

Internet Purchases Challenge Local Budgets

By *Finance New Mexico*

As budget-conscious consumers increasingly opt for the convenience and economy of online shopping, states like New Mexico are ramping up pressure on internet-based retailers to collect and remit the taxes states need to provide essential services.

While Amazon.com recently agreed to charge New Mexico consumers the state portion of the gross receipts tax (GRT), more change is needed to erase what states see as an unfair advantage for online retailers over local merchants who are required to collect and remit the entire combination of state and local taxes.

New Mexico consumers, for example, can still avoid paying the state GRT when buying from a third-party vendor on the Amazon marketplace platform. And they don't pay local option taxes that communities levy to subsidize local needs. For example, a Santa Fean who buys a book from Amazon pays 5.125 percent of the purchase price to cover state taxes, but she won't be assessed the additional 3.3125 percent in local taxes to support city services.

Local governments have few options to correct this imbalance, but states are taking action.

Fighting for Fairness

Businesses and elected officials are awaiting a U.S. Supreme Court ruling this summer in the case of *South Dakota v. Wayfair Inc.*, which seeks to overturn a 1992 decision (*Quill Corp v. North Dakota*) that established current tax-collection ground rules for out-of-state retailers. Quill, an Illinois-based catalog retailer of office supplies, lacks a physical location in the state and successfully argued that it shouldn't have to reimburse state taxes for benefits it doesn't enjoy. The South Dakota case hopes to rescind the physical-presence requirement and bypass constitutional restrictions that empower only the federal government to regulate interstate commerce.



Barring a national remedy, New Mexico could reform its own laws to shift the tax burden from the seller's location to the buyer's, which would preempt the need to meet the physical-presence test and would affect all online sales — not just Amazon's — to New Mexico consumers.

“That would be a paradigm shift,” said Randy Van Vleck, general counsel for the New Mexico Municipal League.

Supporting Local Business

Amid the myriad legal challenges to existing tax laws, the state is taking steps to level the playing field for local businesses required to charge higher GRT than online retailers.

A new state law encourages holiday shoppers in New Mexico to buy from local merchants on the Saturday after Thanksgiving by exempting qualifying purchases of less than \$500 from the GRT. The law gives locals an incentive to support small, independent storefront retailers that have 10 or fewer employees.

Legislators hope that experience will prompt locals to take a closer look at the benefits of spending money closer to home year-round.

Customers who shop locally support small community businesses and the people who work for them. They also shoulder their share of the tax burden for the public services they use, including first responders, parks and community centers. It's an important proposition because many cities, towns and villages derive as much as 85 percent of their annual revenue from GRT proceeds.

For more information about GRT, visit <http://www.tax.newmexico.gov/Businesses/gross-receipts.aspx>

To read the oral arguments on the U.S. Supreme Court case, visit https://www.supremecourt.gov/oral_arguments/argument_transcripts/2017/17-494_7lho.pdf

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