



## Fact Sheet: Taxing Internet Sales

---

### Current Law

Michigan law already provides for the taxation of Internet sales. If taxes are not collected by the retailer, consumers are responsible for paying the tax. However, voluntary compliance by consumers is limited. Michigan collected \$5 million in use tax from 100,800 filers remitted through the state income tax form in tax year 2009.<sup>1</sup> To ensure tax collection, pending legislation would require online sellers to collect the sales tax at the point of sale.

### Require Tax Fairness

Changes in the taxation of Internet sales would level the playing field. Presently, Michigan's brick and mortar businesses collect the sales tax on purchases. However, when consumers purchase items online from out-of-state retailers, Michigan businesses cannot compete on a level playing field due to the 6 percent tax difference.

### Save Michigan Jobs

When Michigan workers lose jobs due to the loss of Michigan sales, communities suffer as unemployed workers purchase less.

### Court Ruling

States have been held back by the 1967 U.S. Supreme Court decision that was reaffirmed by the *Quill Corp. v. North Dakota* in 1992. It held that North Dakota could not require a remote seller to charge a North Dakota purchaser the use

tax unless the seller had a physical presence in the state. Without a physical presence, taxes were not collected. The court rationale was that this would be an unacceptable burden on the seller due to the big differences in state and local sales tax structures.<sup>2</sup>

### State Action

As Internet sales have grown, 24 of the 45 states with sales taxes have signed agreements to streamline their tax structures. States such as



New York have begun to pass laws collecting the tax on their own. In 2010, New York's state intermediate appellate court upheld the trial court's ruling that the New York state law on Internet taxation was constitutional. This is encouraging for Michigan and other states that are considering legislation to collect sales taxes on Internet purchases.

### Michigan Main Street Fairness Tax

House Bills 5004 and 5005, known as the Michigan Main Street Fairness Act, would mandate that remote sellers collect taxes on Internet sales. These bills have bipartisan sponsors from Rep. Eileen Kowall, R-White Lake, and Rep. Jim Ananich, D-Flint. The bills define when a person selling tangible personal property is engaged in the business of making retail sales in Michigan.

---

<sup>1</sup>Michigan Income Tax 2009, July 2011, Michigan Department of Treasury. p. 8, [http://www.michigan.gov/documents/treasury/IIT\\_2009\\_359461\\_7.pdf](http://www.michigan.gov/documents/treasury/IIT_2009_359461_7.pdf).

<sup>2</sup>Chipping Away at the Problem of Untaxed Internet Sales: 10 Things States Can Do, Center on Budget and Policy Priorities power point, Nov. 30, 2011.

## **Low-Income Families**

The Michigan sales tax is regressive. Taxing online purchases from remote sellers will improve the fairness of the Michigan tax system because the online consumers not currently paying the tax tend to be more affluent. In addition, uncollected sales tax revenue leaves less revenue for programs that benefit low-income families.

## **Fiscal Impact**

Michigan cannot afford to let these taxes go uncollected because sales tax collections have suffered from decreased economic activity and a shift in consumer purchases from taxed goods to untaxed services. Sales tax collections have also been weakened by the growth of online purchasing from out-of-state sellers. Michigan is projected to lose about \$141.5 million in taxes on

electronic remote sales and \$147.5 million from nonelectronic remote sales in Fiscal Year 2012, according to estimates provided by the Streamlined Sales Tax Governing Board.<sup>3</sup> This total of \$289 million is more than 4 percent of the FY 12 sales tax estimate of \$6.7 billion.<sup>4</sup>

## **Policy Recommendation**

The Michigan League for Human Services supports the taxation of Internet sales as consumers are shifting toward online purchases. The Michigan Main Street Fairness Act provides a way to maintain much needed sales tax revenues for state services. Taxing Internet sales reduces the regressiveness of the sales tax for low-income families and levels the playing field between Michigan businesses and online retailers selling products in Michigan.

---

<sup>3</sup>Michigan Sales Tax Collection and the Internet: A Need for Fairness, July 2011, Public Sector Consultants, Lansing, MI, p.7, [www.pscinc.com](http://www.pscinc.com).

<sup>4</sup>Administration Estimates Michigan Economic and Revenue Outlook for FY 11-13, Michigan Department of Treasury, p. 46. [http://www.michigan.gov/documents/treasury/Admin\\_Econ\\_and\\_Rev\\_Outlook\\_5-16-11\\_352981\\_7.pdf](http://www.michigan.gov/documents/treasury/Admin_Econ_and_Rev_Outlook_5-16-11_352981_7.pdf).