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Sales Tax? Amazon Fights IRS Too

We all associate Amazon with **sales** taxes. After all, the online giant pioneered the no-sales tax model. That no-tax policy, along with free or discount shipping and good service, helped grow the company into a behemoth.



But everything changes, and Amazon has now bowed to sales tax pressure in many states including California. See [CA's Amazon Tax Hits The Nation Sept. 15, 2012](#). But there are other taxes to save!

It turns out Amazon is savvy with IRS taxes too. The IRS has pursued Amazon for more than \$230 million in income taxes. Rather than pay it, Amazon has gone to court. The case involves transfer pricing and the extent to which the IRS can tax assets abroad.

Multinational corporations like Amazon value goods and services that move across international borders from one affiliate to another. Amazon values these transfers in ways designed to reduce the company's global tax costs. The IRS claims that Amazon is unfairly sending money outside the U.S. and beyond the reach of U.S. tax. Predictably, Amazon denies it.

At the root of the dispute are basic valuation questions. Amazon argues that the IRS is overestimating the value of Amazon's intangible property. The intangibles in question include items such as computer software and trademarks.

The IRS claims that Amazon's European subsidiaries have made payments to the U.S. parent company at bargain rates. The true value of the transferred intangibles, the IRS claims, is substantially higher than the figures on which these sweetheart deals were based. As with many other tax disputes, the arguments in this case are technical.

Beyond, that, though, they are also quite factual. Indeed, the dispute involves expert valuation opinions. Amazon has announced little about the tax dispute. However, the dollars at stake appear not to be small. In fact, Amazon disclosed in an SEC filing in 2011 that it faces up to \$1.5 billion in additional federal taxes between 2005-2012.

Amazon claims the IRS is using an inaccurate estimate for calculating its transfer pricing taxes. Amazon can be expected to point to a 2009 court decision involving Veritas Software Corp, now part of Symantec Corp. The IRS lost the *Veritas* case, which emboldened companies like Amazon to be more aggressive in transfer pricing figures.

What's more, when other companies take on the IRS and win, it can give companies added confidence to defend their transfer pricing arrangements in court if and when the IRS comes calling. We may still associate Amazon with sales taxes. Increasingly, though, Amazon may go on record as being equally tax savvy concerning federal income taxes.

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