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State Sales Taxation of Internet Transactions

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Summary

There are at least two common misconceptions in the area of State taxation of Internet transactions. Contrary to popular opinion, (1) States do have the power to impose a sales tax on sales that are accomplished via the Internet even after the enactment of the Internet Tax Freedom Act in 1998 and (2) States do have the power to tax transactions where the seller is located outside of the State and has no real connection with the State. The Internet Tax Freedom Act placed a three year moratorium only on imposition of **new** taxes on "Internet access services" (existing taxes on access services were grandfathered) or any "**multiple** or **discriminatory** taxes on electronic commerce" by State or local governments, not on application of a general sales tax to such transactions. H.R. 3709, which would extend the moratorium for five years and repeal the grandfather provision for existing taxes on Internet access services, was passed by to the House on May 10, 2000.

Under current law a State may tax a transaction if there is some connection of the transaction to the State. Thus if the seller or the buyer is located in the State, the transaction may be subject to the State's sales tax. The important question in the out-of-State seller context is not the State's power to tax the transaction, but rather does the out-of-State seller have sufficient nexus to the State so that the State can require the out-of-State seller to collect the sales tax from the purchaser. H.R. 3709 does not address the nexus issue.

This report briefly examines two common misconceptions in the area of State taxation of Internet transactions. These misconceptions are: (1) the Internet Tax Freedom Act of 1998[1] placed a moratorium on a State's power to impose a sales tax on sales that are accomplished via the Internet; and (2) States may not tax transactions where the seller is located outside of the State and has no real connection to the State.

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[1] The Internet Tax Freedom Act comprises Titles XI and XII of Division C of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999, P.L. 105-277, 112 Stat. 2681 (1998).

Moratorium

The Internet Tax Freedom Act placed a three year moratorium on imposition of new taxes on "Internet access services" or any "multiple or discriminatory taxes on electronic commerce" by State or local governments.[2] In other words, States may not (during the moratorium period) enact a sales tax which applies only to Internet transactions or taxes Internet transactions at a different rate than other transactions. It may apply a sales tax which is imposed on sales equally without regard to the medium (face to face, mail order, or internet). The Act specifically states that:

> .....nothing in this title shall be construed to modify, impair, or supersede, or authorize the modification, impairment, or superseding of, any State or local law pertaining to taxation that is otherwise permissible by or under the Constitution of the United States or other Federal law and in effect on the date of enactment of this Act.[3]

H.R. 3709, which would extend the moratorium for five years and repeal the exemption for existing taxes on Internet access services, was reported to the House on May 4, 2000[4] and passed the House on May 10, 2000.[5]

Out-of-State Sellers

A State may tax a transaction if there is some connection of the transaction to the state. Thus if the seller or the buyer is located in the State, the transaction may be subject to the sales tax. The important question in the out of State seller context is not the State's power to tax the transaction, but rather can the State require the out of State seller to collect the sales tax from the purchaser.[6]

The Due Process[7] and Commerce[8] Clauses of the United States Constitution limit a State from imposing tax liability or collection responsibilities on a business concern unless there is a substantial nexus or in-state contact established with the State. There is currently no statutory authority and scant case law on the subject of nexus and the internet, but the Supreme Court has given considerable guidance in the analogous area of taxation of mail order sales. The two major Supreme Court decisions in this area are *National Bellas Hess, Inc. v. Illinois Department of Revenue*,[9] and *Quill Corp. v. North Dakota*.[10]

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[2] *Id.* at § 1101(a). The moratorium expires on October 21, 2001.

[3] *Id.* at § 1101(b).

[4] H.Rept. 106-609.

[5] 146 CONG. REC. H2821 (daily ed. May 10, 2000)(record vote no. 159).

[6] Several States impose a duty on the in-State buyer to report the purchase from an out-of-State seller and remit the sales tax. Needless to say, compliance with these requirements is very low.

[7] U.S. Const. amend. XIV § 1.

[8] U.S. Const. art. I § 8, cl.3.

[9] 386 U.S. 753 (1967).

[10] 504 U.S. 298 (1992).

In *National Bellas Hess* the Supreme Court held that the State of Illinois could not require an out of State mail order sales company to collect a use tax from Illinois customers. Bellas Hess's only contact with the State was via the mails or common carriers. This contact was found to be insufficient to establish nexus under either the Due Process or Commerce Clause. The Court utilized a physical presence standard for nexus for both of these clauses.[11]

In the twenty-five years between *Bellas Hess* and *Quill* the Supreme Court had clarified the Commerce Clause's four part test in *Complete Auto Transit, Inc. v. Brady*.[12] For a state tax to be applied to an activity there must be substantial nexus with the taxing State. The tax must be fairly apportioned. It must not discriminate against interstate commerce. The tax must be fairly related to the services provided by the State.[13]

This clarification became even more significant in the mail-order sales area in the *Quill* decision. In *Quill* the Court, in a case factually similar to *Bellas Hess*, dropped the physical presence test for nexus under the Due Process Clause, requiring only that the seller's efforts be "purposefully directed toward the residents of the taxing State."[14] Therefore the Due Process Clause was no longer an impediment to requiring tax collection by the out of State seller. However, the physical presence standard or substantial nexus requirement of the Commerce Clause was reaffirmed.[15] Therefore the practical out come of the case was the same as *Bellas Hess*. The State could not force the seller to collect the tax absent a substantial nexus.

The removal of the Due Process Clause as a road block did open a door for Congress, under its commerce powers, to legislatively empower the States to require the collection of these taxes. The Supreme Court, in *Quill*, specifically invited Congress to act in this area. To date, Congress has chosen not to enact legislation in this area.

Other CRS Products

CRS Report RL30431, *Internet Transactions and the Sales Tax*, by Steve Maguire. (May 3, 2000).
CRS Report RL30412, *Internet Taxation: Bills in the 106th Congress*, by Nonna A. Noto. (May 5, 2000).
CRS Report 95-655 C, *Taxation of Mail Order Sales: A Fact Sheet*, by Arnold Solomon. (May 26, 1995).
CRS Report 92-487A, *Quill v. North Dakota: The Mail Order Tax Case*, by Thomas B. Ripy. (June 8, 1992).

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[11] 386 U.S. 753 (1967). Generally, the Due Process Clause relates to the fairness of the tax burden and whether a business has minimum contacts with the taxing jurisdiction. The Commerce Clause is concerned with the effect of the tax on interstate commerce. Walter Hellerstein, *Supreme Court Says No State Use Tax Imposed on Mail-order Sellers...for Now*, 77 J. Tax'n 120, 120 (Aug. 1992).

[12] 430 U.S. 274 (1977).

[13] *Id.* at 279.

[14] *Quill* at 312.

[15] *Id.* at 317.

The Sales/Use Tax

Still relevant in the information age?

- Began in 1962 and 1969
- Collection process designed for face-to-face sale and purchase of tangible goods
- Half of all goods are taxable
- Being challenged by global E-commerce

WISCONSIN DEPARTMENT OF REVENUE

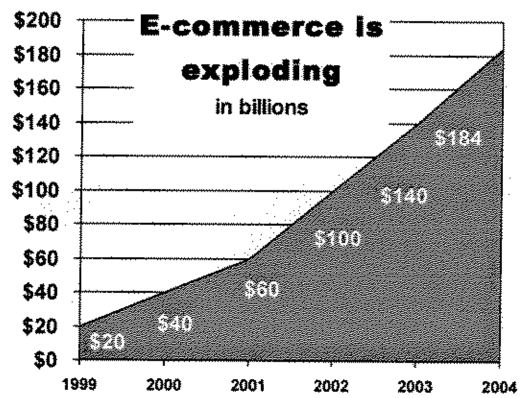
June 14, 2000 1

Issue transcends partisan labels

- In May 2000, U.S. House passed Internet Tax Freedom Act (H.R. 3709), extending the prohibition on Internet access charges for 5 more years. (Had 18 more months to run.) Awaiting Senate action
- Bill would prevent states from taxing access to the Internet, remove the grandfather clause that has allowed Wisconsin to tax Internet access fees ($7 million/year)
- But does not exempt purchases made over Internet
- Advisory Commission on Electronic Commerce unable to get 2/3rds majority on exempting such sales

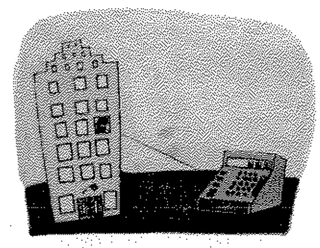
June 14, 2000 2

E-commerce will hit $184 billion ...



Source: Forrester Research Inc.

