

Approved: Paying Online Sales Tax

By [Tim Parker](#) on March 26, 2013

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The U.S. Senate, Friday, approved a budget amendment sponsored by Sen. Lamar Alexander (R-Tenn.). Senator Alexander's amendment allows states to collect sales taxes on purchases made from Internet-based retailers even if the retailer has no physical presence in that state.

Current Practice

Currently, online retailers have to collect sales taxes on purchases made by consumers who live in states where those retailers have a physical presence. In most states, [consumers have to pay tax on purchases made online](#) even if the retailer doesn't collect it at the time of purchase. This is known as use tax and the rules for this tax vary by state.

A Non-binding Amendment

The budget amendment, passed by the Senate, was based on the Marketplace Fairness Act. The purpose of both the amendment and the act is to make the collecting of sales tax consistent nationwide.

The Senate measure, a largely ceremonial amendment to a largely ceremonial budget, passed by a vote of 75-24. Why is it largely ceremonial? Because the Senate budget has virtually no chance of adoption thanks to the ongoing rancor between the Senate and the House about – well, everything.

As Reuters reports, "Still, the approval should reassure states and 'bricks and mortar' retailers that Congress will come together to pass a bill soon."

The Amazon Tax

The Marketplace Fairness Act was first introduced in the Senate in 2011, and reintroduced in February. Also known as the "**Amazon** (Nasdaq: [AMZN](#)) tax," the legislation is designed to force online retailers like Amazon to collect sales tax on virtually all online sales.

Proponents and Opponents

Proponents and opponents alike have been vocal on the subject. Supporters of the measure include bricks-and-mortar retailers like **Wal-Mart** (NYSE: [WMT](#)), **Best Buy** (NYSE: [BBY](#)), **Target** (NYSE: [TGT](#)), and **Dollar General** (NYSE: [DG](#)).

Opponents, not surprisingly, include online companies such as **eBay** (Nasdaq: [EBAY](#)), **Facebook** (Nasdaq: [FB](#)), and **Oracle** (Nasdaq: [ORCL](#)). Joining the opposition side are several anti-tax groups including Americans for Tax Reform and Campaign for Liberty.

Brian Bieron, Senior Director of Global Public Policy at eBay, said, "Small business retailers who use the Internet should be protected from any new grant of power to far-away state government tax collectors so that they cannot be threatened or sued by states that are thousands of miles away and have no connection to the local communities where those small businesses create jobs and opportunity. Any Internet sales tax legislation, amendment or other legislative vehicle should include clear, direct and meaningful protection for all small businesses that are using the Internet."

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The anti-tax groups maintain that passage of the Marketplace Fairness Act would, first, constitute a new type of taxation and, secondly, allow states to reach across their borders to force retailers to comply with their tax laws.

Proponents believe the law would level the playing field, forcing all retailers to play by the same rules. The measure, as currently written, includes an exception for smaller online retailers with gross annual sales of under \$1 million.

A Surprising Supporter

One of the more surprising supporters of the law to emerge is Amazon. Many find it curious that the world's largest online retailer supports the notion that Internet sellers should be required to collect sales taxes – even in states where they don't have a physical presence.

With Amazon expanding its physical presence into more states and the fact that it would be required to collect taxes in those jurisdictions, the company's position isn't so unusual.

From Amazon's perspective, passage of the law would force competitors with smaller geographic footprints to collect sales taxes everywhere. In other words, as the company expands, Amazon is viewing itself more as [a brick and mortar business](#).

The National Retail Federation, another supporter of the law, sees Amazon's position as a good thing. It estimates that state and local governments lose as much as \$24 billion a year in taxes from all non-taxed Internet purchases.

Taxes Are Inevitable

Because of the recent attention and the overwhelming Senate vote, many experts and analysts, including Forbes' Robert W. Wood, believe we are moving closer to a day when sales tax will be collected on all online purchases nationwide.

Eventually, the Supreme Court could rule. If that happens, Wood suspects the high court might reinterpret the term "physical presence" effectively mandating universal collection.

Take Action

It seems inevitable that, at some point in the not so distant future, what is now called a usage tax will transform from a combination of patchwork enforcement and relying on people's honesty to the levying of a sales tax for all online purchases.

Like most things in Washington, chatter comes and chatter goes. If we're at the beginning of one of those cycles where the internet sales tax again makes headlines, trading opportunities in brick and mortar retailers like Target, Best Buy, and Wal-Mart, as well as online sellers like Amazon, eBay, might present themselves.

If nationwide legislation is passed, that will [alter the online retail business model](#) and, at least for the short term, the fundamentals of the stock.