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The Amazonian Response To Sales Tax

No question, Amazon is a powerhouse and its response to California's recent Amazon tax befits its status. The internet behemoth contributed \$3 million to a new campaign committee: More Jobs Not Taxes. See [Amazon Puts \\$3 Million Into Fighting Calif. Tax](#). This coalition of taxpayer groups, consumers, small businesses and internet companies promises to rattle California's internet tax plans.



This entity may be funded by Amazon, but counts as members the [California Business Alliance](#), the [Internet Alliance](#) and the [Performance Marketing Association](#). Amazon has promised to take the issue to California's voters. It has until September 27, 2011 to gather 504,760 valid signatures to place a referendum to repeal the tax on a June 2012 statewide ballot. See [Amazon gathering anti-tax-law signatures outside retail stores](#).

Governor Brown signed [ABx1 28](#) on June 28, 2011 to "clarify" the obligations of out-of-state retailers to collect and remit use tax on sales of tangible personal property to California residents. The new provisions took effect immediately. Of course, sales and use tax are almost always paid by the buyer.

Yet the only effective collection mechanism is getting the seller to collect it. Because the U.S. Constitution prevents states taxing interstate

commerce, no state can force an out-of-state merchant to collect or pay sales/use tax unless it has a “nexus” in the state.

The new law expands California use tax registration to large out-of-state retailers previously not required to collect use tax on sales to California customers. The new law specifically provides that a “retailer engaged in business in this state” includes:

- Any retailer that is a member of a commonly-controlled group and is a member of a combined reporting group that includes another member of the retailer’s commonly controlled group that, pursuant to an agreement with or in cooperation with the retailer, performs services in this state in connection with tangible personal property to be sold by the retailer, including, but not limited to, design and development of tangible personal property sold by the retailer, or the solicitation of sales of tangible personal property on behalf of the retailer.
- Any retailer entering into an agreement under which a person in this state, for a commission or other consideration, refers potential purchasers of tangible personal property to the retailer, whether by an Internet-based link or an Internet website, or otherwise provided that both of the following conditions are met:
 1. The retailer’s total sales of tangible personal property to California consumers that are referred pursuant to all of those agreements with a person(s) in California in the preceding 12 months must be in excess of \$10,000.
 2. The retailer’s total sales of tangible personal property to California consumers in the preceding 12 months must be in excess of \$500,000.

For more, see:

[California Taxes In Heart Of Amazon Country](#)

[Amazon Tax Attacks](#)

[Amazon Battles States Over Sales Tax](#)

[Amazon Boycott Over Internet Sales Tax Gains Momentum](#)

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