... nationwide



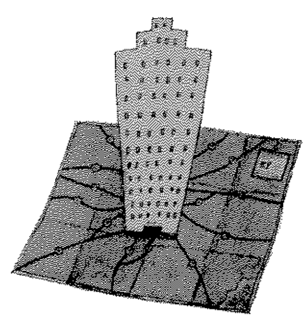
In Wisconsin:

- 1999: $290-$386 million
- 2004: $4.3-$5.8 billion

June 14, 2000 3

Many retailers are not collecting

- States cannot require corporations to collect and remit sales tax
- ... unless they have a substantial presence within their borders, or "nexus"

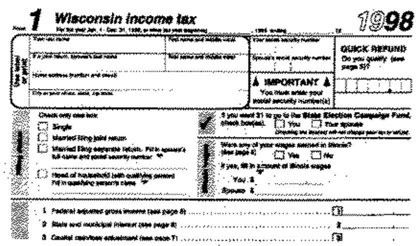


- (U.S. Supreme Court 1992, Quill v N. Dakota)

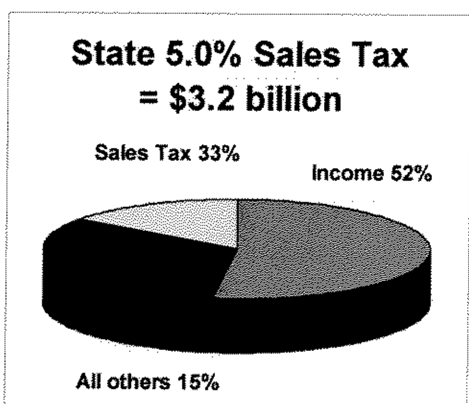
June 14, 2000 4

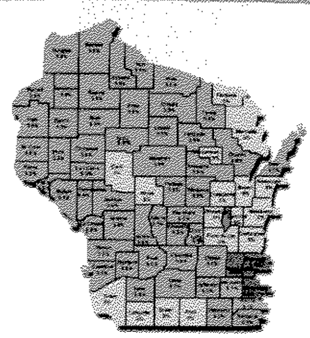
E-commerce subject to Use Tax

- Customer obligated if retailer does not collect
- 45 states tax Sales/Use
- But few individuals pay Use Tax – only 25,000 paid $1.4 million in Wisconsin
- Business compliance greater – they self-reported $173.5 million in 1999



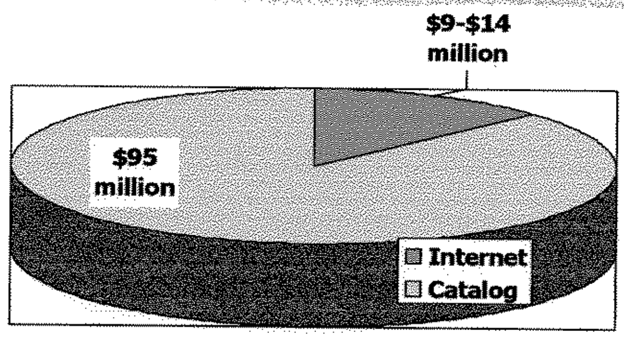
Sales tax is important revenue source





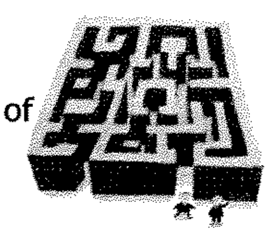
Plus another $191.5 million for 53 counties

Remote sales impact taxes



- $9 to $14 million in state tax not collected on Internet sales in 1999
- $95 million not collected on mail order purchases

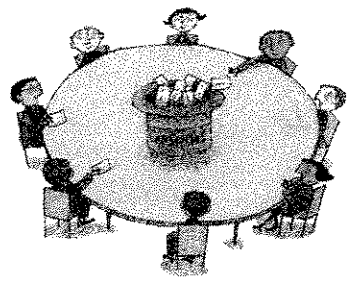
Goal: Simplified tax = Fair tax



- 7,600 different state and local jurisdictions tax 1,500 different products
- In Mass., the first $175 of an article of clothing is tax-exempt
- In Connecticut, only the first $50 is tax-exempt
- New Jersey does not tax clothing at all
- Burden falls on individual taxpayers

States can lead the way to simplify

- National Streamlined Sales Tax Project
- Supported by 31 states, the NGA, National Conference of State Legislatures, FTA, Multi-State Tax Commission.



- D.O.R.'s Diane Hardt co-chairs national simplification effort

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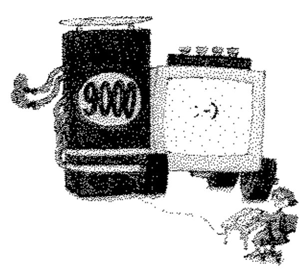
On-line systems already exist to sort out E-commerce

- Computer technology would automatically identify taxable products
- Apply the taxing jurisdiction's tax rate
- Remit the proper amount, seamlessly



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State seeks taxes from Web sales

By Jenny Price

Associated Press

The state lost between $103 million and $109 million in sales tax revenue last year because some Wisconsin residents did not pay sales taxes on purchases they made online or through catalogs, state revenue officials told a legislative committee Wednesday.

Although only $9 million to $14 million of that amount represents Internet sales, state officials say online shopping's growth poses a problem since sales taxes pay for about one-third of the state's annual budget.

The Revenue Department estimates Wisconsin consumers purchased between $290 million and $386 million in goods and services via the Internet last year. Those purchases could reach an estimated $4.3 billion to $5.8 billion in 2004.

States cannot collect sales taxes from a company unless the business has a physical presence within their borders, according to a 1992 Supreme Court decision, so the state must rely on residents to own up to goods they have purchased from out-of-state companies on their state income tax returns.

Taxpayers are supposed to mark down how much they spent on items bought elsewhere but used in Wisconsin. But only 25,000 of 2.5 million taxpayers last year paid those use taxes.

"We're not talking about more authority. We're talking about a collection problem," said Revenue Secretary Cate Zeuske. "The burden falls on our citizens."

Noncompliance costs all taxpayers if the high levels of online and mail order shopping continue to grow as expected.

"As they make more and more (Internet) purchases, the only people contributing to the state treasury are those who shop locally or pay use taxes," she said.

In-state retailers are at a significant disadvantage under the current system because they must collect sales taxes, while out-of-state businesses selling the same products online or through catalogs do not, said Sen.

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Taxes

■ Continued from Page 1E

Robert Jauch, co-chairman of the Joint Committee on Information Policy.

"This dot-com era is producing both opportunities and perils," he said "The real issue here is a matter of fairness."

Bob Lochner, owner of Sauk City Hardware, will soon launch a Web site to sell goods. But Lochner said he is frustrated that out-of-state companies selling the same products online that he does in his store do not have to collect the same sales taxes from customers that he does.

"We are helping a start-up business at the expense of existing businesses," Lochner said. "Local businesses are doing the state's dirty work, and it's hurting them."

While there is a moratorium on taxing Internet access, such as requiring computer users to pay taxes on their America Online accounts, there is no law prohibiting companies from charging sales taxes for products sold online. The U.S. House of Representatives passed a bill last month that would extend the ban on taxing access, which expires in October 2001, for five years.

Diane Hardt, administrator for the state Division of Income, Sales and Excise Tax, co-chairs a national effort to implement a voluntary e-commerce sales tax system in which states each would adopt a single rate to collect and distribute the money based on where the buyer lives.

The Streamlined Sales Tax Project currently involves 31 states and will submit its proposal in the form of legislation to state lawmakers in January, Hardt said.

"States can work together to simplify this process," she said.

Without such a system, state and local governments eventually could be forced to raise income taxes or property taxes to pay for schools, roads, public safety and other services, proponents say.

Allison Kujawa, of the Wisconsin Counties Association, which supports the multistate system said a loss in sales tax revenue because of increased Internet shopping poses serious problems for state and local governments and may force them to cut services.

"Many of our human services departments already have waiting lists to serve the elderly and disabled," Kujawa said. "Eliminating or reducing sales tax revenue would have a direct hit on county budgets."

3074 E. Wash.

WISCONSIN STATE JOURNAL ONLINE

LOCAL

Tax officials say millions not collected

Wisconsin taxes aren't being paid on catalog and Internet shopping, they say.

JUNE 15, 2000
By Scott Milfred Legislative reporter

The popularity of catalog and Internet shopping in Wisconsin cost the state more than $100 million in uncollected sales taxes last year, Revenue Secretary Cate Zueske said.

Zueske told a panel of state lawmakers Wednesday that the lost revenue likely will multiply in a few years.

That could put a significant dent in future state budgets, she said. It also could hurt Wisconsin-based companies that are required to charge a 5 percent sales tax because they have stores or warehouses here, Zueske said.

"It's not a tax authority problem, it's a collection problem," Zueske said during testimony at the state Capitol.

Out-of-state companies that sell products through the mail and over the Internet to Wisconsin residents aren't required to collect a 5 percent sales tax for the state.

But companies that are physically located in Wisconsin must collect the taxes, which drives up their prices.

"All we're looking for is a level playing field," said Bob Lochner, who runs hardware stores in Sauk City, Middleton and DeForest. "Either the sales tax should go, or it should be applied to everyone."

Technically, state residents who purchase items from out-of-state catalog or Internet companies are supposed to save their receipts and pay a 5 percent sales tax on the purchases when they file their state income tax bills.

But only 250,000 of about 2.5 million tax filers did so last year, Zueske said.

"The burden falls on our citizens, and it's a very complicated system," she acknowledged.

Zueske said Wisconsin hopes to improve sales tax collections on Internet and catalog purchases by working with other states to simplify and standardize tax rules across the nation. That might persuade the courts to force out-of-state companies to collect Wisconsin sales taxes on the products they sell.

Most of the lost state tax revenue last year -- $95 million -- resulted from catalog sales, Zueske said. Between $9 million and $14 million in revenue was lost on Internet sales.

But Internet sales are expected to grow exponentially, which makes them of particular concern, she said.

Sales tax revenues accounts for nearly a third of the $10 billion the state collects in taxes each year.

Rep. Marlin Schneider, D-Wisconsin Rapids, told his colleagues that the state might be forced to repeal its sales tax if it can't collect it fairly.

But Sen. Bob Jauch, D-Poplar, said that's unlikely.

"We need to find a fairer, simpler way to collect these revenues," he said. "I think Internet businesses are going to skyrocket for some time."

State loses big in e-commerce, catalog sales tax

Over $9 million in Internet sales taxes went uncollected, official says

By Richard P. Jones
of the Journal Sentinel staff

Last Updated: June 14, 2000

Madison - Revenue Secretary Cate Zeuske said Wednesday the state government lost between $103 million and $109 million in sales tax revenue on catalog and online purchases Wisconsin residents made last year.

Zeuske provided the latest estimate at a hearing the Legislature's Joint Committee on Information Policy held on electronic commerce and its effects on businesses and sales tax revenue.

Of the estimated lost revenue, Zeuske said between $9 million and $14 million was on items purchased over the Internet last year. The rest was due to catalog sales, which has long been a problem for tax collectors.

Sales tax collections last year were in excess of $3.4 billion and represented one-third of all general tax dollars collected by the state.

