

Conn. gets tough with Amazon, pushing on with tax

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Connecticut officials are not giving up on requiring Internet sellers to collect state sales taxes, despite signs from online retailer Amazon.com that it has no immediate plans to abide by the state's new Internet tax law.

State officials confirmed to The Associated Press that Amazon wrote the Department of Revenue Services this month, saying the company is not obligated to abide by the law because it does not have a physical presence in Connecticut. Amazon contends that by not having a physical presence, it does not have to collect and remit taxes to the state, a protection of the U.S. Constitution.

Connecticut plans to press Amazon for the taxes the state believes it should have collected at least during the month or so when the new law was in effect and Amazon still had affiliations with websites in Connecticut through its Amazon Associates Program. Amazon severed those ties in June.

The state could expect up to \$9.4 million a year in additional revenue if remote sellers, including Amazon, complied with the new law, according to an estimate by the General Assembly's Office of Fiscal Analysis. That estimate was based on data from a comparable New York law.

Connecticut officials believe Amazon is obligated in other ways, as well.

"All we have to do is get in the door. Once we get in the door, there are

some more opportunities that come," DRS Commissioner Kevin Sullivan said. Connecticut plans to evaluate some other connections Amazon has with people in the state and start building a case that Sullivan predicted will ultimately be decided in court. He said he didn't know how much money the state could expect to collect from the month or so that's in question.

"They're not fighting against a burden on their ability to do business in the state of Connecticut," Sullivan said. "They're fighting to protect an advantage against everybody else who's doing business in the state of Connecticut."

Cash-strapped states across the country are grappling with how to capture the sales tax revenues that go uncollected from online purchases, with at least six states enacting laws similar to Connecticut's as of June, according to the National Conference of State Legislatures. NCSL estimates that all states are losing \$23 billion each year, a figure that climbs annually as more people shop on the Internet instead of in their local stores, said Neil Osten, director of NCSL's Washington, D.C., office.

Connecticut, he said, is estimated to lose \$152 million a year from uncollected [sales taxes](#) from Internet retailers that don't currently collect the tax.

Gov. Dannel P. Malloy, who pushed for the Internet tax law as part of his budget plan to fill a \$3.3 billion deficit, said he's committed to the cause for the long haul and believes Connecticut and other states will eventually win the battle.

"This is our initial request, their initial response. This has got miles to go before we sleep," Malloy said in an interview. "I also believe there are trends at play in the United States that are going to move in the right

direction to dissipate the unfair advantage that these kinds of retailers have over job-producers in our state."

Multiple messages seeking comment from representatives from Seattle-based Amazon were not answered.

The Department of Revenue Services denied a Freedom of Information request made by the AP for copies of correspondence between the department and Amazon regarding the state's new tax law, claiming the letter falls under the state's confidentiality statutes and therefore cannot be released to the public.

Sullivan said DRS also sent a letter informing the Utah-based O.co, also known as Overstock.com, another large online retailer, that it must comply with the state's new law. The company's general counsel, however, told the AP that he does not believe O.co needs to comply after ending business relationships with Connecticut-based online advertising affiliates once the law was passed.

"By severing those ties, we effectively severed any sort of obligation," said Mark Griffin, Overstock's general counsel. "We don't have boots on the ground in Connecticut and trying to say that we do because we advertise through Connecticut affiliates - in order to avoid that argument, we'll simply terminate those opportunities in Connecticut."

Griffin said he could "promise (DRS) a very healthy and robust legal challenge" if the state tries to recoup what he called "minuscule" sales taxes that may have been generated when there was still a relationship with the affiliates and the law was in effect.

New York was the first state to pass a version of the "Amazon law" two years ago. Other states, including North Carolina, Rhode Island, Illinois and Arkansas followed suit, prompting Amazon to cancel its ties with

affiliates in those states as well, with the exception of New York, where Amazon is challenging the law in court.

California has been one of the most recent battlegrounds in the fight over Internet sales tax collection. That state enacted a law 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 to sister companies. Amazon's Silicon Valley subsidiary developed the Kindle electronic book reader.

Amazon initially called the law illegal and spent more than \$5 million to gather signatures for a 2012 ballot referendum to repeal the law. But a compromise was later reached between state lawmakers and Amazon, and signed by the governor, that delayed the expanded online tax collections until at least September 2012, giving Amazon and other retailers more time to lobby Congress for a federal law that would authorize states to require sellers to collect sales taxes of goods to in-state customers regardless of seller's location.

"Perhaps California will serve as something of a model that will usher in more agreements between Amazon and other states," said Carol Kokinis-Graves, an attorney and a senior editor for the information service provider CCH, which is based in Riverwoods, Ill.

Tennessee Gov. Bill Haslam and Amazon announced Thursday that the online retailer had agreed to begin collecting sales taxes in that state in 2014. It was part of an agreement to build two more distribution centers in the state. Amazon will be required to begin collecting sales taxes in January 2016 under a recent law in South Carolina, where the company is also building a distribution center.

Kokinis-Graves said it's possible Connecticut will succeed in getting Amazon to pay the tax for those purchases made during that small

window of time when it still had arrangements with its affiliates and the law was in place. She said it remains to be seen whether prolonged litigation, which would be costly for both sides, will be necessary.

"Amazon is fighting this on many state fronts. The entire controversy has pushed the issue to the forefront and has, perhaps, become the impetus behind the potential passage of federal legislation," she said.

A group of Democrats in Congress led by Sen. Dick Durbin of Illinois introduced the Main Street Fairness Act earlier this year after receiving support from Amazon for the latest version of the federal legislation. It authorizes states that agree to simplify and unify many of their sales tax rules to require remote sellers to collect the tax. Currently, 24 states have passed legislation to streamline their tax rules. Connecticut is not one of them.

At the time, Amazon's Vice President for Global Public Policy Paul Misener said the online retailer has "long supported a simple, nationwide system of state and local sales tax collection, evenhandedly applied to all sellers, no matter their business model, location, or level of remote sales."

Griffin, from Overstock, is wary of the federal legislation, which he said is an effort by the big retailers with brick-and-mortar stores that want to put Internet competition out of business.

He said the legislation, in its current form, is unfair. Griffin said there are 7,000 to 10,000 taxing districts across the country, all of which have their own rules and tax holiday. Despite efforts to unify them, he claims it will still be a nightmare for online retailers to comply.

NCSL first came up with the streamlined tax agreement idea more than 10 years ago with the National Governors Association and has been

encouraging states to join. Osten believes the legislation has a good chance of passage now and credits the budget-cutting that's being considered by the new deficit-cutting, so-called super committee in Washington.

States are facing possible deep cuts in federal aid. Passing the legislation would allow them to collect sales tax from Internet transactions to raise money to fill those holes. Osten said that could be seen as a good political move for members of Congress who want to return home with some good news for their [states](#).

"I think we have a bill now," he said, "that everybody can agree with."

Griffin disagrees.

"I don't think in this timeframe imposing new taxes is appetizing for anyone," he said. "So I think it's a loser."

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