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Internet Sales Tax Movement Lagging

By [Roy Mark](#)
June 15, 2007

For years, one of the real bogeymen of bloggers and rumor mongers has been the Internet sales tax. The screams, moans and anguish can be heard from coast to coast. It's unfair. It's not right. It'll kill e-commerce. It's coming any day now.

It's not.

Despite a bill recently introduced in by Sen. Mike Enzi (R-Wyo.) that would "level the playing field for all in-store, catalog and online retailers," Congress is no closer to authorizing states to collect Internet sales taxes than it has ever been. In this case, it's not even hand grenade close.

"It's a chicken-and-egg situation," explains Paul Meisner, senior vice president of global public policy. "States are loath to make changes without movement from Congress and Congress is loath to move without a commitment from the states."

Meisner said Amazon, the Web's largest retailer, is not opposed to collecting and remitting sales taxes as long as the process is fair to all involved. That, however, is the rub, particularly for the states.

In 1992, the U.S. Supreme Court ruled states could only require online sellers that have a physical presence or "nexus" in the same state as the consumer to collect so-called use taxes.

Significantly, though, the court also ruled that online buyers owe the tax, but the current patchwork of more than 7,500 taxing jurisdictions across the country is too complex and burdensome for online retailers to charge and collect sales taxes.

To collect the taxes they are legally owed, the court ruled, states would need to first simplify the existing system. To overturn the Supreme Court's decision, Congress has to certify the states have streamlined their sales taxes.

Thus was born the Streamlined Sales Tax Project (SSTP), which was [launched](#) in 2000 with the long-term goal of presenting Congress and the courts with a system that would allow the states to collect sales taxes on online sales and catalogue purchases.

Since then, 15 states have joined the effort, four of the largest states -- California, Texas, Florida and New York -- have declined to participate.

Simplification, it turns out, is pretty complex.

Say, for instance, an online buyer in Buffalo, N.Y., buys a computer from Round Rock, Texas-based Dell. Who gets the sales tax, New York or Texas? Under the STTP, destination rules: the money would go to New York.

Further complicating the issue are intrastate sales. Let's say our online buyer in Buffalo purchases books from a New York City seller. Who gets the tax, Buffalo or the Big Apple? Under the STTP, Buffalo wins and the Big Apple steams.

"A lot states are looking at the unintended consequences of the STTP, particularly on intrastate sales," Meisner said.

The tepid state response has not inspired Congress.

"Rightly or wrongly, it will be interpreted as a new tax with no benefit to Congress," Meisner said. He noted that's



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a hard sell to any lawmaker.

Except for Enzi and a handful of other Washington lawmakers.

"Simply put, if Congress continues to allow remote sales taxes to go uncollected and electronic commerce continues to grow as predicted, other taxes, such as income or property taxes, will have to be increased to offset the lost revenue to state and local governments. I want to avoid that," Enzi said when introducing the legislation.

Foreshadowing Meisner's comments to *internetnews.com*, Enzi stressed his bill, "would not increase taxes or allow duplicate taxes by different states."

Enzi correctly points out the lack of online sales taxes is costing states and localities billions in lost revenue. A 2001 report by the University of Tennessee estimated that all 50 states could collectively lose more than \$45 billion annually in Internet sales taxes.

For the states, though, it appears to be a classic case of better the tax devil you know, than the one you don't.

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