budget plan would fix our antiquated system and would help recoup monies that would go toward keeping police protecting our neighborhoods, teachers in neighborhood classrooms and first responders in nearby firehouses.

These changes are both fair and doable. Currently, most retailers that also sell online-including Wal-Mart, Barnes & Noble, and Sears-already collect and remit sales tax for online purchases. Technological advances have greatly simplified and automated this task, and the proposed sales tax equity provision contains an exemption for small retailers in California whose businesses are not focused on extensive out-of-state online sales.

Adopting a state budget that includes sales tax equity will make sure that all businesses play by the same rules, that our state fosters job growth and opportunity, and that we take important steps toward lasting economic growth and fiscal responsibility.

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Silicon Valley MercuryNews.com
PART OF THE BAY AREA NEWS GROUP

Mercury News editorial: Online retailers need to collect sales taxes

AMercury News Editorial / Posted: 07/20/2010 12:01:00 AM PDT

Annual online sales across the United States will account for nearly $150 billion in 2010. But cash-strapped states, including California, won't get more than a fraction of the $18.6 billion of sales tax they should be collecting.

Congress and state legislatures need to find a way to end online retailers' unfair advantage over brick-and-mortar businesses — and to reap a fair share of revenue, since so many states rely heavily on sales taxes to balance their budgets.

California lawmakers are considering a bill that would require retailers that do not collect the tax directly to send the state a list of purchasers. It's a clunky fix, since tracking people down will cost money, but it's a start. The Legislature should pass Assemblyman Charles Calderon's AB 2078.

A better solution would be for Congress to pass Rep. Bill Delahunt's "Main Street Fairness Act." The Massachusetts Democrat's bill would allow participating states to streamline their sales tax systems to remove the excuse that out-of-state retailers now use to avoid collection: The fact that there are some 7,500 tax jurisdictions in the country with different tax rates.

We have the technology today to design software to calculate the appropriate amount of sales tax for any jurisdiction, but a simpler system is likely to get results more quickly. Supporters of Delahunt's bill have convinced 23 states to join a coalition for this simplified system. California isn't one of them but it should be, with its $19 billion deficit.

This would not be a new tax. Anyone who makes an out-of-state purchase, online or otherwise, is supposed to keep track of it and then pay the appropriate sales tax along with income taxes. Since no one is enforcing that law, it's remarkable that California collects about $10 million each year from its most law-abiding residents. But some $1.1 billion goes unpaid.

Consumers enjoy the cheaper prices for products online. But local businesses that create jobs and generate revenue for our communities deserve to be on an equal footing with their online competitors as a matter of principle. And we all will benefit from the additional tax revenues that pay for public safety, transportation projects and other services.

It's been 15 years since Jeff Bezos launched Amazon.com and introduced large-scale e-commerce to the world. When online companies like his were startups, it made sense to allow them a grace period on collecting sales taxes to promote a new industry. A case still can be made that small Web-based companies with sales of less than $100,000 should be exempt from collecting sales taxes.

But too many large online and catalog businesses are enabling their customers to be tax cheats.

If California had collected online tax revenues for the past decade, it would have an additional $10 billion at its disposal today, reducing its deficit by more than half. The Golden State is in no position to let another dollar of potential revenue go uncollected.

Los Angeles Times

Plugging a Web tax loophole

A House measure would require online sellers to collect levies from more out-of-state shoppers.
July 26, 2010

The Internet isn't a tax-free shopping zone; consumers just treat it like one. A bill by Rep. William Delahunt (D-Mass.) would make it significantly harder for people to evade sales taxes online, requiring Web-based retailers to collect sales taxes from more out-of-state purchasers. Although there are flaws in the details of Delahunt's proposal (HR 5660), the overall approach is a good one. The measure wouldn't impose a new tax or raise rates; it would simply take a more efficient and fair approach to enforcing the law.

