



Robert W. Wood

THE TAX LAWYER

Mar. 27 2012 — 12:17 am

Amazon Taxes Are The REAL Hunger Games

If you buy from an online retailer like Amazon or Overstock today will you be stung with sales tax? It's often hard to tell until you check out, and tomorrow may be even more confusing. The battle over internet sales taxes is far from over.

See [Amazon Faces Taxing Times](#).



Image via businessweek

If your state has a sales tax like most, expect to pay tax soon on **all** Internet purchases. See [Internet Retail Tax Interactive Map](#). In California, the compromise Amazon reached with the state exempts online retailers from collecting California sales or use tax until September 15, 2012.

Still, the California tax faucet turns back on September 15, 2012 **only** if the federal government **does not pass** a federal online tax measure in the meantime. See [Amazon Tax: Good, Bad and Ugly](#). Several are pending including the [Main Street Fairness Act](#). That bill would impose a national tax standard but allow states abiding by the [Streamlined Sales and Use Tax Agreement](#) to force Internet sellers to collect tax. Other bills include the [Marketplace Fairness Act](#) and the [Marketplace Equity Act](#).

Sales or Use? When we talk of sales tax we may mean use tax or vice versa. The distinction seems unimportant if you hope to pay neither. But

that's getting more and more difficult. Sales and use tax are almost always paid by the **buyer**.

However, the best way to collect is to force the **seller** to do it. California citizens buying from Amazon are unlikely to report and remit use tax on products they buy from Amazon. Thus, California needs Amazon to collect it. It's that simple, but there's a Constitutional issue. See [Is Internet Tax Constitutional?](#)

The Constitution prevents states from taxing "interstate commerce." No state can force an out-of-state merchant to collect or pay sales/use tax unless it has a "nexus" in the state. In 1992, in [Quill Corp. v. North Dakota](#), the U.S. Supreme Court ruled that a business had to be **physically present** in a state before it was required to collect use tax.

Merely shipping into a state wasn't enough, but a showroom, office or warehouse was. See [Amazon Tax Attacks](#). That's why to this day if you buy online with goods shipped into your state, you must pay sales tax if the seller has a retail store in your state. A warehouse or distribution facility may also be enough.

Of course, back in 1992 we had mostly catalog merchants and limited technology. The Supreme Court in [Quill](#) said the country's 45 state and 7,600 local sales tax systems were too complicated for sellers to manage. Today, software programs can do it in a jiffy.

So stay tuned. And while perhaps I'm being pessimistic about the outcome, start digging in your pocket for sales (or use!) tax money.

For more, see:

[California Taxes In Heart Of Amazon Country](#)

[Marketplace Fairness Tax Pits Amazon v. eBay](#)

[The Amazonian Response To Sales Tax](#)

[No Sales Tax Cyber Monday \(But Beware Use Tax\)!](#)

[Doing Business In California Means You Owe Taxes](#)

[Lap Dance Tax v. Amazon Tax?](#)

[Paying Sales Tax On Internet Purchases?](#)

[Californians Prepare to Pay Amazon Sales Tax](#)

*Robert W. Wood practices law with [Wood LLP](#), in San Francisco. The author of more than 30 books, including *Taxation of Damage Awards & Settlement Payments* (4th Ed. 2009 with 2012 Supplement, [Tax Institute](#)), he can be reached at Wood@WoodLLP.com. This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.*