Sen. Bob Jauch (D-Poplar), committee co-chairman, said that only about 3% of consumers use e-commerce, but that number is expected to increase substantially.

"So the erosion of the base is going to accelerate in a very, very dramatic form," he said. Jauch said some studies suggest that in three years, 50% of consumers may do most of their shopping on the Internet.

Collecting sales tax on mail-order purchases has been an ongoing problem for Wisconsin and other states. Under a 1992 ruling by the U.S. Supreme Court, a state cannot make remote retailers - initially catalog firms, but now Internet sites as well - collect and remit sales tax revenue unless they have a physical presence in the state.

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During the hearing, Zeuske and a top aide, Diane Hardt, said Wisconsin was working with other states on sweeping legislation to treat all retailers, whether brick-and-mortar shops on Wisconsin's main streets or click-and-point operations on the Internet, the same when it comes to sales tax collections.

Hardt, administrator of the Division of Income, Sales and Excise Taxes, said a national task force to streamline the sales tax should have a proposal ready for state legislatures to consider as early as January. She said 31 states were involved in the effort, which began at the urging of the National Governors Association and the National Conference of State Legislatures.

Zeuske said while Wisconsin consumers avoid the state's 5% sales tax when they make catalog or Internet purchases, they still are required to pay tax on such purchases when they file state income tax returns. But she said of 2.5 million tax filers, only about 25,000 did so last year, paying $1 million.

More than once during Wednesday's hearing, Rep. Marlin Schneider (D-Wisconsin Rapids) suggested repeal of the sales tax. He described it as an antiquated and regressive tax. Given the disparity in rates and items taxed from state to state, he said devising a means for each state to claim its sales tax on purchases made over the Internet was far too complex.

"It just seems to me that we're in such a massive paradigm shift in the e-commerce society, that the only tenable solution is to repeal the tax for all of the states," Schneider said.

Others, however, dismissed the suggestion as unrealistic and unlikely.

Bob Lochner, a Sauk City hardware store owner, said the sales tax should be repealed or changed so that all retailers are treated fairly.

"I strongly feel that either the sales tax should go or be applied to everyone," he said.

Appeared in the Milwaukee Journal Sentinel on June 15, 2000.

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SEARCH ARCHIVES GO PART OF THE onwisconsin NETWORK JS Online Features List

State's e-tax losses expected at hearing

State senator on national task force hopes results lead to action

By Joanne M. Haas
Capitol News Service

MADISON—The extent the loss of Internet sales tax collections have local on Mom and Pop businesses as well as the statewide economy will be heard this week when invited state agency officials appear before a joint Capitol panel.

"As the Internet grows, the tax revenues will decrease.... Our local businesses will decline," said state Sen. Robert Jauch, D-Poplar, co-chair of the Joint Committee on Information Policy. Jauch also serves on the Executive Committee Task Force on State and Local Taxation of Telecommunications and Electronic Commerce for the National Conference of State Legislatures.

"That task force has been working close to two years with the National Governors' Association and other national organizations who are concerned about Internet sales activities and the effects on the local tax base," Jauch said, adding Wisconsin is one of 16 states interested in participating in a voluntary consortium that would "result in the collections of these sales taxes."

Wisconsin does not collect sales tax from a company unless the company has a physical presence in the state, Jauch said. "States are losing billions of dollars in sales tax revenues which is harmful to the state and local economy. But more importantly, it is unfair and provides an unfair advantage to Internet sales versus local merchants" who must charge the sales tax for the same product offered somewhere else on the Internet.

"Not only is there a loss of tax revenue, but the Ma and Pa community connection is lost as well," he said. "The biggest supporters for community activities, school fund-raisers and various non-profit activities... comes from local businesses."

The extent to which Wisconsin is losing tax dollars for schools and other statewide programs is not known. But Jauch said the purpose of a Wednesday meeting of the joint panel is to get some hard numbers from the Department of Revenue and other invited speakers. The public hearing is slated for 1 p.m., Wednesday, June 14, in Room 411 South of the Capitol. The other chair is Rep. David Hutchison, R-Dyckesville.

In a May letter to Congress, the National Conference of State Legislatures opposed HR 3709 which extended the moratorium on state and local taxes on Internet access for five years as well as repealed the clause allowing Wisconsin and other states to collect an Internet access tax.

The national group called the legislation "one of the largest and most egregious unfunded federal mandates" on state and local governments, which then are forced to cut services or hike other taxes.

A study released June 6 by the University of Texas-Austin predicts the Internet economy could hit $1 trillion by next year. The study also found more than 50,000 companies get some or all of their revenues from Internet-related activities.

"Gov. Thompson also has expressed concern about the loss of revenue to Wisconsin," Jauch said. "So I'm hoping the hearing will present good information and serve as a foundation for a public discussion."

Sales tax losses coming, panel told

Internet purchases seen as problem

By Joanne M. Haas
Leader-Telegram correspondent

L-T 6-15-00

MADISON – Wisconsin's potential loss of at least $100 million per year in uncollected sales taxes from e-commerce and catalog shopping could be fatal to Main Street businesses as well as tax-supported government activities and services, experts told a legislative panel Wednesday.

This so-called "computer divide" rests between the keyboard-savvy consumer who loads up on sales tax-free products from out-of-state Internet merchants and catalog shops and the local buyers who get the identical products for a price plus in-state sales taxes from the local retailer.

"This is a very hot issue," said Douglas Johnson of the Wisconsin Merchants Federation. "This is an issue we've got to figure out. There is no silver bullet."

Local merchants aren't the only ones crying foul. State and county governments are scrambling to figure out how to make up for the loss of sales tax revenues.

"The real issue here is a matter of fairness," state Sen. Bob Jauch, D-Poplar, told the Joint Committee on Information Policy at its Capitol meeting to assess the potential damages and possible solutions to the unfair tax edge online merchants have over in-state retailers. "The question is how and what ways can the state government, and local governments, assess the same tax for an item that is being sold out of state and is purchased in state."

The problem for Wisconsin and other states dates back to a 1992 U.S. Supreme Court ruling that said states cannot mandate remote retailers to collect and turn in sales taxes unless the retailer has a physical presence in that state.

State Revenue Secretary Cate Zeuske said her records show the state lost out on about $103 million to $109 million in sales tax revenues from products bought online and through remote catalog shops in 1999. The majority of that total is from catalog sales, and $9 million to $14 million was linked to sales on the Internet.

But Zeuske and others expect the sales tax losses to swell as more and more consumers get familiar with shopping the Web through home computers.

Jauch, the co-chairman of the joint committee, said some research indicates more than 50 percent of all consumers will do the bulk of their shopping at their home computers within three or so years, a leap from the 3 percent or so now letting their keyboards do the walking.

State Rep. Marlin Schneider, D-Wisconsin Rapids, said the sales tax is a regressive, unfair mechanism and should be repealed.

Capitol Headlines

from the Legislative Reference Bureau

Vol. 5, No. 48 **Thursday, June 15, 2000 (Articles from June 7-15)**

Tax officials say millions not collected

■ Wisconsin taxes aren't being paid on catalog and Internet shopping, they say.

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Legislative reporter

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Wisconsin State Journal June 15, 2000

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...cont. from prev. page

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Bob Lochner
Local businessman

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Milwaukee Journal Sentinel June 15, 2000

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By Richard P. Jones
of the Journal Sentinel staff

Madison — Revenue Secretary Cate Zeuske said Wednesday the state government lost between $103 million and $109 million in sales tax revenue on catalog and online purchases Wisconsin residents made last year.

Zeuske provided the latest estimate at a hearing the Legislature's Joint Committee on Information Policy held on electronic commerce and its effects on businesses and sales tax revenue.

Of the estimated lost revenue, Zeuske said between $9 million and $14 million was on items purchased over the Internet last year. The rest was due to catalog sales, which has long been a problem for tax collectors.

Sales tax collections last year were in excess of $3.4 billion and represented one-third of all general tax dollars collected by the state.

Sen. Bob Jauch (D-Poplar), committee co-chairman, said that only about 3% of consumers use e-commerce, but that number is expected to increase substantially.

"So the erosion of the base is going to accelerate in a very, very dramatic form," he said. Jauch said some studies suggest that in three years, 50% of consumers may do most of their shopping on the Internet.

Collecting sales tax on mail-order purchases has been an ongoing problem for Wisconsin and other states. Under a 1992 ruling by the U.S. Supreme Court, a state cannot make remote retailers — initially catalog firms, but now Internet sites as well — collect and remit sales tax revenue unless they have a physical presence in the state.

During the hearing, Zeuske and a top aide, Diane Hardt, said Wisconsin was working with other states on sweeping legislation to treat all retailers, whether brick-and-mortar shops on Wisconsin's main streets or click-and-point operations on the Internet, the same when it comes to sales tax collections.

Hardt, administrator of the Division of Income, Sales and Excise Taxes, said a national task force to streamline the sales tax should have a proposal ready for state legislatures to consider as early as January. She said 31 states were involved in the effort, which began at the urging of the National Governors Association and the National Conference of State Legislatures.

Zeuske said while Wisconsin consumers avoid the state's 5% sales tax when they make catalog or Internet purchases, they still are required to pay tax on such purchases when they file state income tax returns. But she said of 2.5 million tax filers, only about 25,000 did so last year, paying $1 million.

More than once during Wednesday's hearing, Rep. Marlin Schneider (D-Wisconsin Rapids) suggested repeal of the sales tax. He described it as an antiquated and regressive tax. Given the disparity in rates and items taxed from state to state, he said devising a means for each state to claim its sales tax on purchases made over the Internet was far too complex.

"It just seems to me that we're in such a massive paradigm shift in the e-commerce society, that the only tenable solution is to repeal the tax for all of the states," Schneider said.

Others, however, dismissed the suggestion as unrealistic and unlikely.

Bob Lochner, a Sauk City hardware store owner, said the sales tax should be repealed or changed so that all retailers are treated fairly.

"I strongly feel that either the sales tax should go or be applied to everyone," he said.