At issue is a longstanding exemption the courts have given retailers from collecting sales taxes from shoppers outside the states where they have offices. In rulings that predate the Web, the Supreme Court declared that it would be too great a burden to require mail-order houses and other retailers with out-of-state customers to compute and collect sales taxes for every state and local government, which impose a myriad of rates and exceptions.

The rulings didn't exempt online orders from sales taxes, however — most states require residents to pay "use taxes" on their online purchases as part of their annual returns. Few taxpayers comply, though, giving distant online sellers an unfair advantage over local retailers that have no choice but to collect the levy.

Despite their disproportionate impact on low-income families, taxes on consumption are an important part of the revenue mix for governments because, unlike income taxes, they don't discourage savings or investment. It's not fair to collect such taxes on goods bought from some retailers but not others. The only issue is whether collecting the tax would be so difficult and costly for out-of-state retailers that they would be driven out of the interstate market.

Delahunt's bill would require online merchants to collect sales taxes from out-of-state shoppers only if they hail from states that have adopted the Streamlined Sales Tax Agreement. That agreement has led to the development of technology that automatically computes sales tax rates and submits the required tax filings. The bill doesn't go far enough in protecting small online retailers from the cost of complying, and lawmakers should heed those concerns. But rather than having cash-starved states demand sales records from online retailers to determine which taxpayers aren't paying the taxes they owe, as some states are doing, Congress should step in with a national solution. There's no longer any excuse for Web-based merchants not to collect sales taxes from shoppers in any state that has adopted the streamlined sales tax.

THE SACRAMENTO BEE

Online sales perplexing to politicians

By Dan Walters / Published: Monday, Jul. 19, 2010

Let's say you want to buy a range hood exhaust fan to complete your kitchen remodeling project.

While you'll find candidates in local stores, you may find an infinite selection from Internet purveyors at prices the locals often can't match and, in these competitive times, with free and rapid shipping.

By law, when that range hood shows up on your front porch with a receipt for, say, $200 you should file it away. When you file your next state income tax return, you should report that purchase so that you be assessed about $20 in "use taxes" to offset the sales taxes that you would have paid on a local purchase.

A few folks obey that law, but by one official estimate, 99 percent of Internet sales escape the tax collector. That irritates California merchants and many of its politicians, who say it's unfair competition that deprives public treasuries of much-needed revenue.

How much revenue? No one knows for certain, but it could be billions of dollars each year, and it's growing. That's why Capitol politicians are trying to devise ways to tap the flow of Internet sales, but they're finding it very difficult.

Internet sellers are not required to collect taxes unless they also maintain physical presences in the state – JCPenney being one example. So says the U.S. Supreme Court, citing the federal government's exclusive right to regulate interstate commerce.

California law says that any seller "engaged in business in this state" must collect taxes, and that's the nexus of the political battle over taxation of Internet sales.

The point of battle is Amazon, the Seattle-based Internet colossus that not only sells merchandise directly but acts as a broker for "affiliates," some of which are located in California.

That, tax authorities argue, is enough nexus to compel Amazon to collect taxes. The firm has resisted, saying essentially that if the state passes legislation to that effect, it will cancel its affiliate ties to California.

New York has already done it, and Amazon has sued. A New York judge upheld the state's position, and the case is making its way through the courts. A bill pending in the California Legislature – Assembly Bill 2078 by Assemblyman Charles Calderon, D-Whittier – would require retailers that do not collect tax directly to send the state a list of purchasers.

It could raise a billion dollars a year, advocates say, but it faces stiff opposition from online sellers and is similar to a measure that Gov. Arnold Schwarzenegger vetoed last year, so its ultimate fate is uncertain.

Retail business is clearly undergoing a historic change, and old models of retailing and taxing sales are no longer valid. Regardless of what happens to the Calderon bill, it's an indication that California's tax system is out of sync with modern reality and needs a stem-to-stern overhaul.

allows out-of-state, online-only retailers to play by different rules.

