

The trouble with shopping in-store versus online

Come November of this year, we are heading toward a colossal showdown between traditional brick and mortar stores and online e-commerce retailers. The outcome is surely to have an impact on your shopping behavior.

The Wall Street Journal reported that online retailers' sales increased during this past 2013 holiday season at a rate more than double the rate of increase of brick and mortar stores. Under current law, out-of-state online retailers who have no physical presence in a state are not obligated to collect sales taxes for sales made to consumers in those states.

Most states (including Illinois) have companion "use taxes" which require consumers, who don't pay sales taxes to their retailer, to instead voluntarily pay the equivalent "use tax" directly to the state. Illinois provides Department of Revenue Form ST-44 for this purpose. But in practice, consumers rarely pay the required "use taxes" and it is impractical for states to pursue its citizens for payment. Thus, online retailers have a significant commercial price advantage that costs them nothing.

In 2010, sales taxes accounted for 31.9 percent of revenues collected by states. As the sales tax revenues have fallen because more and more consumers are turning to the Internet, states have struggled to find a way to impose sales tax burdens onto online retailers.

One obstacle to the states' ability to impose sales tax burdens onto online retailers is a

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Federal law — "Internet Tax Freedom Act" passed in 1998 and set to expire November 1, 2014. That legislation protected the infancy of commercial activity

on the Internet by prohibiting discriminatory practices of states which slap sales tax burdens onto online retailers.

Congress has wrestled with the extremes of extending the 1998 Act beyond November, continuing to protect e-commerce, or replacing it with a more severe law ("Marketplace Fairness Act") which would require online retailers to collect sales taxes.

Online retailers object that having to face disparate tax rules in 10,000 different state and local tax jurisdictions is unworkable. States argue that online retailers have an unfair advantage because they access the state's citizenry without having to pay for state infrastructure costs that make the sale possible (like transportation and telecommunication systems).

New York passed a law to impose sales tax burdens onto online retailers, which its highest court approved. And when Amazon and Overstock.com appealed to the U.S. Supreme Court, the Court rejected the case, letting the New York decision stand. Illinois passed a similar law, but the Illinois Supreme Court struck it down.

The turmoil is likely to continue until the drop dead date of November 1.

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