Milwaukee Journal Sentinel June 13, 2000

Legislative hearing will examine lottery audit

Investigators find spotty performance, question settlement with vendor

By Richard P. Jones
of the Journal Sentinel staff

Madison — A legislative leader said Monday he would hold a hearing on the state lottery's spotty performance and a settlement of $2.5 million in damages against a company that provides computer services.

Sen. Gary George (D-Milwaukee), co-chairman of the Joint Audit Committee, said he wants lottery officials to explain the findings of report released Monday by the Legislative Audit Bureau.

The report said that while overall ticket sales increased from 1997-'98 to 1998-'99, sales of online tickets continued to decline. The audit also raised questions about the lottery's decision to settle a $2.53 million dispute with GTECH, the computer company that tracks lottery sales, for less than 10% of that amount.

"Clearly, the operation of the lottery in Wisconsin has not been successful, and we are going to hold a hearing to find out why," George said in a statement.

The report notes that total lottery ticket sales increased, from $418.6 million in fiscal year 1997-'98 to nearly $428.2 million in fiscal year 1998-'99.

However, the increase was due chiefly to sales associated with several large national jackpots. For example, the Powerball jackpot reached a record $295.7 million in July 1998.

That prompted State Auditor Jan Mueller to warn that future online lottery sales may not continue at that level because the lottery staff does not control jackpot size.

In contrast, sales of instant ticket lottery games — the so-called scratch-off games — continued a four-year decline. Sales decreased from $252.9 million in 1997-'98 to $230.8 million in 1998-'99, the audit said.

Besides the mixed sales report, Mueller also reported on the lottery's troubled computer system, operated by the GTECH Corp.

In 1997, the lottery signed a five-year contract with GTECH to provide a computer system that would record instant and online ticket sales, validate tickets, bill retailers and generate sales reports for management.

For those services, GTECH received payments totaling $11.65 million in fiscal year 1997-'98 and $11.73 million in 1998-'99.

Duing the first year of the contract, however, the lottery, its retailers and GTECH experienced major problems, according to the audit. At times, the company could not validate instant tickets. Retailers also did not receive invoices.

The lottery initially asked

...cont. next page

6/22/00 Spooner Advocate

Internet sales taxes

Wisconsin stands to lose more than money if collection issue not solved

By Joanne M. Haas
Capitol News Service

MADISON-- Wisconsin's potential loss of at least $100 million per year in uncollected sales taxes from e-commerce and catalog shopping may prove to be the fatal blow to numerous Main Street businesses as well as tax-supported government activities and services, experts told a legislative panel Wednesday.

This so-called "computer divide" rests between the keyboard-savvy consumer who loads up on sales tax-free products from out-of-state Internet merchants and catalog shops and the local buyer who gets the identical products for a price plus in-state sales taxes from the local retailer.

"This is a very hot issue," said Douglas Johnson of the Wisconsin Merchants Federation. "This is an issue we've got to figure out. There is no silver bullet."

Local merchants aren't the only ones crying foul.

State and county governments are scrambling to figure out how to make up for the loss of sales tax revenues.

"The real issue here is a matter of fairness," state Sen. Robert Jauch, D-Poplar, told the Joint Committee on Information Policy at its Capitol meeting to assess the potential damages and possible solutions to the unfair tax edge online merchants have over in-state retailers. Jauch also is the co-chair of the committee.

"The question is how, and what ways can the state government, and local governments, assess the same tax for an item that is being sold out of state and is purchased in state."

The problem dates back to a 1992 U.S. Supreme Court ruling which said states cannot mandate remote retailers to collect and turn in sales taxes unless the retailer has a physical presence in that state.

The ruling first affected catalog shops, but now extends to the incessantly growing dot-com industry.

State Revenue Secretary Cate Zeuske said her records show the state lost out on about $103 to $109 million in sales tax revenues from products bought online and through remote catalog shops in 1999. The majority of that total is from catalog sales and $9 million to $14 million was linked to sales on the Internet.

But Zeuske and others expect the sales tax losses to swell as more shop with home computers.

Jauch said some research indicates more than 50 percent of all consumers will be doing the bulk of their shopping at their home computers within three or so years -- a leap from the 3 percent or so now letting their keyboards do the walking.

A report done for the Executive Committee Task Force on State and Local Taxation of Telecommunications and Electronic Commerce for the National Conference of State Legislatures, of which Jauch is a member, estimates the states are losing out on $11 billion in uncollected sales taxes from Internet shopping. The study predicts an estimated $395 million total loss for the Badger State by year 2003.

Also more than 31 states have joined a project to develop and implement streamlined sales tax policies.

That project's co-chair is Diane Hardt, administrator of the Division of Income, Sales and Excise Taxes for Wisconsin's revenue department.

Survey Says: 'Yes' to Net Taxes

Reuters

1:00 p.m. Jun. 22, 2000 PDT

PALO ALTO, California -- U.S. consumers don't always think new taxes are such a bad idea, and actually show pretty strong support for new taxes on sales transacted over the Internet.

At least that was the finding of the International Council of Shopping Centers, a group that has vocally opposed keeping the Internet a tax-free zone and has lobbied for a level playing field between brick-and-mortar retailers and their counterparts in the virtual world.

See also: Tax-Free Net Lives Another Day
Mind your own Business news
Everybody's got issues in Politics
Infostructure strengthens your backbone

The Council said it had conducted a scientific study of a cross-section of Americans, including many who shop online.

Asked if they thought it was unfair to let consumers avoid paying taxes when buying things online, 65 percent of the 1,038 adults surveyed responded yes.

Some 62 percent said they agreed with the argument that a tax-free Internet discriminated against people with less money, who were often the people who did not have Internet access.

Perhaps more eye-opening than their opinions on taxes was the finding that most Americans knew little or nothing about the debate over an Internet sales tax.

Asked if they had heard about the issue, 49 percent of those surveyed answered "nothing at all," while another 29 percent said "not too much."

The International Council of Shopping Centers said the survey recipients were at first evenly split between favoring and opposing Internet taxes, until they were informed of the disparity between online and off-line tax polices.

Once they learned that the same goods that were taxed on Main Street were tax-free on the Internet, people shifted their views in favor of taxing online transactions.

The survey's margin of error was plus or minus 3 percent.

The subject of online sales taxes has been one of the hottest political debates surrounding the Internet, ever since Congress imposed a three-year tax moratorium on Internet sales, designed to help encourage an industry in its infancy.

The U.S. House of Representatives recently voted to extend that moratorium for an additional five years, until 2006.

DANE COUNTY

Kathleen M. Falk
County Executive

RE-FAX 7-17-00

6-2643

Charity: Agreed (see attached).

Doug

Fax

To: Doug Johnson

From: Charity

Fax: 257-~~[illegible]~~ 8755

Phone:

Pages (including cover): 3

Date: 7/13/00

Re:

cc:

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

Comments:

Thank you... hand deliver... we'll sign & return.

P.S. Your letterhead is fine... if you ~~joint~~ want joint logos fine also.

210 Martin Luther King, Jr. Boulevard, City-County Building, Madison, Wisconsin 53709
PH 608/266-4114 FAX 266-2643 TDD 266-9138

July 13, 2000

The Honorable Senator Herb Kohl
United States Senate
Washington, DC 20510

Dear Senator Kohl,

Thank you for your recent letter regarding your stance on e-commerce taxation issues.

We understand and respect your position on the Internet Tax Freedom Act of 1998, given the newness of the industry and the wisdom of working toward a tax simplification structure. However, we am very concerned about the possible extension of the three-year moratorium that act imposed and respectfully ask that you oppose an efforts to extend it.

As e-commerce grows, and it has grown exponentially since 1998, its taxing status creates an unfair competitive climate for our main street businesses. In January 2000, consumers spent $2.8 billion online. According to the National Retail Federation, that was more than was spent online during the entire holiday season. That is evidence of a rapidly growing industry that is no longer in its fledgling stages.

It is time to hold e-commerce industry to the same taxing standards that main street retailers are. We support the effort to simplify the tax structure. ~~I~~ We understand North Dakota's Senator Dorgan will be introducing legislation that provides that simplified basis for companies. States and local governments who join a tax compact would be allowed to require e-commerce companies who do not have nexus in a state, but who do have customers in that state, to tax their products. This creates the tax simplification structure that concerns you, and we would ask that you support Senator Dorgan's legislation.

We also repeat our request to you to oppose the extension of the moratorium. The moratorium will not expire for another 14 months. Given that, there is no need to extend it at this time. Further, Senator Dorgan's legislation would deal with one of the primary issue the original moratorium was established to address.

Extending the moratorium extends the life of an unfair competitive advantage for e-commerce companies, while also reducing sales tax revenues for Wisconsin and the majority of its counties. At a time when the Senate is also looking at drastically reducing aids to the state and the counties in the Social Services Block Grant, this action seems doubly unfair.

Please consider your position on these pieces of legislation in light of how it affects our local communities. As always, we are happy to discuss any questions you may have.

Thank you in advance for your help on these important matters.

Sincerely,

Kathleen Falk
Dane County Executive

Chris Tackett
~~CEO~~, Wisconsin Merchants Federation
President & CEO

Subject: Article State Revenue
Date: Mon, 10 Jul 2000 08:01:06 -0500
From: rdavis2@sears.com
To: State_Retail_Associations@sears.com
CC: maltier@sears.com, kgear@sears.com, dpines@sears.com, wmcclu1@sears.com,
riehlm@nrf.com, cahills@nrf.com, whitakers@nrf.com,
pnelson@obriencalio.Com

If congress extends the moratorium on the collection of sales and use tax for another 5 years the loss of sales tax on remote sales will make the problem described in the attached article worst. It is critical that congress not pass the extensions and that as many states as possible enact sales tax simplification in the 2001 legislative session.

The creation of a level playing field is an important issue to Sears and most if not all of your members. As the revenue problem becomes greater for the states they will look to those businesses with brick and mortar presence for increased taxes to offset the revenue loss.

