



House Committee on the Judiciary to Hear Testimony on E-Fairness Tomorrow

E-commerce continues to gain momentum while regulatory environment appears poised to undergo major changes

On Tuesday, the House Committee on the Judiciary will hear H.R. 3179, the Marketplace Equity Act. This Act would require all merchants, regardless of whether they operate online or through a physical storefront, to collect the sales taxes that are owed to the state at the time of a product's purchase.

Currently, if an online retailer doesn't have an in-state nexus – or physical presence or connection – then it is not required to add sales tax to the items they sell. However, in states such as Nevada, a tax is still due on those purchases. Nevadans who buy products online and plan to consume those items in-state are still required to pay a use tax of the same rate directly to the state, though many aren't aware of this law and compliance is almost nonexistent. The result is that most Nevadans buying goods online from a Web site that doesn't add sales tax are actually breaking the law without knowing it.

According to Mary Lau, president of the Retail Association of Nevada (RAN), this sort of "tax evasion" has almost become the accepted norm, absent enforcement and easily rationalized by cost conscious consumers. "What consumers don't see are the lost jobs, closed store fronts and eroding public service levels sourced to a fiscal double standard that does little more than penalize a traditional retailer for investing in building and employing local workers," Lau said. "With federal legislation such as the Marketplace Equity Act, we would finally see equal treatment of all businesses regardless of whether they compete online or through a physical store front."

In recent months, developments involving one of the largest players in e-



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Our Mission is to strengthen the business environment for Nevada Retailers and Associates by providing a government relationship program which supports retail industry needs through effective lobbying at federal, state and local levels.

Looking out for Business

At RAN we make it our business to support and protect your business. From monitoring local, county, state and some federal issues RAN is there to inform you on the events that can have a real

commerce have many speculating that the battle for “E-Fairness” won’t last much longer. As of April of this year, the online retail giant Amazon.com has come to an agreement with the state of Nevada to begin adding sales tax on all items sold from its site beginning in 2014, or sooner if the Nevada State Legislature allows. Currently, six states (Kansas, Kentucky, North Dakota, New York, Texas and Washington) receive sales tax from Amazon.com, with Nevada, Virginia, Pennsylvania, New Jersey, Indiana, South Carolina Tennessee and California expected to join their ranks during the next few years.

At first, Amazon was against the idea of adding sales tax on items sold where the company did not have a traditional in-state nexus, and even threatened to remove in-state affiliate programs in many states in order to avoid having to do so. More recently, however, the online retail giant has shifted its position and appears willing to work with the states to help stem the tide of tax losses, though it has indicated a preference for federal legislation addressing the issue. In an interview with the *Las Vegas Review Journal* after the April agreement with Nevada became public, Amazon’s Vice President of Global Public Policy, Paul Misener, noted that Amazon strongly supports federal legislation that would permit interstate sales tax collection “because it is the only way to level the playing field for all sellers, the only way for Nevada to obtain all the sales tax revenue that is already owed, and the only way to protect states’ rights.”

The growth of e-commerce over the past decade has been significant, even throughout the Great Recession. While total retail trade reported a 2-percent compound annual growth rate (CAGR) from 2000 to 2010, e-commerce reported an 18-percent CAGR over the same period. The result is an eroding tax base for the nation’s state and local governments already struggling to fund essential public services such as education, public safety, roads and health care programs. With Nevada ranking 11th in the nation in terms of sales tax reliance according to a Congressional Research Report, enactment of federal legislation such as the Marketplace Equity Act should prove beneficial for the state’s economy and state and local revenue streams.

The Retail Association of Nevada (RAN) previously released an estimate of the amount of sales tax that could be collected if the state were to enact a “click-through nexus” law. Under such a law, online retailers that have affiliates located in Nevada who are paid commissions by the retailer when Nevada residents “click-through” the affiliates’ page to the retailer and make a purchase, would be required to collect and remit sales tax. Theoretical Nevada sales tax collections under a “click-through nexus” law were estimated to reach \$16 million in 2011. Under an even more comprehensive E-Fairness law, that figure would expected to be

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About The Author

Applied Analysis, founded in 1997, is a Nevada-based advisory services firm providing information and analyses for both the public and private sectors.

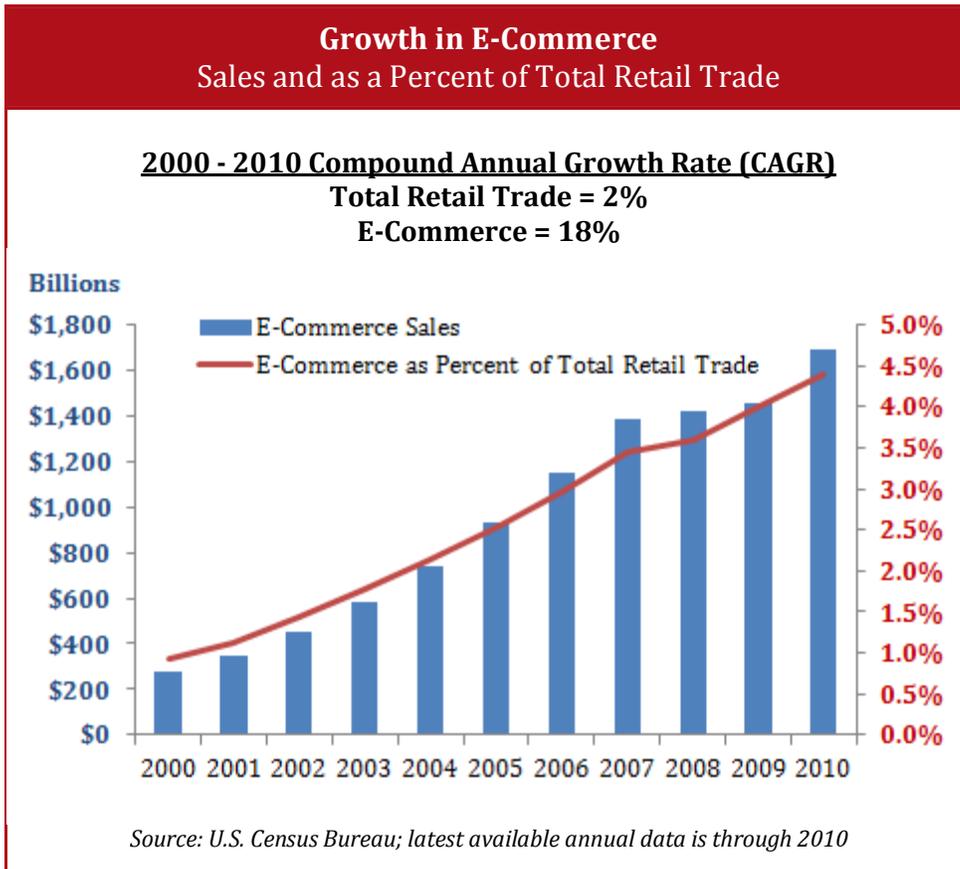


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much larger, especially as e-commerce continues to gain momentum.

States that Currently/Will Add Sales Tax to Amazon Purchases

States Collecting Sales Tax from Amazon	Date Effective	States Expected to Collect Sales Tax from Amazon	Date Effective
Kansas	Apr-04	California	Sep-12
Kentucky	Aug-05	Pennsylvania	Sep-12
North Dakota	Mar-00	New Jersey	Jul-13
New York	Apr-08	Virginia	Sep-13
Texas	Jul-12	Indiana	Jan-14
Washington	Mar-12	Nevada	Jan-14
		Tennessee	Jan-14
		South Carolina	Jan-16





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