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### How Amazon's California Tax Romp Will Impact Us All

“[Can't we all just get along?](#)” may be attributed to Rodney King, but these days it's Amazon and California taxing authorities saying it. An [Amazon tax deal](#) was ground out late Friday September 9, 2011 between reps of Amazon and California lawmakers. As the witching hour approached it was passed by a healthy vote before California's legislative session closed for the rest of the year—yes for 2011.



This is a tale of money, power, and your next catalog or internet purchase. Will you pay sales tax? More and more, that's likely, but not for at least a year. As a [30 year tax lawyer](#), I've learned I'm not good at predicting which tax laws will pass and which won't. That's true in ordinary times and even more so these days. In our New Wild West, the Internet reigns supreme, governments run big deficits, transparency can be downright invasive and taxes have to be politically correct, raise money and serve social policy. Whew!

We all like to avoid paying sales tax if we legitimately can when we buy online from merchants out-of-state. Same for good-old catalog and

phone orders. If the merchant has a store or other facility in our state, we have to pay tax even though we may buy online. But what if only “affiliates” or a subsidiary of the merchant is in-state?

As these issues are being litigated in some states—like New York—on June 28, 2011, California Governor Jerry Brown signed [ABx1 28](#), the Golden State’s Amazon Tax. It was intended to “clarify” the obligations of out-of-state retailers to collect use tax on sales to California residents. It took effect immediately, and like many “clarifications,” it charted new ground.

Basically, it said Amazon and many other online retailers meeting certain criteria—generally with “affiliates” or subsidiaries in the state—must collect use tax—the mirror image of the sales tax—when shipments go to California. The Amazonian response was to take it to California voters, which Amazon was pursuing in a big way. But a compromise can sometimes be better than waging a war, and that’s what this late night Sacramento deal was, a tax truce.

The [text of the bill](#), AB 155, basically repeals the recently passed Amazon tax. It’s California’s own spin on what it means to be engaged in business in California’s State of Grace. But its immediate impact is that Amazon and other online retailers will not be required to collect California sales or use tax until September 15, 2012.

Amazon agreed to drop its efforts to put the issue on California’s (already odd) ballot. The ballot effort had been going well, but who knows with voters, especially in California? Amazon is also bringing back its affiliate program in California, at least for a year. That is good news for many merchants who rely on the power of Amazon to distribute their goods through Amazon’s tributaries.

But the longer view is a real puzzler. The whole deal is expressly contingent on the federal government **not passing** any law that usurps this one before July 2012. The big bill pending at the national level: the [Main Street Fairness Act](#) introduced by Sen. Dick Durbin (D-Ill.). If passed it would impose a national tax standard but allow states abiding

by the [Streamlined Sales and Use Tax Agreement](#) to force Internet sellers to collect tax. In an odd alliance, Amazon and traditional retailers like [Wal-Mart](#), [Best Buy](#), and [Home Depot](#) all [support the “Main Street Fairness Act”](#).

Of course, it’s easy to support something that has an uphill battle to pass. Many think there’s little prayer that **any** tax increase will get by the Republican controlled House. For now, Amazon sees its late night deal as a win-win and California should too, especially California was already encountering major resistance to its tax foray into the Amazon.

What’s next for other states? Online sellers face mounting pressure across the country to collect sales taxes across the country. Brick-and-mortar retailers and state governments all complain, and that’s not likely to stop. So if you like to buy online and don’t like paying taxes, better do your clicking soon.

For more, see:

[California Lawmakers Give Amazon Tax Reprieve](#)

[“Amazon Tax” Repealed Under New Law](#)

[Illinois Governor Signs Amazon Internet Sales Tax Law](#)

[Will California Super-Amazon Tax Bill Thwart Voters?](#)

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

[Amazon Tax Attacks](#)

[Amazon Battles States Over Sales Tax](#)

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