In this time of economic distress around the country, shouldn't we be doing everything possible to support the backbone of our economy?

We must support small business growth as it results in job creation and

The time has come to stand up for small businesses and local communities in our state. We must urge our representatives to do the right thing and support small businesses located in California.

Right now, we have an opportunity to act. State legislators can support closing this loophole once and for all requiring that all businesses play by the same rules. A sale is a sale is a sale. Whether a piece of furniture is sold at a mom-and-pop shop located here in California or is bought from an out-of-state, online-only business, the same rules should apply.

Fairness is the framework around which the American free enterprise system has been built, and expanded and succeeded for centuries. Entrepreneurs have trusted that they will be treated the same as any other business. And so they've been willing to take calculated risks. America's economy has grown and flourished because of it.

If we want our economy to rebound even stronger, we need to support our small businesses. Let's return to the American way of doing business and treat everyone the same. Let's close the loophole in our state and in the process, help our local small businesses create jobs and opportunities for our local economies.

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The Washington Post

Cash-strapped states go online, hoping to tax sales

By Ylan Q. Mui
Washington Post Staff Writer
Sunday, May 2, 2010

For years, consumers have counted a legal quirk that allows many Internet retailers to forgo charging sales tax as one of the perks of shopping online. But as states face yawning budget gaps, there is a growing movement to lay claim to the billions of dollars lost through the loophole each year.

In most states, the burden is on shoppers to track what they buy online, calculate the sales tax owed and then pay it. In reality, few consumers fess up -- many do not even know such a requirement exists. That will result in $9 billion in unpaid state and local sales taxes this year, according to a study at the University of Tennessee.

Now, states are eyeing those dollars. About a dozen, including Maryland and Virginia, this year have considered legislation that would force online retailers to collect the tax, though only a handful of bills have passed. Some states have even taken the unusual step of asking sites such as Amazon to provide lists of what residents have bought and how much they've spent, sparking concerns over consumer privacy.

Online retailers are vehemently fighting the bills, filing lawsuits and severing business ties in states that have passed sales tax legislation. At stake is not only the small discount that many shoppers enjoy, but the low-price business model that fueled the explosive transformation of Amazon and Overstock.com into giants of the $130 billion e-commerce industry.

Online retailers "want to have the advantage as long as they can," said Mark Scanlan, assistant professor of economics at Stephen F. Austin State University. "They don't have an incentive too much to comply with this."

In a landmark ruling in 1992, the Supreme Court found that retailers are not required to collect sales tax from shoppers unless they have a physical presence in the state where customers live. Initially, this ruling applied mainly to catalogue companies and home-shopping channels on TV. But it also applied to the nascent online shopping industry, and consumers quickly embraced the discount.

In 2008, as the Great Recession gripped the nation, New York passed the first law requiring online retailers to collect sales tax from residents by counting local Web site operators who direct traffic to sites such as Amazon as their physical presence in the state. The law became known as the Amazon tax, and Rhode Island and North Carolina soon passed similar versions.

Amazon retaliated by challenging the law's assertion that local Web site operators are part of its sales team -- the company considers them independent advertisers -- and the case is still winding its way through state courts. In Rhode Island and North Carolina, Amazon ended all contracts with local Web site operators, which one trade group said cut their revenue in half. Amazon has also sent letters threatening similar moves in states that have debated such bills, including Virginia.

Rhode Island and North Carolina "enacted unconstitutional tax collection schemes, and we had little choice but to end our relationships," Amazon spokeswoman Mary Osako said.

That has mobilized people such as Chris Manns, who runs CheapestTextbooks.com out of Williamsburg. He started the price-comparison site about 10 years ago as a side project while he was working as a designer at a local shipyard. Manns gets a percentage of any sales that he directs to sites such as Amazon and Half.com, and the business has grown enough for him to quit the shipyard and hire 10 employees and contractors to manage the site.