Russ

States bracing for leaner times

By Richard Wolf, USA TODAY

After a decade of record spending increases and tax cuts, states are bracing for leaner times.

The 1990s produced record budget surpluses in most states, but many have entered the 21st century strapped for cash. Revenue no longer is exceeding annual estimates in most states. Costs for health care and education are rising.

The sales and corporate income tax bases are starting to shrink because of tax breaks and Internet commerce.

As the nation's governors gather in State College, Pa., this week for their annual meeting, they must try to balance the public's desire for more spending and lower taxes with the need to save money for a future recession.

"The perception that somehow the states are awash in cash is not just a misnomer but an injustice," says Utah Gov. Michael Leavitt, a Republican who chairs the National Governors' Association. "We're entering a period where there will be times that are not as prosperous."

Although states have much to celebrate, signs of trouble are beginning to emerge:

Across the country, several states face fiscal crises. New Hampshire, Tennessee, Wyoming and Alaska are among the hardest hit, partly because they lack income taxes. New Hampshire's $40 million budget shortfall has prompted a hiring freeze and 3% spending cuts at state agencies. Tennessee's budget is balanced so precariously that Gov. Don Sundquist, who wants an income tax, vetoed it and was overridden. Alaska's dependence on oil and Wyoming's dependence on minerals have caused revenue shortfalls.

Many southern states have nearly depleted their savings. Louisiana voters will consider a tax increase for education in November. North Carolina revenue fell short of forecasts this year, a trend that's expected to continue for two more years. Alabama lawmakers closed a $10 million hole in the state budget by increasing a tax on banks.

In the healthier Midwest and Northeast, many state budgets are starting to constrict. Kansas' budget contains little new spending and no general tax cuts; next year, it faces a $166 million shortfall. Illinois Comptroller Dan Hynes says that if the state does not curtail spending, it might have to borrow next year to pay its bills. In New Jersey, after 37 tax cuts in seven years, Gov. Christie Whitman warns that spending must be tamed. "It's always harder to control spending when you have good economic times," she says.

Even states with roaring economies have reason to be wary. In California, where unemployment this year hit a 30 year low of 4.6%, experts say revenue growth is too dependent on stock market profits. That's also true in New York, where Comptroller H. Carl McCall says the state's tax cuts, spending increases and heavy borrowing represent "failed policies for the future."

“We're beginning to see more slowdowns now," says Raymond Scheppach, executive director of the National Governors Association. It’s not going to be as good the next two to three years as it has been."

USA TODAY analyzed Census data on state government spending from 1990 through 1998, the most recent year available, adjusting for inflation and population increases. It also reviewed state budgets and tax reports for the past decade.

Three trends emerged:

Spending soared. Even after adjusting for inflation, states spent 17% more on each resident in 1998 than they did in 1990. This year, they'll spend, on average, more than $3,000 per person. What did the states get for their money? From 1990 through 1998, the crime rate declined 22%, the number of deficient highway bridges dropped 13%, and the poverty rate dipped 6%. That's the good news.

State officials might have spent a lot, but they did not get all they wanted for their money However, the percentage of Americans without health insurance climbed from 16.1% in 1990 to 18.4% in 1998, even as states tried to insure more people not covered by employers.

Pupil-teacher ratios improved only 4% and college test scores just 2%, despite states' efforts to set new standards for public schools.

"It's really hard to make a case that the increase in spending has done anything," says Vermont Gov. Howard Dean, a Democrat. Tax cuts proliferated. States have slashed taxes by $27.3 billion since 1995, including $5.2 billion this year. Those tax cuts have left states with a smaller tax base. States have exempted many goods, such as groceries and clothing. And more people are shopping on the Internet, which is usually tax-free. In addition, corporate income taxes have been cut to attract industry.

"They haven't been expanding their tax bases. They've been narrowing tax bases," warns municipal finance expert John Petersen of Government Finance Group in Arlington, Va. "I'm sure that we'll have several states running deficits one of these days."

Rainy-day funds expanded, then contracted. In 1991, state reserve funds averaged 1.1% of state spending. By 1998, they had reached 9.2%.

The past two years, however, new spending and tax cuts have trimmed states' estimated rainy-day funds.

Forecasts for 2000 show that the average rainy-day fund is 5.6% of state spending. That's the lowest level since 1994.

Two reports during the past year by the Center on Budget and Policy Priorities, a liberal think tank in Washington, D.C., found that 45 of 48 states studied - all but Maine, Iowa and North Dakota - lacked sufficient reserve funds to weather a recession without raising taxes or cutting spending.

The reports did not study Alaska and Hawaii. For states, the 1990s have been "a unique time period," says Bill Fox, an economics professor at the University of Tennessee. "They're not healthy forever. When a recession hits, states can really, really get it socked to them." What a difference a decade makes in states' revenue, rainy-day funds and service programs.

That was clear a decade ago, when the talk in state capitals was of capping budgets, cutting services and closing programs.

Thousands of state workers were laid off, at least temporarily. Taxes were increased by more than $36 billion in five years, from 1990 through 1994. Rainy-day funds dropped to nearly 1% of annual state spending, barely enough to withstand a drizzle.

The tenor of the times was summed up most ingloriously by New York Gov. Mario Cuomo, who in 1991 canceled his third inauguration ceremony to save $70,000.

"We are broke down to the marrow of our bones," Cuomo said at the time. Since the early 1990s, however, states have enjoyed a dramatic turnaround. From 1990 through 1998, revenue grew 20%, adjusted for inflation. That gave states an average of $550 more per person. The states' bounce back was documented by improved bond ratings. Sixteen states have received upgrades the past decade. Ten states enjoy the top triple-A rating.

The good times have been felt by large states and small and in all regions of the country. California mints 250 new millionaires a day. Delaware pays for some construction projects in cash.

"It's been a great time to be governor," says Delaware Gov. Thomas Carper, a Democrat. "In an economy this strong, even I look like I know what I'm doing."

So do a lot of lawmakers. Taxpayers in Minnesota, Illinois and Pennsylvania will get rebate checks this year. Tax cuts in California are being targeted for child care, teachers, businesses and vehicle owners.

Tax cuts on gas and clothes in Connecticut were so popular with lawmakers that they approved the budget unanimously.

New York has cut taxes for six years, which has helped drop it from 22nd place in 1990 to 35th in percentage of personal income that residents pay.

Only Alaska and Arizona had greater tax-burden reductions during the 1990s.

Spending spree lasted all through the 1990s for most states, especially in the Southern ones.

For most states, the '90s have been a time to spend. From 1990 through 1998, spending per person on Medicaid and other public welfare programs rose 43%, adjusted for inflation. Spending on prisons went up 28%, on schools 18%, on higher education 10%.

Since 1994, states have increased spending at nearly twice the pace of the federal government, while their revenue has grown 40% slower.

"There's been a lot of talk about downsizing government, and not a lot of evidence," says Donald Boyd, director of the fiscal studies program at the State University of New York's Nelson A. Rockefeller Institute of Government.

The trend to spend has been greatest in states that spent the least per person in 1990, particularly in the South. Mississippi led the way with a 42% increase, adjusted for inflation. Alaska spends the most per person, partly because of the high cost of delivering services to remote areas. Other big-spending states include Hawaii, Delaware, Massachusetts and New York.

The states that spend the least on each resident: Texas, Florida and Tennessee. Most state government leaders defend the '90s spending spree. "In every area of state government, we were meeting pent-up demands and needs," says Utah's Leavitt.

His state increased school aid more than 50%, invested $3.8 billion in highways over 10 years and has cut taxes 31 times since 1993.

But Stephen Moore, director of fiscal policy studies at the Cato Institute, a conservative think tank in Washington, D.C., bemoans the trend. "These governors are just big spenders," he says. "It's not just liberal Democrats." Economic analysts warn of revenue losses and soaring social costs on road ahead of states. Looking ahead, experts on state finance say the pace of revenue growth, fed by huge profits on Wall Street, cannot be sustained.

Future revenue growth also may be dampened by states' inability to collect taxes on most electronic commerce. And states face rising costs, particularly for health care and education. Medicaid costs, which soared 20% or more a year in the early '90s, are rising only about 5%. But they are expected to rise 7.5% next year. The number of people on welfare, which climbed to 14.4 million in 1994, has plummeted to 6.6 million.

However, the decline is slowing, and those remaining clients need more services.

States face challenges brought on by echo of baby boomers and their children. Nearly half the states face lawsuits challenging their method of financing education. That could require more state aid for poorer school districts.

Even if they're not forced to equalize spending, some will have to educate more children. The school-age population is set to boom in some states. Utah is expected to gain 30,000 students from 1990 through 2003, but 100,000 from 2003 through 2010.

States can expect little sympathy from Congress.

Lawmakers there say the states benefitted under the 1996 welfare-reform law, which assured five years of level federal funding despite declining numbers of welfare clients.

Congress also is jealous of the states' $246 billion settlement with tobacco companies, which should boost state treasuries for 25 years. As a result, Congress is unlikely to give states what they want most: the right to tax Internet sales.

Meanwhile, "the pressure for spending is not lessening," says William Pound, executive director of the National Conference of State Legislatures. "Unless the economy continues to perform the way it is, there clearly will be some problems in the not-too-distant future."

North Carolina $ 239 Million
Ohio $ 361 Million
South Carolina $ 124 Million
Wisconsin $ 172 Million

2

Let me pose a hypothetical question. What would happen if the federal government allowed customers to avoid paying federal airline ticket excise taxes if travelers purchased their tickets over the Internet, but kept the tax in place on purchases from travel agents? That would give air travelers with access to the Internet a 10% price discount and provide a tremendous incentive to buy over the Internet. Obviously, travel agents would disappear and federal revenues would dry up in a hurry. To some extent, this is the same situation that state and local governments face with the sales and use tax on Internet purchases.

