

States create voluntary online tax system

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Beginning Oct. 1, at least 18 states will collect taxes from online sales voluntarily, offering a year of amnesty to companies that have not reported on online transactions in the past.

The action falls under the auspices of the Streamlined Sales Tax Project, which began five years ago and has been pushed along by a series of lawsuits from states seeking taxes from online and mail sales. Over the past five years, 40 states have shaped this initiative, meeting frequently with retailers to decide on incentives to bring businesses into the voluntary program.

The 18 states have contracted software vendors to create free tax collection and remittance software for online merchants participating in the program, starting this fall.

Online merchants will collect and remit taxes for sales originating in any of 11 states that have fully amended their state laws to comply with the project's standards. In the other seven states, collection is optional until their tax codes are brought into compliance. In either case, taxes that retailers collect are based on the rates in effect where the buyer lives and retailers will be compensated for the cost of collecting and remitting that revenue to the states.

More than 30 major retailers already have agreed to join the program, Diane Hardt, of the Wisconsin Department of Revenue, told United Press International.

"There's more of them at the meetings than us," Hardt said. "This is perfect for stores that have a physical store, but an online presence as well."

One of the main selling points of the program to businesses is the offer of one year's amnesty to companies who may not have been reporting their sales diligently, Stephen Kranz, tax counsel for the Council on State Taxation, an industry trade association in Washington, D.C., told UPI.

"I think there are a fair amount of companies who will want to get involved because of the amnesty," Kranz said. "The first wave will be the 'bricks and clicks' people and companies who have traveling sales people. Those companies are the ones who have the most to gain by having their past mistakes forgiven."

Major retailers tied up in legal battles over whether they owe sales taxes for online purchases also will be among the first to take advantage of the amnesty, he said.

On May 31, a California state appeals court ordered Borders.com, the online division of the bookseller Borders Group, to pay \$167,000 in back taxes, because the company allowed customers to return products at their physical stores.

Illinois sued Barnes and Noble, Blockbuster, Gateway and several other major retailers in 2003 for failing to pay millions of dollars in taxes on Internet sales. Wal-Mart.com Inc., Target Corporation and its affiliate Target Direct LLC, and Office Depot Inc. settled those lawsuits in December 2004, paying the State of Illinois \$2.4 million.

States supporting the initiative hope others will join their initiative and press Congress to pass legislation to overturn a 1992 Supreme Court ruling, in which the justices ruled that mail-order merchants -- and,

consequently, online merchants -- did not need to collect taxes in states where they did not maintain a physical presence. Because of the extremely variable tax laws in different states, the court reasoned that tax collection would be an undue hindrance on interstate commerce. Legislators introduced bills in 2000 and 2003, but they did not reach the House or Senate floor. A revised bill is being offered and Hardt said she would count a hearing as a victory this year.

Online sales accounted for more than \$104 billion in 2003 and state and local governments lost an estimated \$15.5 billion in revenue, because they could not effectively collect sales and use taxes on e-commerce purchases, according to a report commissioned by the National Governors Association and the National Conference of State Legislatures.

Full members of the project include Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, North Carolina, Nebraska, Oklahoma, South Dakota and West Virginia. New Jersey will become a full member Oct. 1. Arkansas, North Dakota, Ohio, Tennessee, Utah and Wyoming are associate members. Nevada and Hawaii are in negotiations to join, Hardt said.

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