Manns said Amazon has no input into his business, and he has none into its. He testified against the Virginia legislation,

continued on next page

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saying that if the bill passed he -- and his workers -- would have to move to another state. The proposal passed the Senate but was rejected in the House. Sponsor Emmett Hanger said he planned to reintroduce it next session. In Maryland, the bill died in committee.

"I don't really care if you find a way to do it," Manns said of the sales tax. "But you gotta find a different way because this way doesn't make any sense."

The newest iteration of the tax law, passed this year in Colorado, forces online retailers to track sales to state residents through local Web site operators and send the shoppers an invoice each year. Amazon said it would not comply and again canceled relationships with local Web site operators.

On the privacy front, Amazon last month filed a lawsuit against North Carolina after it requested details about products bought by residents as far back as 2003 to help determine the sales tax the state lost. North Carolina has since said that it wants to know only the total amount bought rather than an itemized list.

"Consumers have a reasonable expectation of privacy and a First Amendment right to read, hear or view a broad range of popular and unpopular expressive materials without their choices being subjected to unnecessary government scrutiny," said Jennifer Rudinger, executive director of the American Civil Liberties Union of North Carolina. The state's "demands threaten to have a major chilling effect on future consumers' expressive choices."

Some online retailers have agreed to collect sales tax after working with states and industry trade groups on the issue. Other retail Web sites, such as Wal-Mart and Best Buy, are required to collect sales tax because they have brick-and-mortar stores in every state. The Retail Industry Leaders Association, a trade group, said its members are concerned that online-only retailers such as Amazon have an unfair advantage.

"We think they really will go to extreme lengths to salvage their business model, which is in fact exploiting this loophole," said Joe Rinzel, RILA's vice president for state government affairs.

Not all retailers agree that the recent rash of legislation is the best way to force sites to collect the tax. The National Retail Federation, another industry trade group, has worked for a decade to persuade states to simplify their tax codes and make it easier for online retailers to collect sales tax. So far, 23 states have signed on to the project.

"While states are strapped for cash, there is no shortcut to getting uncollected sales-tax revenue," said Maureen Riehl, vice president of government and industry relations at the NRF.

Amazon said it supports the goals of the project to streamline sales taxes.

"We are not opposed to collecting sales tax within a constitutionally permissible system applied even-handedly," Osako said.

Scanlan, the economics professor, said online shopping has become such an integral part of peoples lives that he doesn't think a tax will slow their shopping. He said studies show that the maximum decline in sales to be 6 percent after imposing the levy; his research suggests the impact could be close to zero in states with low sales tax rates.

Bethesda resident Jamie Ratner, 32, said she makes online purchases about three times a week. With two children ages 1 and 2, Ratner said she appreciates the convenience of shopping from home. She orders groceries online for home delivery, buys supplies for her fledging business and visits Amazon almost daily. Ratner said she occasionally notices whether sites charge a sales tax, but it doesn't stop her from completing the purchase.

"By that point I'm like, 'Okay, I'm ready to pull the trigger,' " she said. "You've already invested enough time to getting where you're at. It's not worth it."

Both the NRF and RILA have lobbied extensively for federal legislation that would require companies to collect sales tax in states that have simplified their tax codes, but the bill has repeatedly stalled in committee. Still, whether through legislation, litigation or other means, Scanlan said consumers' free ride won't last forever.

"This is something that I think eventually they're going to have to succumb to and change," he said.

THE WALL STREET JOURNAL.

Even State Capitals Feel the Squeeze

By ROMY VARGHESE

Many capital cities, particularly those with limited private industry, may suffer additional strain as states embark on their deepest cuts yet in the financial downturn.

Capitals historically had been considered better equipped to deal with economic downturns as governments provided steady employment and support to local businesses serving these workers.

"The presence of the state capital has for many years contributed to a recession-resistance factor aligned with more stable employment," said Richard A. Ciccarone, chief research officer at McDonnell Investment Management in Oak Brook, Ill.

