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Amazon Sales Tax Everywhere Very Close Now

The Senate just gave 74 thumbs up to the [Marketplace Fairness Act \(S.336/H.R.684\)](#). With only 20 thumbs down, the bill has a green light. The House won't be as easy. Still, if you want a few last minute tax-free clicks, now would be a good time. The bill would allow states to collect taxes on purchases made by their residents from online businesses based in other states.

Are you already paying sales tax on all your internet purchases? If so, you're in the minority. Many transactions escape it legitimately and many others slip through the cracks. Bricks-and-mortar retailers claim they can't compete. An estimated \$22 billion in state and local tax revenue is at stake.

Online sellers already collect sales tax from customers in their own states. The key for phone, mail or online orders is whether the merchant has a presence in your state. In [Quill v. North Dakota](#), the U.S. Supreme Court required retailers to collect tax from out-of-state customers with a physical presence in



Photo credit: Rev Dan Catt

the customer's state. Yet today some states require merchants to collect taxes if they merely have in-state affiliates.

Is that constitutional? A New York court recently said it was, reasoning that affiliation agreements can give a vendor a kind of in-state sales force.

Property purchased online and brought into your state triggers use tax. The only states without sales and use taxes are Alaska, Delaware, Montana, New Hampshire, and Oregon. Anywhere else, you probably should have been paying use tax all along.

If you don't pay sales tax at checkout, you pay use tax later. Think of it as a timing difference. Use tax applies whether the purchase was personal or business. States historically didn't enforce it except against businesses, but many state income tax forms now collect use tax too.

Many states have expanded the nexus that makes sales tax apply. Amazon collects sales tax in California, Kansas, Kentucky, New York, North Dakota, Texas and Washington. Soon Amazon will collect in Virginia (September 2013), Indiana (January 2014), Nevada (January 2014), Tennessee (January 2014) and South Carolina (January 2016).

The Congressional Research Service said lost tax revenues were approximately \$11.4 billion in 2012. California \$1.9 billion; Texas, \$870.4 million; and New York, \$865.5 million. These dollars count. Sales and use tax is nearly a third (32%) of State government total tax revenues. See [State Taxation of Internet Transactions](#).

You can still escape sales tax if you buy from small merchants who don't collect sales tax in your state, and if you don't report your use tax. However, the days of widespread non-taxed online transactions are clearly ending.

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