As state legislators, we recognize that we have been part of this problem. We have created a confusing, administratively burdensome tax system with very little regard for the compliance burden placed on multi-state businesses. Last year, NCSL passed a resolution, written by NCSL's Task Force on State and Local Taxation of Telecommunications and Electronic Commerce, that acknowledged that states need to simplify their sales and use taxes and telecommunications taxes for the 21st Century. We recognize that we have been a key part of the problem - and we also are the solution.

In our resolution, we formulated a set of seven principles that we used to develop a proposal for simplifying and streamlining state and local sales and use tax collection systems. These principles are:

First, that state and local tax systems should treat transactions involving goods and services, including telecommunications and electronic commerce, in a competitively neutral manner; and

Second, that a simplified sales and use tax system that treats all transactions in a competitively neutral manner will strengthen and preserve the sales and use tax as vital state and local revenue sources and preserve state fiscal sovereignty; and

Third, that the Internet and Internet vendors should not receive preferential tax treatment at the expense of local "main street" merchants, nor should such vendors be burdened with special, discriminatory or multiple taxes; and

Fourth, that states recognize the need to undertake significant simplification of state and local sales and use taxes to reduce the administrative burden of collection; and

Fifth, that under such a simplified system remote sellers, without regard to physical presence in the purchaser's state, should be required to collect sales and use taxes from the purchaser and remit such taxes to the purchaser's state; and

Sixth, that NCSL encourages current and future cooperative efforts by states to simplify the operation and administration of sales and use taxes; and

Seventh, that NCSL will continue to oppose any federal action to preempt the sovereign and Constitutional right of the states to determine their own tax policies in all areas, including telecommunications and electronic commerce.

Streamlined Sales Tax Project

Since September of 1999, state legislators, governors, local elected officials and state tax administrators have worked to develop the Streamlined Sales Tax Collection System for the 21st Century. I am pleased by our progress, and I would like to take a few minutes to tell you the status of the Project.

The Streamlined Sales Tax Collection System will allow state and local governments to reduce or eliminate the costs and burdens of sales tax compliance, especially for remote sellers.

The key features of the Streamlined Sales Tax System are SIMPLIFICATION of sales and use tax laws and

THE WALL STREET JOURNAL INTERACTIVE EDITION. FRONT SECTION NEWS SEARCH

[redacted]

June 29, 2000

A Lobbying Machine Springs Up To Revive Issue of Internet Taxes

By GERALD F. SEIB and JIM VANDEHEI
Staff Reporters of THE WALL STREET JOURNAL

WASHINGTON -- The road to a tax-free Internet looked smooth and clear in Congress. Then an oddball coalition of retailers, real-estate agents, firemen and teachers came along.

Listen to a House subcommittee hearing on Internet taxes, courtesy of Hearings.com.

Just last month, the House rammed through a bill imposing a five-year moratorium on new Internet taxes, without even considering the devilish question of how to handle sales taxes on Internet commerce. Love of the Internet being this year's version of a motherhood issue, most expected the Senate to soon follow suit.

But the forces of cyberspace were in for a surprise. A broad collection of people who want sales taxes on the Internet suddenly materialized and succeeded in stalling the bill in the Senate. Senators may soon begin considering alternative bills that, while still blocking new Internet taxes, would take the first steps toward a uniform tax system under which Americans would pay for shopping in stores and on the Internet alike.

Delivering a Pitch

That turn of events can be explained in large measure by people such as Robert Benham. Mr. Benham, a trim and angular Midwesterner, owns an upscale women's fashion store in Oklahoma City. On a recent day, he sat at a government-issued wooden table in Washington, talking to Dan Barron, a fresh-faced aide to Sen. James Inhofe of Oklahoma.

For the umpteenth time in recent weeks, Mr. Benham, a former minor-league pitcher, let fly

with his pitch: Failing to impose sales taxes on Internet purchases is patently unfair to stores such as his, which must charge sales taxes.


Robert Benham

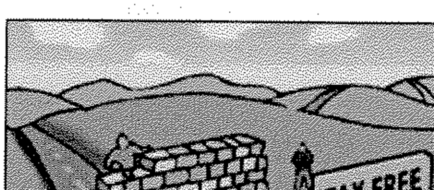
"We're not seeking a new tax" on the Internet, he said. "What we are seeking is a level playing field." Then he unleashed one of his most politically potent arguments in favor of balanced tax treatment for the bricks-and-mortar set: "We're the ones who sponsor the Little League teams, who buy tables at charity events, who hold fashion shows," he said. Quoting from one of the 300 letters he has sent Congress, he added: "When's the last time a dot-com did a charity fashion show in your district?"

Mr. Benham is part of a group dispatched by the National Retail Federation to deliver the same message at more than 60 similar meetings on Capitol Hill, including a session with Senate Majority Leader Trent Lott. Elsewhere, governors worry that the loss of sales-tax revenue could wreck their state budgets. The real-estate industry frets that, if sales-tax revenues wilt for states and cities, real-estate taxes will rise to make up the difference. Shopping-center developers figure they'll get hit with a double whammy: The stores in their centers will lose business to the Internet, and the centers will get whacked with higher property taxes.

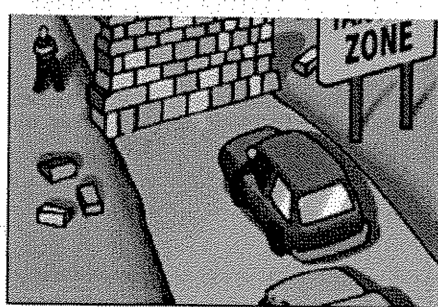
The unions that represent state and local government workers and firefighters see their members' jobs going up in smoke if state and local revenue shrivels along with sales taxes. Both of the nation's main teachers' unions are worried about what declining sales-tax revenue will do to the quality of schools.

E-Fairness Coalition

From all this angst, a lobbying machine has arisen in recent weeks to counter rhetoric about the joys of a tax-free Internet. The International Council of Shopping Centers has had its members send hundreds of letters to Congress. It commissioned a poll showing that 65% of Americans think it would be unfair to make stores but not Internet retailers collect sales taxes, and it helped sponsor newspaper ads in Washington making its case. Some of the groups worried about a tax-free Internet have formed the E-Fairness Coalition, which has been busy spreading the word around Washington.



One cog in the lobbying machine is Stanford Alexander, a real-estate developer in Texas. Mr. Alexander, chief executive officer of Weingarten Realty Investors, paid



Jon Keegan

$18.6 million in property taxes last year on the 132 shopping centers he owns in Texas. If sales-tax revenue declines, Mr. Alexander fears that the Texas legislature will raise taxes on commercial property. That compelled him and other Texas businessmen to visit Washington three times in recent weeks to implore senators to rethink a permanent moratorium that fails to address how states collect sales taxes.

Mr. Alexander is part of a Texas triumvirate that has been lobbying hard on Capitol Hill. Tom Franks, a Beaumont retailer who sells $300 million of home appliances annually, fears consumers will eventually flock to the Internet to dodge Texas's 8.5% sales tax, an important source of revenue for a state with no income tax. He made this pitch to several lawmakers, including Republican Sen. Phil Gramm and Democratic Rep. Nick Lampson, but he left unsatisfied. One lawmaker suggested that he simply start a Web site outside Texas and ship the goods back in to save his customers the tax -- an option several retailers are considering if Congress doesn't address the problem.

Fears for Education

The third partner in this Texas lobbying effort is Malcolm Gillis, president of Rice University. Dr. Gillis is among 175 economists who have lobbied Congress to consider how education will suffer if states can't recover taxes on Internet sales. The group was instrumental in persuading Democratic Sen. Bob Graham, of Florida, and others to demand that any extension of an Internet-tax moratorium include a framework for a new collection system. The House-passed legislation presents a "serious problem," he said, because 45 states impose sales taxes and more than one-third of that revenue pays for educational programs.

At a minimum, this old-fashioned lobbying effort has slowed the train on Capitol Hill. Even Sen. John McCain, who fervently argued for a permanent moratorium on Internet taxes in this year's presidential primaries, is now having second thoughts. "We don't have an answer yet because this is an incredibly complex issue," concedes Mark Buse, a top adviser to Sen. McCain. "This has not been nearly fleshed out enough."

At this point, a reasonable guess is that the House and Senate now don't have enough time left to agree on any bill this year. That would leave in place an existing, short-term moratorium on new Internet taxes, which expires next year, and allow Congress to come back after the election to consider the problem at greater length, in calmer times.

In any case, Congress's role is crucial. While state governments impose and collect sales taxes, a plan for collecting them on the Internet isn't possible without some action by the federal government. That's because a Supreme Court ruling in 1992 held that states don't now have the power to collect taxes on out-of-state mail-order companies that sell into their states. In effect, the ruling said that states' power to collect sales taxes stops at their borders. If that is to change, Congress will have to pass legislation blessing a new system.

Everyone knows how sales taxes work, but few people realize that they are supposed to pay that same tax to their state government every time they buy a product outside the state's borders. This is called a "use tax."

For instance, if a person lives in New York and buys a stereo system in Connecticut -- either via the Internet or by mail -- he or she is required to keep the receipt and pay the home-state tax at year's end. Most states provide a line on annual tax forms to remit the tax. Few people pay this use tax, though, because most don't understand it, aren't aware it exists, or know states can't really enforce it. Most states don't bother to crack down, but this tax loophole could become a major problem as Internet sales proliferate.

Forrester Research, a company specializing in research on Internet topics, estimates that 17 million American households last year bought a total of $20 billion of goods. Both those figures are widely expected to grow sharply this year.

Initially, the Internet industry succeeded in convincing a large swath of the political world that this should remain a tax-free nirvana and got a sympathetic report on the issue from a government panel earlier this year. Republican leaders of the House, where each member faces re-election this year and campaign contributions from the high-tech industry have become an important force, fell in line with that view.