However, he added, "that advantage is under pressure as state government cutbacks are becoming more aggressive."

The fall in state and local tax receipts last year was the most severe since at least 1947, according to a recent paper from the San Francisco Federal Reserve Bank; it added that "fiscal conditions are likely to get worse before they get better."

Indeed, states' budget deficits will likely hit $140 billion in fiscal 2011, the highest since the recession began, said the Center on Budget and Policy Priorities. As a result, up to 900,000 public- and private-sector workers may lose their jobs over the year.

Pennsylvania, for instance, may fire as many as 1,000 state workers if it doesn't receive federal funds.

The cuts come as the private sector is moving past the peak of its layoffs, since local governments feel the effect of a recession later than companies.

More than eight million jobs have been lost in the private sector since the recession began in December 2007, or about 7% of private employment. But state and local governments so far have shed about 1% of their jobs since August 2008.

The height of job losses in the state government will be this year and the next, said James Diffley, economist at IHS Global Insight, who added that being a state capital in 2010 and 2011 has become "a burden."

To be sure, not all state capitals are alike, and some are less vulnerable than others. Government is only the fourth-largest employer in Boston, a city of 645,000 whose 8.6% unemployment rate is better than Massachusetts's 9.2% showing.

But the Kansas state government is the top employer in Topeka, signing the paychecks of more than 8,000 workers in the city of 123,000. That city's unemployment rate, at 7.2%, is about one percentage point higher than the state's.

Compounding the problem for many capital cities are their relatively high financial obligations and low liquidity, said McDonnell's Mr. Ciccarone.

His 2008 analysis of 666 U.S. cities and 36 debt-issuing state capitals found that capital cities generally spent more on debt, pensions and post-retirement benefits as a percentage of overall spending. Their liquidity, as measured by gauges such as days of cash on hand in the general fund, was weaker than the average non-capital city.

Data so far show the financial stress is increasing, he said, and California's capital, Sacramento, demonstrates that.

About half of job-holders are on the government payroll, and the city of 450,000 is already seeing the effect of state worker furloughs. Property and sales taxes have declined by 7%, and some restaurants are closed during the day, said Leyne Milstein, Sacramento's finance director. The city's unemployment rate, 14.1%, rose one percentage point since 2009 and exceeds the statewide rate by two percentage points.

"There are less employees overall, and those who are left are spending less," Ms. Milstein said.

The mayor of Springfield, Ill., Timothy J. Davlin, can relate. By 2007, layoffs by then-Governor Rod Blagojevich had left many downtown storefronts empty, Mr. Davlin said. "We used to think we were recession-proof," he said. "But when we had Blago, things changed."

In the long term, being a state capital is advantageous, said Jerry Ambrose, the finance director of Lansing, Mich., where the unemployment rate, at 14.3%, is higher than the state's 13.6%. Michigan employs more than 14,000 people in the area, followed by General Motors with about 5,000 workers.

But in the short term, as state workers are fired or furloughed and the tax base, already constrained by non-taxpaying state buildings, shrinks, "it's a mixed bag," Mr. Ambrose said.

St. Petersburg Times

Unfair tax policy hurts Floridians

Friday, January 22, 2010

Today's release of unemployment rates for December is expected to fuel concern that Florida could soon hit 12 percent, a rate not seen since the end of World War II. So it's increasingly hard to understand why the state's Republican leaders continue to ignore the unfair advantage given out-of-state, online merchants at the expense of Florida's retailers.

Leveling the playing field would potentially increase employment in the retail sector and improve the state's finances. Yet taxing Internet retail sales was barely discussed at last week's job summit in Orlando hosted by legislative leaders. That's not fair to Florida businesses, their workers or their customers.

The state's antiquated sales tax fails to collect taxes from many Internet retailers — such as Amazon.com — that sell goods to Florida residents but have no bricks-and-mortar presence in the state.

