



Chapter XII

E-commerce Taxation Issues: A Balanced Perspective and Options for Resolution

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This chapter is designed to give the reader a balanced perspective on some of the issues surrounding the current discussions related to state and local taxation of Internet access fees and sales transactions on the Internet. It will attempt to describe the issues being discussed and present several viewpoints from interest groups on both sides of the issue. This chapter is being written at an interesting time since the proponents of Internet taxation are searching for technological as well as administrative ways to meet their goal. The Advisory Commission on Electronic Commerce released its final recommendations to Congress in April 2000, after its four in-person meetings in Williamsburg, Virginia; New York City, New York; San Francisco, California; and Dallas, Texas. Taxation of Internet access and transactions on the Internet is one of the most complicated public policy issues of our time, affecting over 30,000 state and local taxing jurisdictions and literally thousands of businesses and customers worldwide. The proposal receiving the majority vote of the commissioners is based on the conclusion that existing, internationally accepted tax rules should be applied to e-commerce with no new taxes being levied and with an emphasis on simplification, neutrality, greater certainty and avoidance of double taxation. This chapter will develop a next-steps strategy to be considered by policy makers.

ISSUES IN ELECTRONIC COMMERCE TAXATION

Electronic commerce (e-commerce) has had a profound effect on the way business is conducted worldwide. The impact of the Internet on the economy of the United States has benefited US citizens in all walks of life. The growth of e-commerce has helped create thousands of jobs that are highly skilled and high-paying and this phenomenal growth has provided the consumer with access to goods and services at competitive prices.

Many interest groups such as the Internet Tax Fairness Coalition and the e-Commerce Coalition feel that the growth of the economy has created sufficient taxes to fund the basic needs of state and local governments and that taxation of transactions on the Internet creates an unnecessary burden on business activities (The Internet Tax Fairness Coalition, 2000; e-Freedom Coalition, 2000). These groups point out that state and local governments have provided services to their constituents without Internet transaction taxes and that the Supreme Court of the United States has long held that vendors have a sales tax obligation only when the buyer and seller are in the same state or the seller has a “nexus,” or physical presence, in the buyer’s state. These coalitions and others feel that the best way to ensure long-term economic prosperity, quality services and the continued growth of Internet business is to continue to support the Internet as the new engine driving the new economy and reduce, not increase, barriers to entry for companies not yet taking advantage of electronic commerce.

The coalitions point out the complexity of the state and local tax systems, with over 30,000 taxing jurisdictions in the United States and the prospect of multiple jurisdictions requiring collection and payment of taxes on transactions. They point out that main-street retailers collect taxes from their customers at a single rate, prepare and file a single tax return, and file tax returns at one place. Taxation of on-line transactions would require the vendor to identify all taxing jurisdictions and send in forms and collections to all relevant jurisdictions. Also, changes in local sales tax rates and the items subject to taxation vary from jurisdiction to jurisdiction, causing a great deal of confusion for the buyer and the seller. The complicated, complex and ever changing maze of state and local tax policies and laws makes application of a sensible, fair and easily understood Internet transaction tax policy virtually impossible under the present circumstances. James Plummer, a policy analyst at Consumer Alert wrote, “Nefarious new taxes and regulations will kill many new start-up e-businesses before they even start up; denying consumers their chance to find the specialized products and services for their needs”(2000).

However the state governors seem to disagree. The antitax community and coalitions mentioned above have a strong adversary in the National Governors Association in that the governors are worried that the brick-and-mortar stores like the main streets and malls of America, are jeopardized by the popularization of Internet commerce, particularly if it is tax-free commerce (National Governors Association, 2000). The governors suggest that if consumers only had to pay taxes

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