But in the Senate, where only a third of the members face re-election this year, the passions don't run so high. Senators have been more inclined to listen to governors panicky about losing sales-tax revenue. And senators have proven particularly sensitive to the argument that, without a new system to collect sales and use taxes, state education and law-enforcement programs could be drained as tax revenue dries up. That's why a bipartisan cadre of lawmakers, led by Democratic Sen. Byron Dorgan, of South Dakota, is demanding that Congress help states collect the same taxes on Internet sales they do on traditional transactions.

'Compact' on Collection

Sen. Dorgan's approach would require sellers to collect and remit the use tax at the point of sale, freeing consumers of their obligation. His legislation, which still would extend the moratorium on Internet use and access taxes for four years, would at the same time create a "compact" that states could enter to jointly collect and distribute sales taxes.

To eliminate the confusion caused by multiple state-tax laws, states would be required to adopt uniform definitions of all taxable products. For instance, potato chips are considered taxable snacks in some areas and tax-free food in others. More important, before entering the compact, a state would have to adopt a one-rate use tax. Currently, some states, such as New York, have numerous use-tax rates.

If 20 states enter the compact and complete the required changes, the new collection system would take effect -- unless Congress votes to disapprove of it. Sen. McCain, chairman of the Senate Commerce Committee, opposes that bill because it could lead to taxation without specific congressional approval. He is considering backing a compromise that takes a similar but much more vague approach to a new sales-tax system.

That is the legislative fray into which Mr. Benham, the retailer from Oklahoma City, is throwing himself. Mr. Benham has had a long career in retailing, but in 1991, yearning for a chance to run his own business, he and his wife, DeDe, bought an established women's apparel store in Oklahoma City called Balliet's. The threat to his core business from a tax-free Internet became clear to him, Mr. Benham says, on a recent day when a customer came in for a consultation at his store's cosmetics counter. After getting help picking out the correct makeup, Mr. Benham recalls, the customer stood up and declared: "I'm going to go home and order it from Beauty.com," an Internet cosmetics site.

Letters, Calls and Visits

So Mr. Benham decided to get active, working in tandem with the National Retail Federation. He wrote to Congress -- to the entire Oklahoma congressional delegation, to all the members of the Senate Commerce Committee, to all the members of the House Ways and Means Committee, to Sen. McCain. He followed up with 50 phone calls, and then with trips to Washington to make the case directly. His case has been bolstered by the fact that even some high-tech executives, notably Intel Corp. Chairman Andrew Grove, have said recently that Internet sales don't deserve exemption from taxes.

Perhaps most important, Mr. Benham helped cement the views of his local congressman, Republican Rep. Ernest Istook, that a tax-free Internet was unfair to conventional retailers. Rep. Istook is a rock-ribbed conservative who normally is drawn to any no-tax position. But he has become a force in arguing that a sales-tax-free Internet would simply compel governments to drive up other taxes, including federal taxes, which he fears will only enhance the power of Washington at the expense of states and cities.

Write to Gerald F. Seib and Jim VandeHei at jerry.seib@wsj.com and jim.vandehei@wsj.com

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NATIONAL CONFERENCE *of* STATE LEGISLATURES

The Forum for America's Ideas

Paul S. Mannweiler
House Republican Leader
Indiana
President, NCSL

John B. Phelps
Clerk of the House
Florida House of Representatives
Staff Chair, NCSL

William T. Pound
Executive Director

July 7, 2000

The Honorable Scott R. Jensen
Assembly Speaker
State Capitol #211 West
Madison, WI 53708-8952

Dear Speaker Jensen:

You recently wrote to Graham Williams of our staff regarding H.R. 3709 and NCSL's position on Internet taxes. NCSL has never taken a position in support of taxes on Internet access by either the states or the federal government. We have consistently opposed federal preemption or interference with state tax systems and limitations on the fiscal independence of states. One of the most significant aspects of American federalism is the independence of our states in their ability to raise revenues, rather than being completely dependent on the central government for funding.

All the current proposals in Congress preempt state authority or mandate the conditions and limitations under which the states could collect taxes they are currently owed from electronic commerce and remote sales. Twenty nine states, including Wisconsin, are currently working to develop a sales tax system which would reduce complexity and current barriers to collection of such taxes and create a fairer sales tax system for both e-commerce and main street retailers. The choice to have sales and use taxes would remain with each state legislature. In a similar manner, a group from the states is working with the telecommunications industry to develop a simpler and fairer system of telecommunication taxes for consideration by legislatures.

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These efforts can retain state legislative control of state tax systems, promote fairness and strong economic growth, and allow each state legislature to determine the form and level of its revenue system.

I appreciate your concern about these issues and would be pleased to discuss them further with you at your convenience.

Sincerely,

William T. Pound
Executive Director

WTP/db

Jauch expects more public input on Internet sales tax issue

By Joanne M. Haas
Capitol News Service

MADISON—Retailers and consumers will have more opportunities to testify about the "unfair" tax policy pitting local businesses against their Internet competitors not saddled with Wisconsin's sales tax, says a state senator.

"Clearly there is a growing concern from retailers around the country who realize their businesses are being hurt," said state Sen. Robert Jauch, D-Poplar. "I've been encouraged by the comments of retailers who were willing to participate in the effort to change that unfair and inequitable system."

"I plan to have more public hearings to continue to find some resolution," he said.

At issue is Wisconsin's potential loss of at least $100 million per year in uncollected sales taxes from e-commerce and catalog shopping, and its effects on local businesses and tax-supported government services. This problem has grown from consumers who buy sales tax-free products from out-of-state Internet merchants and catalog shops and the local buyers who get the identical products for prices plus the mandated in-state sales taxes from the local retailer.

Douglas Johnson of the Wisconsin Merchants Federation calls it a "hot issue" which needs immediate resolution. Jauch says the "real issue" is fairness. Jauch is the co-chair of the Joint Committee on Information Policy which in June held a hearing on the topic. At that time, Jauch said the bottom line question is how and in what ways can the state government, and local governments, assess the same tax for an item that is being sold out of state and is purchased in state.

The problem dates to a 1992 U.S. Supreme Court ruling which said states cannot mandate remote retailers to collect and turn in sales taxes unless the retailer has a physical presence in that state. The ruling first affected catalogs, but now includes the dot-coms.

State Revenue Secretary Cate Zeuske said the state lost about $103 to $109 million in sales tax revenues from products bought online and through remote catalog shops in 1999. The majority was from catalog sales and $9 million to $14 million were linked to Internet sales on the Internet. But Zeuske and Jauch expect that to change.

Jauch said some research indicates more than 50 percent of all consumers will be doing most shopping on home computers within three or so years—a leap from the current three percent or so.

A report done for the Executive Committee Task Force on State and Local Taxation of Telecommunications and Electronic Commerce for the National Conference of State Legislatures, of which Jauch is a member, estimates the states are losing out on $11 billion in uncollected sales taxes from Internet shopping. The study predicts an estimated $395 million total loss for Wisconsin by 2003.

Also more than 31 states have joined a project to develop and implement streamlined sales tax policies. That project's co-chair is Diane Hardt, administrator of the Division of Income, Sales and Excise Taxes for Wisconsin's revenue department.

Internet Sales TAX

INFO WORLD .COM

News

Monday, Jul. 24, 200

Internet tax loss may be billions

By James Evans

FIGURING THE TOTAL for lost taxes from Internet sales is a murky science, a new U.S. government report released Monday concluded.

The new report from the U.S. General Accounting Office (GAO), the financial auditing arm of U.S. Congress, concluded that states and localities may be losing anywhere from $300 million to $3.8 billion in 2000. The new study is part of an ongoing effort to assess the merits and drawbacks of taxing Internet transactions as U.S. lawmakers debate the issue in Washington.

"There is a whole bunch of parameters that you have to have to come up with a precise number," said James R. White, the GAO's director of tax policy and administration, in a phone interview Monday.

For that reason, GAO officials developed a lower and higher scenario for what is being lost in Internet sales tax, White said. He added that the officials took into account such factors as available estimates of Net sales, tax-exempt products and users,and different taxing rates.

The upper scenario conclusion determined that about 2 percent of overall state and local sales tax would not be captured or roughly $3.8 billion in 2000. The lower scenario came in at $300 million.

White said the GAO officials also forecasted the potential losses in 2003. Because the Internet is so dynamic right now, the outlook gets even more clouded, he stressed.

The high scenario for 2003 is that state and local governments could fail to capture $12.4 billion in taxes, while the low scenario is $1 billion, according to White.

The Internet poses new challenges for taxation, such as determining exactly where a product is purchased through a Net transaction, White said. That situation makes it difficult to determine the proper tax rate for the product, he added.

U.S. Senator George Voinovich, a Republican from Ohio, requested the Internet taxation study. Voinovich is a proponent of taxing Net commerce.

James Evans is a Boston correspondent for the IDG News Service, an InfoWorld affiliate.

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Korbitz, Adam

From: Russell, Faith
Sent: Wednesday, July 26, 2000 4:45 PM
To: Korbitz, Adam
Subject: Voluntary Agreements to Collect Sales Tax

Hi Adam --

Actually, Act 9 does provide the statutory reference for this language. The part that covers the allowable retailers discount is in s. 77.63. Let me know if you have any questions.

Faith Russell
Legislative Fiscal Bureau
faith.russell@legis.state.wi.us
608-266-3847

AUG 7 2000

ASSOCIATION HELPS

FOR MEMBERS OF MIDWEST HARDWARE ASSOCIATION

August 2000 • Affiliated with National Retail Hardware Association

MHA Fights for Fair Sales Tax Laws in WI

The Wisconsin legislature has begun hearings to weigh the impact of sales tax on e-commerce. Currently, most sales of merchandise via the Internet are not taxed.

On June 14, 2000, the legislature's Joint Committee on Information Policy held a hearing in Madison. **Bob Lochner** (Ace DeForest and Ace Sauk Prairie in Sauk City, WI) testified on behalf of the MHA membership. Lochner explained that allowing Internet sales to go untaxed while requiring traditional brick-and-mortar merchants to collect the tax on identical merchandise creates an unfair competitive disadvantage for Wisconsin's Main Street retailers.