The unfair tax policy undermines Florida jobs in two ways. First, by not charging tax, Internet retailers can undercut Florida retailers' prices. That lessens the need for in-state retailers to hire sales staff. Second, the lost tax revenue means state and local governments have fewer resources to retain their work force to staff everything from schools to prisons.

During the most recent holiday season, market research firms estimate 7 percent of all goods were purchased online. Yet Florida saw no tax benefit from such sales in the state unless the Web site was connected to a traditional, in-state retailer. Last year, such sales cost the state an estimated $1.97 billion in sales tax revenue, according to a nationwide analysis by University of Tennessee faculty. This year, the study estimates Florida will lose $2.4 billion — or roughly the size of the state's projected budget deficit.

Other states get it. During the past decade, 23 mostly small states have joined the Streamlined Sales Tax Governing Board in its effort to push Congress to adopt a national sales tax compliance system for Internet merchants. The members agree to align their tax policies to make it easier for retailers to voluntarily comply across state lines. The process would initially cost Florida some money, a fact Republican leaders have used as cover for not acting.

But such a view is incredibly shortsighted. And rank-and-file Republicans are starting to catch on. Late last year, Rep. Ed Hooper, R-Clearwater, told the Suncoast Tiger Bay Club that collecting Internet sales tax should be among the Legislature's top priorities, not only for revenue reasons but because the status quo is unfair. Hooper gets it. Now when will the rest of the Legislature?

denverpost.com

Online tax issue needs federal fix

POSTED: 03/10/2010 01:00:00 AM MST

The move by online retailer Amazon to drop its Colorado affiliates was a predictable result of the legislature's recent efforts to revoke tax exemptions.

We were convinced from the outset that House Bill 1193 was problematic, particularly in light of U.S. Supreme Court decisions that are unfavorable to states seeking to compel out-of-state retailers to collect sales taxes.

The Amazon situation only reinforces our belief that the issue of online sales tax collection ought to be addressed at the federal level.

The Colorado law requires online retailers to tell their customers how much Colorado sales tax they owe when those customers buy items by clicking through marketing affiliates based in this state. Those retailers are supposed to pass that information along to the state so the government can ensure the taxes are paid.

It's not surprising Amazon decided to just cut Colorado-based marketing affiliates rather than get involved in any aspect of sales tax collection. That's what online retailers have done to thwart so-called "Amazon laws" in other states, such as Rhode Island and North Carolina.

The situation eventually will have to be taken up by federal lawmakers.

It is unfair for retailers who have a bricks-and-mortar presence in a state to be at an economic disadvantage as they try to compete with online retailers, especially as online sales have flourished in recent years. As online sales continue to grow, states will lose out on a significant source of revenue as they struggle to pay for services that citizens demand.

Besides Colorado, 15 other states have contemplated or enacted legislation that targets e-commerce sales. As cash-strapped states search for revenue, more are sure to follow.

If and when federal lawmakers take on the issue, it will not be as simple as merely requiring online retailers to collect state sales taxes.

Sales taxes are levied based on where a customer lives and can vary within a state. Online retailers would be compelled to keep track of some 8,000 sales tax rates, according to a recently completed report by the Tax Foundation.

The report also cited the efforts of several dozen states, which have come together to create the Streamlined Sales Tax Project.

If project members could agree on a simplified sales tax structure for online retailers, such a development could undercut the main defense that online retailers have in fighting sales tax collection — that it's too complex a task.

We do not condone the actions of Amazon in kicking Colorado marketing affiliates to the curb as a result of the tax collection dispute, but we understand why it would do so.

The ability to conduct business without having to charge customers sales taxes is an enormous advantage, and one that online retailers are unlikely to give up very easily.

Congress needs to take up the matter and write legislation that allows for fair tax collection in the Internet age.

KansasCity.com
THE STAR.

