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states are especially eager to find ways to fill some of their fiscal shortfalls, and the loss of sales tax revenues to online sources is an appealing target.

Texas is the latest to consider the subject, spurred by two members of the state legislature's ways and means committee. Proponents of such plans point out that most states' taxation laws were in place before the creation of the internet (do we blame Al Gore?), and therefore don't address the nature of electronic sales, which have taken retail revenue (and taxes) away from local merchants and sent it out into the ether (and to other states).

There are many other problems, too, of course. The first one being the concept of nexus, which was ultimately defined by the U.S. Supreme Court in Quill v. North Dakota. Although that case was also before the Internet, it addressed states' ability to tax out-of-state retailers (namely Quill and other mail-order and catalog merchants). The Court determined that a business (or taxpayer) much have a physical/geographical presence in the state in order to subject it to taxation. Such "physical presence" was suggested to include offices, branches, warehouses, employees, etc, and not the existence of customers alone.

In recent years, a few state legislatures (New York, Rhode Island, Illinois, Colorado, and maybe more) have attempted to tackle this by considering a business' in-state affiliates as satisfying the nexus rule. This directly affected some e-tailers more than others, because sites like Amazon and eBay pay commissions or other non-regular income to people with websites that advertise items on Amazon or eBay, and other online stores. Sometimes it's just a person's blog, other times they are online coupon and news sites.

Here's why that strategy is not going to work: How can states enforce it? While

Part of the nexus rule is a simple matter of logistics: Unless has business actually has something to take action on (such as property, employees, etc.), it's hard for their authorities to enforce their laws on those businesses. Now, when it comes to online sales from giant brick and mortar stores like Wal-Mart or Target, there's no problem, and these retailers are already complying with sales tax laws in all states, since they have physical locations in them all. But when it comes to a small online retailer, how would a state even know if Bob's Car Part Emporium in Des Moines sold rims and lug nuts to a customer in Florida?

Other states, taking perhaps a more sensible approach as far as legality, have tried to push their existing Use Tax laws. In Oklahoma, the state has added a more visible self-reporting component to its individual income tax returns, and has run television ads reminding taxpayers it is their responsibility to report their online purchases. Good luck. While the states obviously do have audit and enforcement capabilities over their own taxpayers, the problem here comes down to the paper trail, since the out-of-state companies still won't be responsible for reporting their sales to the state. Not an ideal position for the state auditors. And the result is, once again, that the states won't realize the revenue that they were hoping for to plug the holes in their fiscal boats.

Amazon and other large online retailers are, for the most part, complying with these state laws while they fight them in the courts, but in all likelihood, the matter will once again end up in the federal courts, and potentially another Supreme Court ruling.

There has been a movement over the past decade called the Streamlined Sales Tax Project, but it relies on voluntary membership by businesses and states agreeing with each other on some taxation factors and amnesty terms. But it

by the company can be considered a nexus. For any sized business with a lot of transactions across state lines, this is a benefit. But for most small businesses who have a single location from which they make, market, sell and ship their product, with no assets or employees out-of-state, there is no benefit, only the additional compliance chores, and who'd volunteer for that?

Although it would be immensely unpopular, and states with higher sales tax rates might not realize their full revenue, the only viable solution that I can see that allows for mandatory and enforceable compliance would be a flat-rate federally managed online sales tax. Don't get me wrong, please... I'm not in favor of it or proposing it. But if applied uniformly across the entire country and with the revenues directed to the states as appropriate, it would at least collect revenues the states say they desperately need and would make enforcement simpler, although likely making compliance a new headache for small businesses.

And the federal government probably actually has the authority under the Commerce Clause, which actually fits this situation more directly than how it is applied in some other instances. While the Founding Fathers couldn't have envisioned the Internet, they certainly had a grasp of a merchant selling his wares to a customer in another state, i.e., interstate commerce.

Once again, I'm not in favor of such a tax, but I don't see any other really effective means of ensuring sales tax compliance and state collection of revenues when it comes to online commerce. The states can try their expansion of nexus rules and some may have moderate success with the largest retailers, while others try to guilt their individual taxpayers into self-reporting, but these methods will never come close to filling the sales tax gap they experience