Lochner (shown here testifying with MHA General Counsel Doug Johnson) stressed the importance of leveling the playing field so that all businesses are afforded an equal chance for success in selling their goods in the marketplace.

At the conclusion of the hearing, Committee Chair Robert Jauch (D-Poplar) encouraged the Midwest Hardware Association, in partnership with the Wisconsin Merchants Federation, to take an active leadership position on this issue of national significance. MHA pledges to continue making the voices of our members heard on this important issue.

Gunderson Recognized for Leadership on WI License Compensation Issue

The MHA has presented Wisconsin State Representative Scott Gunderson with a special legislative award, recognizing his efforts in the fight for fair compensation for retailers who issue Wisconsin hunting and fishing licenses.

MHA Managing Director John Haka presents the award to Rep. Gunderson.

Gunderson (R-Waterford) was appointed chairman of a special Assembly subcommittee which was created to learn more about problems with the Automated License Issuing System (A.L.I.S.) and to study retailer compensation. Upon completion of the committee's work, he authored Assembly Bill 662, calling for an increase in retailer compensation by $1.50 on all license transactions.

Despite strong opposition from both Democratic and Republican Assembly leaders, Rep. Gunderson stuck to his guns. First, he pushed the bill to a vote on the Assembly floor. Once it was on the floor, opponents "tabled" AB 662 in a move clearly designed to kill the legislation. However, Gunderson continued to fight hard. Eventually, he garnered enough support (from both Assembly Democrats and Republicans who voted against the wishes of their party leadership) to bring the bill off the table and pass it by a narrow margin.

Unfortunately, AB 662 died when Senate majority leader Chuck Chvala (D-Madison) refused to schedule it for a vote in that house.

It's disappointing that AB 662 did not become law. However, MHA applauds the efforts of Rep. Gunderson, who understands that Wisconsin's Main Street retailers have a right to be fairly compensated for the work they perform on behalf of the Department of Natural Resources and the State of Wisconsin.

Aiken Seminars to Return in October

Due to their endless popularity, we have again brought Bob Aiken's Hands-On Plumbing and Electrical Seminars back to Illinois and Wisconsin for MHA members. Bob is the originator of this seminar style and is considered by many to be the best instructor available. For full details, see the enclosed brochure.

You will be able to attend seminars in Rockford (Oct. 19-20) or Springfield (Oct. 2-3), IL, Milwaukee (Oct. 16-17) or Plover (Oct. 30-31), WI. As always, each class is limited to the first 28 registrations we receive. Don't miss your chance to train your staff in these two very important areas of your hardware store—Register today!

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Internet sales could cost states $11 bln in 2003

Updated 2:44 PM ET August 4, 2000

CHICAGO (Reuters) - U.S. states stand to lose $11 billion in sales tax revenues in 2003 due to sales over the Internet, a tax economist told state treasury officials on Friday.

Donald Bruce, a professor at the University of Tennessee, told the State Debt Management Network of the National Association of State Treasurers that while the problem of untaxed Internet sales was currently worrisome for states, "On the horizon, this will be a monster."

A study he released earlier this year projected sales tax revenue losses in 2003 ranging from $17.1 million in Vermont to $1.49 billion in California. Adding in other revenue losses -- such as from catalogue and other sales that fail to register on states' tax radar screens -- total revenue losses could reach $24 billion in 2003, he said.

Bruce said states have historically responded to revenue losses by increasing the sales tax rate. His study showed rates would have to rise about 0.5 percent to 1.0 percent by 2003 to make up for the losses.

Jesse Ancira, director of tax administration in the Texas comptroller's office, said his state, which collects 55 percent of its tax revenue from the sales tax, lost about $50 million to e-commerce in 1999.

"We're not shaking in our boots yet in Texas, but we think this is a serious issue," he said.

Ancira said Texas was also struggling to make its sales tax collection equitable for both tangible and digitalized goods. He added that sales tax collections have also been hurt by the legislative passage of sales tax holidays for some purchases in the state.

Reuters Other News

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- Stockbrokers pay for life in fast lane - study
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"The point is we are giving money back to taxpayers, and if we continue to do that and couple that with a rising loss in revenues from e-commerce, at what point does it put us in a bind?" he said.

Algerian Islamic rebels kill six in attack *(Previous story)*
UN urges its female Afghan employees to stay home *(Next story)*

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Jauch, Bob

From: Hardt, Diane L
Sent: Monday, August 21, 2000 7:10 AM
To: Ford, William; Russell, Faith; Reinhardt, Rob; Jauch, Bob
Subject: FW: Streamlined Sales Tax System

FYI

-----Original Message-----
From: Hardt, Diane L
Sent: Monday, August 21, 2000 7:05 AM
To: Zeuske, Cate; Ourada, Thomas D; Eckes-Meyer, Shirley J; Wornson, Bryon
Subject: Streamlined Sales Tax System

This is to report to you the results of the Streamlined meeting on August 16 - 18.

The work groups continued to meet to refine their products. Businesses participated in some of the discussions.

The Steering Committee met to discuss the draft legislation and interstate agreements where they are not already provided for. The Committee also discussed the pilot and pilot agreement, the Sept. 6 meeting with policymakers, and the Sept. 29 public hearing. Here are more details.

Sept. 6 meeting with policymakers: There will be a project overview with comments from NGA and NCSL; discussion of the public hearing on Sept. 29; project timeline; communications; four most important and controversial issues including tax rate (should we have one rate per state or keep all of the local rates?), tax base (are legislatures and governors prepared to give up some autonomy to have uniform definitions across the states and are they willing to fight the battles because there will be winners and losers?), digital products (e-commerce businesses don't want us to touch these), and paying for the system (a larger retailers' discount is likely); next steps.

Sept. 18: Publish the draft project positions on the web site

Sept. 29: Public hearing from 10:00 a.m. to 3:00 p.m. in Chicago. There will be many invited to participate. NGA will invite Governor Thompson with Governor Engler as their second choice. We expect retailers, National Retail Federation, National Realtors' Association, Mayors of Chicago and Dallas, a legislator from the NCSL e-commerce commision (Steven Rauschenberger) , National Association of Counties. We expect the Internet Tax Fairness Coalition and Direct Marketers Association to testify against the project.

After the Sept. 29 hearing, the project will meet again to review the comments and modify our proposal. A participating state vote will be taken after the Nov. election. The drafting committee will finish the model legislation by the end of November when a group of legislative attorneys will review. (Bill Ford is included in this group.) The model legislation will be ready for the January 2001 sessions.

There are 3 new participating states for a total of 26: New Jersey, North Dakota and Arkansas.

There are 13 observing state. Texas is not listed as a participating state for the obvious political reasons. They did advise that they will be one of the first states to try to enact the legislation in early 2001.

Charles Collins and I will be meeting with the National Retail Federation in the next few weeks to strategize for the Sept. 29 hearing. I expect a tremendous turnout from retailers. Chris Tackett is involved.

After we publish the draft positions on the web site on Sept. 18, I will be contacting Lands End. They told me they want to see the product before they get involved.

If you have any questions, let me know.

NATIONAL CONFERENCE *of* STATE LEGISLATURES

The Forum for America's Ideas

Jim Costa
State Senator
California
President, NCSL

Diane Bolender
Director, Legislative Service Bureau
Iowa
Staff Chair, NCSL

William T. Pound
Executive Director

September 18, 2000

Internet Sales tax

The Honorable Byron Dorgan
United States Senate
Washington, D.C. 20510

Dear Senator Dorgan:

Over the past weekend, I was able to meet in person with the other officers of the National Conference of State Legislatures to honor your request to re-evaluate our position on S. 2775. This letter summarizes our discussion and our unanimous position regarding your legislation.

We once again want to express our appreciation to you and Senators Voinovich, Enzi and Graham for your efforts to draft legislation that you believe would assist state and local governments in the collection of sales and use taxes on remote sales. Unfortunately, we also must express our deepening concern that the changes to your legislation, S. 2775, the Internet Simplification and Equity Act, that are being proposed as a "compromise" with Senator McCain will only serve to complicate our efforts to streamline our states sales and use tax systems.

As you are aware from our previous communications, it is our strong belief that states should have the opportunity to simplify state and local sales tax systems before bringing a request to Congress for authorization to require remote sellers to collect the states' sales and use taxes. As of today, 27 states have become official participants in the Streamlined Sales Tax Project (SSTP), either through legislative enactment or executive order. As you are aware the SSTP is preparing to make recommendations for the first phase of simplifications, which will be before our legislative chambers in 2001. We believe that state legislatures should be given the opportunity to craft a proposal without a congressional mandate as to what the simplified system must include.

Although we respect your efforts to solve the remote sales tax problem, our objections to S. 2775 are unchanged. We are still opposed to an extension of the current moratorium, which does not expire until October 21, 2001; to a mandated one-rate per state for all remote commerce; to requiring the National Conference of Commissioners of Uniform State Laws to oversee state simplification efforts; and, to a congressionally established national *de minimis* threshold for retail sales.

With regard to a possible "compromise," we are concerned that you appear willing to agree to Senator McCain's demand that there be a future affirmative vote of Congress rather than a negative vote. This,

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we believe would remove any incentive a state would have to undertake the political battle a mandate of one rate per state for remote commerce would entail.

We are also concerned about additional amendments that apparently are being discussed. These include one which would halt current state enforcement action against vendors in which there is a question of nexus and the vendors' failure to collect sales and use taxes. This and other rumored amendments would only make the legislation worse.

Although we share with you the critical objective of developing a mechanism that will allow states to collect sales and use taxes on remote sales, we find that we still disagree with the approach taken by S. 2775. We regret to inform you that we must publicly oppose this legislation in the remaining weeks of the 106th Congress.

Sincerely,

Jim Costa
President, NCSL
California State Senator