Missouri should follow Kansas lead on internet sales tax

Kansas City Star Editorial

Let's say you're looking for shoes. If you buy them at a retail outlet in Missouri, you'll pay state and local sales taxes.

Buy the same pair of shoes on the Internet, and you probably won't pay sales tax. That's a break for the consumer, but it's hardly fair to the local shoe store.

The tax loophole is also becoming increasingly unfair to state employees, mentally ill individuals and others who are bearing the brunt of ongoing budget cuts in Missouri. The state is losing out on millions of dollars of revenue because lawmakers refuse to close the widely used loophole.

In theory, consumers are supposed to pay state sales taxes when they purchase goods remotely — on the Internet or through catalogues. Hardly anybody does, however.

It's more logical for the retailer to pay the tax, but the U.S. Supreme Court has said states can't compel companies to do so unless they have a physical presence in a state, such as a distribution center or retail outlet.

More than 20 states, including Kansas, have entered into the "Streamlined Sales Tax and Use Tax Agreement."

It creates a mechanism that makes it simpler for retailers to voluntarily pay sales taxes and for state revenue departments to collect them.

Kansas this year collected about $26 million from remote retailers, and the amount grows annually, said Steven Brunkan, a financial economist in the state Department of Revenue.

"We have more and more retailers that have no presence in Kansas that are remitting the tax," he said.

A 2009 University of Tennessee study found that revenue from Internet and catalogue sales in Missouri could potentially add up to about $160 million a year — an amount that is expected to grow as remote sales increase.

Unfortunately, too many Missouri lawmakers confuse closing a loophole with levying a new tax. In a sense, legislators are making scofflaws out of Missourians, who are supposed to pay a tax on remote purchases but may not even be aware of it.

The ultimate solution is federal action. Though the Supreme Court has said states can't require out-of-state vendors to pay sales taxes, a different ruling said Congress is entitled to even the playing field for local merchants.

There is no sign, though, that Congress has made a level playing field a priority. Until it does, Missouri should join with Kansas and other states and sign the Streamlined Sales Tax Agreement.

WISCONSIN STATE JOURNAL

Close the sales tax loophole

A Wisconsin State Journal editorial | Posted: Saturday, July 10, 2010

It's time to treat main street businesses fairly.

It's time for Congress to require online-only retailers to collect the same sales tax that the brick-and-mortar merchants do.

In the past, online sellers such as Amazon.com could argue that collecting the sales tax on purchases from customers across the country was too complicated because each state had its own set of rules.

But the states are finally getting their acts together by streamlining sales tax standards. Wisconsin is one of 23 states to approve a simplified and consistent sales tax system. Many additional states are moving in that direction.

Federal law now prohibits a state from requiring out-of-state retailers to collect sales taxes if the retailers lack a store or other physical presence in that state. But online transactions are still subject to each state's respective sales tax. It's the consumer who is supposed to report on his or her state income tax return the amount of sales tax owed from online or catalog purchases.

The vast majority of consumers don't do this because its cumbersome and hard for the state to enforce. Yet when those consumers buy an expensive television or couch from a shop at the mall or on State Street, the sales tax is automatically applied.

That gives online sellers an unfair advantage over traditional merchants with stores in Wisconsin. The local shop owner has to collect the sales tax, which can add $100 or more to a big purchase. The online-only seller can ignore the tax.

U.S. Rep. Bill Delahunt, D-Mass., just introduced the Main Street Fairness Act to require all online retailers to collect sales taxes for the states where buyers are located.

Wisconsin's congressional delegation should get behind this sensible effort.

It's not a tax increase. It's a tax that's already owed and should be collected on purchases made in cyberspace the same as in a local hardware or appliance store.

Delahunt's bill would close this giant tax loophole. By one estimate, the states are losing more than $20 billion a year on unpaid sales taxes. Wisconsin estimated a couple of years ago it was losing about $150 million annually.

