

NAR Issue Brief

Internet Sales Tax Fairness

What is the issue and current law?

As a result of a Supreme Court ruling in the early 1990s, Internet retailers have largely been exempted from collecting state and local sales taxes on their sales transactions because these tax laws were seen as overly complex and placing too heavy a burden on interstate commerce, unless the retailer had a physical presence in the state.

Since that time, the number of people and businesses using the Internet for e-commerce transactions has grown exponentially, and a large component of these transactions remain tax-free. At issue is the fact that brick-and-mortar retailers must collect and remit state “sales-and-use” taxes, yet many remote sellers – such as catalog and online –only vendors – are exempt from such requirements. As a result, Internet retailers have an unfair advantage over their community-based counterparts, and states are losing out on billions of dollars in much-needed (but uncollected) revenue.

What would be the impact on those Americans if the provision were changed?

Because of the current treatment of Internet retailers, the amount of sales tax that a state or locality is able to collect will be less than otherwise provided. However, passage of federal legislation allowing states to require Internet retailers to collect sales tax for online purchases – and to level the playing field between brick-and-mortar and Internet-based retailers – is gaining ground on Capitol Hill. This includes the “Marketplace Fairness Act” (H.R. 684), introduced by Representatives Womack (R-AR) and Speier (D-CA); and a Senate measure (S. 336) authored by Senators Enzi (R-WY) and Durbin (D-IL).

Passage of this legislation is necessary due to the deteriorating fiscal condition of many state and local governments. These budget shortfalls could lead them to opt for higher real estate and other property taxes/fees on consumers and business to make up for this lost revenue.