

Sales Tax Evolution

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Abstract

Through investigation of court cases, articles, and public information put out by Amazon, we describe the evolution of Amazon's sales tax strategy as it has grown as an enterprise. In 2015, Amazon.com announced the completion of a 1.26 million square foot distribution facility in Schertz, Texas. The warehouse represented a recent chapter in a dispute between Amazon.com and the State of Texas over the state's so-called Amazon Tax, a tax on ever-increasing sales over the internet. Sales tax is levied on the consumer and the collecting corporation remits it to a state. Therefore, avoiding sales tax collection does not save the corporation money, but it does win the customer by being able to offer a selling price without tax.

Since the Supreme Court's decision in *Quill Corp. v. North Dakota*, 504 U.S. 298 (1992), states have been required to demonstrate a company's physical presence or "nexus" in the state in order to impose a state tax on company sales. However, when New York enacted Tax Law § 1101(b)(vi), now referred to as the "Amazon Law," the "nexus" requirement was significantly altered. Under the New York law, online retailers using an in-state party to host an advertisement for which a commission would be paid now ran the risk of creating a "Click-thru Nexus." This change encouraged other states to send their own tax bills to Amazon. Not all states needed an expanded definition of nexus, though, to believe that Amazon owed sales taxes to them. For example, the State of Texas relied on the traditional definition of nexus when it presented Amazon with a \$269 million demand letter for back taxes in 2010. Amazon responded by closing a Dallas warehouse and then negotiating for tax abatements for new projects. Amazon has a history of zealously opposing state taxes. Amazon has fought court battles in New York and Colorado opposing tax bills in those states, but lost in the 2nd and 10th Circuits. In 2013, the company tried to take the battle to the U.S. Supreme Court – only to be denied review. In Texas, Amazon vigorously opposed the Amazon tax. However, Texas State Comptroller Susan Combs persisted, and the two sides reached a settlement agreement. Amazon is the epitome of an economically relevant online company. At its inception, one of their significant cost strategies was to avoid having the customer pay sales tax. However, as they've grown, they have not been able to maintain that strategy and serve customer quickly. An unsuccessful interim strategy was to pursue solutions through the court system. Their current strategy is to bargain with the states to receive tax abatements and other preferences.