

## Calif. lawmakers approve Amazon tax compromise

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(AP) -- Lawmakers on Friday sent Gov. Jerry Brown a compromise bill that delays California's effort to force online retailers such as Amazon.com to collect the state's sales taxes while retailers lobby Congress for national rules governing online sales taxes.

The state Assembly approved AB155 on a bipartisan, 59-8 vote in the final hours of this year's legislative session. The bill had passed the Senate, 36-1, hours earlier.

Democratic Assemblywoman Nancy Skinner of Berkeley, one of the bill's authors, called it a ground-breaking agreement that could help level the playing field between traditional and online retailers.

"We finally will give certainty to our California businesses ... that the unfair tax advantage that has been enjoyed by out-of-state online retailers will finally end," Skinner said before the vote. "While it will not end this instant, it will end."

The compromise between lawmakers, Amazon.com and traditional retailers would delay the expanded online tax collections until at least September 2012. That would give Amazon and other retailers time to lobby Congress for national rules governing online sales taxes.

AB155 would eliminate an estimated \$200 million in tax revenue the state had been counting on this fiscal year. The governor has not offered an opinion.

California this year joined a growing wave of states that tried to boost tax collections by expanding the definition of "physical presence" in the state to include marketing affiliates, who steer online customers to the retail site, and sister companies such as Amazon's [Silicon Valley](#) subsidiary that developed the Kindle [electronic book reader](#).

[Internet retailers](#) said the move was illegal. Amazon cut ties to California affiliates and spent more than \$5 million to gather signatures for a 2012 ballot referendum to repeal the law. Brown signed the original bill in June as part of the state budget package.

Under the compromise passed Friday, Amazon agreed to resume working with its affiliates.

"This bipartisan, win-win legislation will allow Amazon to bring thousands of jobs and hundreds of millions of investment dollars to California, and welcome back to work tens of thousands of California-based advertising affiliates," Paul Misener, Amazon's vice president of global public policy, said in a statement.

Republicans who supported the compromise called it better than allowing the referendum to move forward.

"It does save a very, very expensive and very divisive referendum campaign, pitting Amazon versus Wal-Mart, pitting brick and mortar versus online," said Assemblyman Chris Norby, R-Fullerton. "They'd be trashing each other."

The debate over whether online retailers must collect taxes from customers in other states involves billions of dollars across the nation.

A 1992 U.S. Supreme Court decision involving a mail-order company established that retailers only have to collect state tax if they have a

physical presence in the state, such as a retail store. Customers who buy from out-of-state retailers are supposed to pay the sales and use tax directly to their home state, but few do.

As Amazon and other online retailers took a larger share of the market, traditional retailers argued that the tax rules unfairly cut into their business by giving online sellers a price advantage. State and local governments also cried foul about outdated laws that never envisioned a retail store in every Web browser and cost them tax revenue.

"The retailers and Amazon now go back to Washington, D.C., together to lobby for national legislation to ensure that all Internet sellers collect the taxes. So this is good," said Senate President Pro Tem Darrell Steinberg, D-Sacramento.

He said the compromise provides the state with the certainty of future revenue, even if collections are delayed until next fall.

"We actually achieved peace with a delicate compromise here," said Senate Minority Leader Bob Dutton, R-Rancho Cucamonga.

AB155 would eliminate the language Brown signed until at least Sept. 15, 2012. When it does take effect, it would apply only to sellers with at least \$1 million in annual sales, up from \$500,000 in the law Brown signed.

The amendments also would require large online retailers to notify customers that they owe state tax and provide a total amount of annual purchases potentially subject to the tax.

Small online businesses criticized the compromise bill for not compelling other online retailers to collect the California sales tax. They questioned whether a federal solution will be viable.

"To be clear, this is not an equitable solution for all businesses in the state," said Rebecca Madigan, executive director of the Performance Marketing Association, Inc., a trade association. "It is, in fact, very disappointing to the 25,000 small online businesses whose incomes were devastated when the affiliate nexus tax first passed in June."

Amazon has previously dropped affiliates in Arkansas, Connecticut and Illinois after similar sales-tax collection laws were passed there. Overstock, which is based in Salt Lake City, also has shuttered its affiliate programs in several states due to the laws.

Amazon does collect sales taxes in North Dakota, Kansas, Kentucky and its home state of Washington. It collects in New York, too, as it fights the state over a 2008 law, the first to consider local affiliates enough of an in-state presence to require sales [tax](#) collection.

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