
Don't Like It? Sue Me.

Tired of waiting for Congress to approve a tax on Internet sales, more than a dozen states — including Alabama, South Dakota and Utah — are moving to pass bills or change regulations in ways that deliberately invite lawsuits from Internet retailers. The goal? Landing the issue before the U.S. Supreme Court.

Alabama, for its part, will start enforcing an old law it says allows it to tax out-of-state sellers. The state will audit companies that don't file returns.

"We're confident that some remote sellers will not comply and therefore it will lead to litigation," Alabama Deputy Revenue Commissioner Joe Garrett told The Wall Street Journal. "We have been very open about what we're doing."

The move won instant praise from brick-and-mortar businesses, who say they can't compete with online retailers who don't collect a sales tax. A bill allowing states to collect sales taxes from online purchases has stalled in Congress for a half-decade. By some estimates, states are collectively missing out on more than $23 billion annually in potential online sales tax revenue.

"Despite the ways this disparity distorts the market, and despite pleas from Main Street retailers in every state, Congress continues to dodge the issue," said Stacy Mitchell, co-director of the Institute for Local Self-Reliance.

But online retailers and others argue that a universal Internet sales tax wouldn't level the playing field, as some hope. Large companies that have a presence in multiple states generally have the infrastructure in place to collect a sales tax. "But it's more challenging for smaller retailers that don't have the computer systems and accounting staff to ensure compliance with 10,000 nationwide tax jurisdictions and 46 state tax auditors," argue NetChoice, a trade association promoting e-commerce.

If the issue does make it to the nation's top court, it would challenge a 1992 Supreme Court decision, Quill Corp. v. North Dakota. Under the ruling, states can apply sales taxes only to companies with a physical presence in the state.

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