

Amazon to start collecting Illinois sales tax

By **Alexia Elejalde-Ruiz** and **Gregory Karp**
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Amazon.com will start collecting sales tax from Illinois shoppers Feb. 1, the e-commerce giant said Friday, in compliance with a new state law that aims to treat online and brick-and-mortar retailers equally.

The law, which went into effect Jan. 1, requires out-of-state retailers to collect Illinois' 6.25 percent use tax if they fit certain criteria. The deadline to comply was extended to Feb. 1 to accommodate the busy holiday shopping season.

Illinois is the 24th state where Amazon has agreed to collect sales tax, either because it has facilities in the state or because of a law requiring it to do so.

Amazon announced in October that it plans to build several facilities in Illinois by 2017, including the first this year, which eventually would have required it to collect the state's use tax.

It is not clear how much sales tax Illinois will collect from Amazon, the world's largest online retailer. Amazon, which does not break out sales by state, reported net sales of \$60 billion over the nine months ended Sept. 30 and expected to ring up as much as \$30 billion in the fourth quarter alone, up from \$74.5 billion in sales in all of 2013.

The Illinois Department of Revenue in 2011 estimated that uncollected sales tax from e-commerce transactions would cost the state \$212 million in 2013. Even though people are required to pay use tax on online purchases when they file their tax returns, the compliance rate is low.

In Wisconsin, where Amazon must collect sales tax from customers because it built distribution facilities there, officials estimated the state would collect an additional \$30 million annually in sales taxes as a result of Amazon locating there.

The trade group representing Illinois retailers welcomed the news and said it hoped Amazon's compliance with the law sets an example for other out-of-state retailers to follow.

"I think they've created a standard that remote sellers can collect and remit state sales tax," said Rob Karr, president and CEO of the Illinois Retail Merchants Association. At issue is not only state revenue but what the law's advocates say is an unfair pricing advantage over brick-and-mortar retailers that do have to collect sales tax.

Still, Karr said, the ultimate goal is for Congress to pass federal legislation on the matter.

Whether shoppers who enjoyed tax-free shopping on Amazon will stay loyal remains to be seen.

Amazon sales are likely to decline about 10 percent in Illinois if its pattern follows those of other states, according to Itzhak Ben-David, an associate professor of finance at Ohio State University who studied the effect of the Amazon tax issue on consumer behavior in five states that implemented online sales tax laws from 2012 to 2014.

"The decline was most dramatic for large purchases," Ben-David said in an interview. For example, he and colleagues measured a sales decline of nearly 25 percent on purchases of \$300 or more.

"These results suggest that sales tax is an important factor in the eyes of consumers," he said.

Those consumers flee Amazon for other retailers, though they tend to stay online. The study found a 2 percent uptick in purchases at local brick-and-mortar retailers and an almost 20 percent increase through the online operations of competing retailers.

Sales tax can be a big deal in the consumer purchase decision, said Neil Stern, senior partner at McMillanDoolittle in Chicago. Stern said his firm has completed studies that suggest almost a third of customers have changed their purchasing decisions because of sales tax.

"Customers are not going to be very happy about paying the tax, but I suspect that they will continue to order with Amazon — we won't see too great a sales drop," Stern said. The company's Amazon Prime shipping program and its reliability help keep customers loyal, he said.

Amazon spokesman Ty Rogers said in an email: "As analysts have noted, Amazon offers the best prices with or without sales tax."

The Illinois law, which was signed into law by former Gov. Pat Quinn in August, does not mean that all Internet sales made in Illinois now will be taxed. Rather, it applies only to certain out-of-state retailers, such as Amazon and other e-commerce companies deemed to have a taxable presence in the state, if not a physical one.

The U.S. Supreme Court ruled in 1992 that states cannot collect sales tax from an out-of-state retailer unless that retailer has a physical presence, like a warehouse, in that state. But the law in Illinois, and in other states with similar policies, established that some out-of-state retailers with "affiliates" in the state — such as Illinois-based bloggers who collect commission by posting a link to Amazon on their website — have a taxable presence.

The new law is a revised version of a 2011 state law that was struck down by the Illinois Supreme Court in 2013 on the grounds that it discriminated against e-commerce companies, in violation of the federal Internet Tax Freedom Act.

The original law drove Amazon to pull its affiliate program from the state, and several Illinois-based companies that relied on those relationships, such as Fat Wallet and Coupon Cabin, moved their headquarters to other states without the tax burden. Amazon reinstated its affiliate program after the law was struck down.

The revision broadened the law to impose sales tax on any retailer that made sales from a coupon or promotional code distributed by a person or company in Illinois via mail, radio and television as well as the Internet.

Online shoppers likely won't know until they reach checkout if the retailer they are buying from collects sales tax, said David Blum, a partner and co-chair of the tax group at Chicago-based law firm Levenfeld Pearlstein.

While Amazon can afford to comply with the law, smaller online retailers may have a harder time of it. In those cases, Blum said, the retailers may take care not to have affiliates in the state so that they are not subject to the law.

The National Retail Federation has been pushing for Congress to resolve the online sales tax issue so retailers don't have to deal with a patchwork of laws in different states.

Federal legislation that would have required online retailers to collect sales tax passed the U.S. Senate in 2013 but stalled in the House, and advocates are having to start from scratch this year. David French, senior vice president

of government relations at the retail federation, said the trade group is in talks with the House Judiciary Committee and he expects a bill to be introduced shortly.

"It's the same consumers, the same product," French said. "It ought to be the same tax rate."

aelejalderuiz@tribpub.com

gkarp@tribpub.com

Twitter @alexiaer

Twitter @spendingsmart

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