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Paying Sales Tax On Internet Purchases?

Well, are you? Increasingly, the answer will be yes, especially if you lump **use tax** into the equation. You may even find that you're better off doing it rather than facing a later tax bill with interest and penalties.

But first get clear on the difference between sales and [use tax](#), since the latter is the true sleeping giant. The loud debate over [Amazon taxes](#) would be close to a whisper if people paid their use tax. You are subject to your state's use tax when you order out-of-state and have the item shipped into your state.

Your state taxes you as if you bought the item at your local store. The internet didn't change that, although it clearly upped the ante. For decades, you "should" have been reporting your catalog, phone and now online purchases. While states historically didn't enforce use tax except against businesses, that's changing. Many state income tax forms now attempt to collect use tax.

There's no constitutional prohibition on this. Sales and use tax are almost always paid by the buyer, but the only effective collection mechanism is getting the **seller** to collect it. The states have been aggressive for decades, but the U.S. Constitution prevents states from taxing "interstate commerce."

This constitutional protection has been interpreted to mean that 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 held that a business had to be **physically present**

in a state before it was required to collect use tax. Merely shipping into the state wasn't enough.

But what's enough for nexus today? A company generally gets nexus for sales tax purposes by having a warehouse, showroom or office in the state. A representative or agent in the state making sales, taking orders, assembling merchandise, or making deliveries can also be enough. But the facts are key.

Checking Out. If you buy from a website that has a bricks-and-mortar store in your state, you'll pay sales tax. That is so even if you buy online with goods shipped from outside your state. Increasingly, a warehouse or distribution facility in your state may also be enough, even though warehouses aren't on websites and don't welcome customers.

State Your Case. Many states are jumping on the sales tax bandwagon. [Illinois](#) did so recently. Amazon has predictably asserted that it is unconstitutional. While the focus is on internet sales, the bottom line question comes back to nexus and what in our modern era is enough.

For more, see:

[California Legislation Would Tighten Rules On Internet Sales Tax](#)

[Amazon Takes Action in Illinois as War on Sales Taxes Continues](#)

[Amazon Pressured on Sales Tax](#)

[States Try To Collect Online Retail Sales Tax](#)

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