The nation's cash-strapped states could use this revenue they already have coming to help balance budgets. That's no doubt a big motivator for some supporters in Congress.

But the real reason to collect this tax on purchases made over the Internet is fairness - to stick up for traditional stores and their customers here in Wisconsin.

If you paid your property tax bill only to find out your neighbor didn't have to, you'd be mad. Well, that's similar to when you buy a camera at a local shop, and your neighbor buys the same camera online. You're paying taxes to support government services that your neighbor is not.

Some online and catalog companies are starting to voluntarily collect sales taxes for Wisconsin now that our state is streamlining its rules. Those companies deserve applause. But most online-only sellers still don't.

Congress should require compliance to close this rapidly expanding loophole.

JournalStar.com

Time to tax Internet retail sales

Tuesday, July 20, 2010

InfoWorld is, indeed, a world of information. It describes itself as the leading source on emerging business technologies.

It's where people in the news media, academia and business often go to read the background they need to make sense of new technologies that are driving life as we know it.

It's where Bill Snyder writes the tough, provocative Tech's Bottom Line blog, and it's best to pay attention.

Now, even Snyder, who could fairly be described as an IT advocate, but not a shill, says it's time to tax sales made on the Internet the same as those made at a brick-and-mortar store in Lincoln or Eagle.

The Main Street Fairness Act, introduced this month by U.S. Rep. Bill Delahunt (D-Mass.), would end the exemption for big Web retailers like Amazon.com and eBay.

"The Web sales tax issue has been debated and litigated for years, and it is hardly a popular cause, but with state and local governments deeply in debt, the chance to add a massive revenue stream may outweigh the political risks," Snyder wrote recently.

Delahunt sponsored a similar bill in 2008. "I don't enjoy paying taxes any more than the next guy, but Delahunt was right then and he's right now," Snyder wrote. "The Internet is no longer a baby that needs to be cosseted and protected from the real world, and favoring Internet business over brick-and-mortar ones via a tax exemption is not fair."

Uncollected sales and use tax revenue for the six-year period ending in 2012 will range from $52 billion to $56 billion nationally, according to a 2009 study by economists at the University of Tennessee, Snyder reported.

As you would expect, big Internet retailers -- and we have some in Nebraska -- resist any change in the status quo.

They argue that the immense variety of taxing jurisdictions -- there are approximately 8,500 in the United States, according to Snyder -- makes doing so impractical.

"Nonsense," Snyder says. "An industry that can deliver tailored ads to buyers in a fraction of a second could surely solve whatever technical problems exist."

He cites Reed Hastings, the chief executive of Netflix, who told The New York Times, "We collect and provide to each of the states the correct sales tax. There are vendors that specialize in this (we use Vertex). It's not very hard."

The way sales taxes are administered in Nebraska, an online retailer would just send one check to the state of Nebraska each month and the state would send each municipality with a sales tax their share, based on sales in those municipalities, according to Jim Otto of the Nebraska Retail Federation.

With sympathy to smaller businesses, Delahunt's HR 5660 calls for a small-business exemption, but it does not specify a qualifying threshold.

What's stopping states from collecting sales tax on Internet-sold goods now?

In 1992, the Supreme Court ruled that states could not order retailers that don't have a physical presence in a state to collect that state's sales tax.

As Snyder points out, in 1992, that meant mail-order catalog merchants, but now it applies to Web retailers as well. If Cabela's, for example, has a store in a given state, then it has to collect sales taxes on Internet orders from that state.

There's nothing in the decision (Quill v. North Dakota) that forbids states from ordering buyers to pay the sales tax, and that's the law in Nebraska. But when was the last time you paid sales tax voluntarily on something you bought on the Internet?

In 1992, the Supreme Court said: "Congress is now free to decide whether, when, and to what extent the States may burden interstate mail order concerns with a duty to collect use taxes."

Eighteen years later, Congress should act, now.