



## Tax Fairness for All Businesses — On the Street or On-line

by Amy K. Frantz

Traditional retailers, or “bricks-and-mortar” stores, have pushed for federal and state governments to require on-line retailers to collect sales taxes on purchases, just as the brick-and-mortar retailers do, in the name of fairness. However, the proposals to do so seem to be less than fair to on-line retailers. Traditional retailers collect and remit one sales tax rate, the sales tax rate that applies to their location. On-line retailers would be asked to collect sales taxes based on the location of their customers and remit those taxes to hundreds, if not thousands, of tax jurisdictions.

“The bricks-and-mortar industries’ demand for equal tax treatment has two possible solutions: tax both conventional and e-commerce sales, or tax neither,” says Michael S. Greve of American Enterprise Institute.<sup>1</sup> As it seems doubtful state and local governments would agree to tax neither, it is highly likely that on-line retailers will eventually be forced to collect sales taxes on purchases made by customers.

The Streamlined Sales Tax Project (SSTP) subjects e-commerce retailers to a destination-based sales tax system, in which the location of the buyer, rather than the seller, determines the rate of sales taxes to be collected. States that agree to participate in the SSTP will eventually comply with the Streamlined Sales and Use Tax Agreement (SSUTA), a system that attempts to create common definitions for goods that are subject to sales taxation. However, it seems unlikely that states will be willing to give up their autonomy over such decisions in order to make this system work. In fact, in one example, Texas joined the Agreement, but stipulated that SSUTA rules would not apply in the town of Round Rock, where Dell Computers is located.<sup>2</sup>

In *Sell Globally, Tax Locally: Sales Tax Reform for the New Economy*, author Michael Greve of American Enterprise Institute proposes an origin-based tax system for all sales, in the United States and abroad. “Under an origin-based regime, each sale would be taxed once, at the same rate, by a single authority — the seller’s home state or country.”<sup>3</sup> Origin, for purposes of taxation, can be defined in many different ways, but Greve suggests that the most natural choice would be the principal place of business of the seller.<sup>4</sup>

The compliance costs for an origin-based sales tax system are much less than the destination-based system being proposed for e-commerce sales. A business will only have to collect one sales tax rate, and will only have to remit those sales taxes to one tax authority. An origin-based system, rather than a destination-based one, will be particularly beneficial to smaller businesses. Larger corporations, such as Wal-Mart or Target, already collect and remit multiple sales taxes for their traditional stores, and have the resources to do the same for their on-line sales.<sup>5</sup>

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Another issue in considering an origin-based system rather than a destination-based system is sovereignty. “An origin-based tax regime permits each state or country to tax and regulate its own businesses and citizens as it sees fit. Each jurisdiction’s regulatory autonomy and authority, however, would stop at the border — precisely where they ought to stop.”<sup>6</sup>

A destination-based sales tax system requires sellers in other states (and possibly overseas) to collect sales taxes for and remit the taxes to governments in states in which the seller does not reside. The Iowa Legislature does not have the power to compel an e-commerce business in Illinois to collect sales taxes on its behalf. It would probably require an act by the federal government to make such a destination-based sales tax system workable. “Taxation is coercion,” says Greve.<sup>7</sup> However, at least when our own government is the entity doing the coercion we have some say over those actions, ultimately by expressing our discontent on election day. If the e-commerce businessman in Illinois is unhappy about Iowa politicians compelling him to collect sales taxes from his Iowa customers, he has little recourse.

It seems inevitable that politicians will require e-commerce businesses to collect sales taxes from their customers (and especially unlikely, as Greve said, that governments would instead choose to eliminate sales taxes altogether for the sake of fairness to brick-and-mortar businesses). In that case, an origin-based tax system for all sales should be considered. It would be simpler and less costly for e-commerce businesses to comply, which seems imperative if the goal of such a tax scheme is to treat all businesses, traditional and on-line, in a fair manner.

#### **ENDNOTES:**

<sup>1</sup>Michael S. Greve, *Sell Globally, Tax Locally: Sales Tax Reform for the New Economy*, AEI Press, Washington, D.C., 2003, p.35.

<sup>2</sup>*Ibid.*, p. 17.

<sup>3</sup>*Ibid.*, p. 4.

<sup>4</sup>*Ibid.*, p. 23.

<sup>5</sup>*Ibid.*, p. 17.

<sup>6</sup>*Ibid.*, p. 28.

<sup>7</sup>*Ibid.*, p. 31.

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