

Online Shopping Can Be Taxing

By Reg P. Wydeven
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With the Christmas season fast approaching, I have to start thinking about gifts for my loved ones. As we have for the last several years, I'm sure my dad and I will get up at the crack of dawn to score some sweet deals on Black Friday.

The first year we went, we weren't prepared for the mayhem. My dad is a former Marine, and even he was shell-shocked by the violence that ensued in the aisles. We actually witnessed a woman swipe a highly-sought-after item from another woman's shopping cart only to be punched in the face by its rightful owner and collapse on the floor unconscious.

After a few years, however, we have become seasoned shopping veterans and are prepared for anything. While we're a good team, even we can't land every item we're looking for, and that's where Cyber Monday comes in. On this day, many online retailers offer huge savings, sometimes with free shipping. While you don't get the same adrenaline rush as shopping on Black Friday, you can find some great bargains on Cyber Monday without the threat of bodily harm and you can save on sales tax – but maybe not for long.

Last week, Senators Mike Enzi (R-Wyo.), Lamar Alexander (R-Tenn.), and Dick Durbin (D-Ill.) introduced the creatively titled Enzi-Alexander-Durbin bill. Dubbed the Marketplace Fairness Act, the legislation would allow states to force out-of-state online retailers, such as Amazon.com, ebay and Overstock.com, to collect sales taxes.

In addition to the states' Departments of Revenue, the bill is backed by some heavy-hitting national chain retailers, such as Wal-Mart, Best Buy, and Home Depot. These companies have stores in nearly every state and, therefore, are required to collect sales taxes on transactions in their stores and on their websites.

For the last decade, supporters of the bill have cried for such a law, claiming that online retailers are unreasonably depriving the states of revenue by failing to collect sales tax. By failing to do so, they enjoy an unfair competitive advantage over local retailers that must collect taxes in stores and online.

Opponents of an internet sales tax often cite the onerous compliance requirements online retailers would have to abide by for the literally thousands of taxing authorities around the globe. For example, if I bought another cool G.I. Joe sweatshirt from www.80stees.com, I would have to pay sales tax as a resident of Wisconsin. A Minnesotan, however, would not have to pay the sales tax for buying the same sweatshirt because Minnesota doesn't tax clothing to encourage shopping at the Mall of America.

To back their position, online retailers cite the U.S. Supreme Court's decision in the 1992 Quill v. North Dakota case. In its holding, the Court decided that retailers aren't required to collect sales taxes from customers who live in states where the retailer doesn't have a physical presence, or "nexus." The decision, however, left the door open for Congress to legislate such a requirement.

To counter this argument, the bill exempts retailers that do not have "gross annual receipts in total remote sales" exceeding \$500,000. This exemption would not require "the little guy" to have to comply with each taxing jurisdiction's requirements. Online retailers, however, dispute the bill's definition of a little guy.

For example, the U.S. Small Business Administration categorizes a "hobby, toy, and game store" as a small business if it has under \$25.5 million in annual sales. A U.S. Treasury Department report recommends that a small business be one that has less than \$10 million in annual revenue.

I hope this legislation doesn't go through because I think that Christmas shopping is taxing enough as it is.

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