THE GEORGE WASHINGTON UNIVERSITY

Debate on Internet Taxation – “No” to Internet Taxes

Source: freedomworks.org

SUBMITTED TO

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Internet Taxation

Introduction

Buying things over the Internet and not having to pay taxes has come to almost feel like a birthright. Except, of course, it’s not. Most citizens are already taxed to death and the only remaining tax-free domain, the internet, is being targeted to generate sales revenue for states. The revolution in information and communication technologies has triggered the emergence and growth of a new paradigm known as electronic commerce (E-commerce), especially the sale of goods and services over the Internet. Although E-commerce has the potential to become an important part of economic development in the 21st century, its fast growth has fueled a debate over the taxation of such commerce, in particular, Internet commerce, which is a new division of Ecommerce. Concerns have been raised about the potential impacts of E-commerce growth on federal and provincial government sales-tax collections. At the same time, concerns have also been voiced that the taxation of Internet sales could impede innovation and growth in the economy.

In a study for the National Bureau of Economic Research, Boston University economists Laurence J. Kotlikoff and David Rapson have found that our all-in marginal tax rate is 40%, give or take a bit [1]. Most workers will pay about that much on each dollar of income when all taxes -- federal and state income taxes, sales taxes, taxes for benefit programs, etc. -- are considered.

<table>
<thead>
<tr>
<th>Age</th>
<th>$20,000</th>
<th>$30,000</th>
<th>$50,000</th>
<th>$75,000</th>
<th>$100,000</th>
<th>$150,000</th>
<th>$200,000</th>
<th>$300,000</th>
<th>$500,000</th>
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<tbody>
<tr>
<td>30</td>
<td>42.5%</td>
<td>42.3%</td>
<td>24.4%</td>
<td>35.9%</td>
<td>37.0%</td>
<td>45.9%</td>
<td>36.8%</td>
<td>43.9%</td>
<td>44.0%</td>
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<tr>
<td>45</td>
<td>41.7%</td>
<td>41.8%</td>
<td>35.8%</td>
<td>35.1%</td>
<td>36.1%</td>
<td>45.1%</td>
<td>35.9%</td>
<td>40.9%</td>
<td>43.2%</td>
</tr>
<tr>
<td>60</td>
<td>32.0%</td>
<td>36.3%</td>
<td>35.5%</td>
<td>45.5%</td>
<td>45.5%</td>
<td>47.7%</td>
<td>43.2%</td>
<td>45.8%</td>
<td>45.0%</td>
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</tbody>
</table>

Source: "Does It Pay, at the Margin, to Work and Save?" by Laurence J. Kotlikoff and David Rapson

With such heavy tax burden already in place, any additional taxes will over stretch the exiting taxpayer and add to his misery.
Before we understand the implications of internet taxation, we have to analyze information about the existing tax structure, the internet user base and their distribution geographically. The figures listed clearly illustrate the explosive growth of internet usage globally.

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<thead>
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</thead>
<tbody>
<tr>
<td>Africa</td>
<td>975,320,000</td>
<td>4,514,400</td>
<td>54,171,500</td>
<td>5.6 %</td>
<td>1.100.0 %</td>
<td>3.4 %</td>
</tr>
<tr>
<td>Asia</td>
<td>3,790,019,750</td>
<td>114,274,000</td>
<td>650,361,843</td>
<td>17.2 %</td>
<td>468.0 %</td>
<td>41.1 %</td>
</tr>
<tr>
<td>Europe</td>
<td>803,903,540</td>
<td>105,096,083</td>
<td>390,141,073</td>
<td>49.5 %</td>
<td>271.2 %</td>
<td>24.7 %</td>
</tr>
<tr>
<td>Middle East</td>
<td>196,757,614</td>
<td>3,284,930</td>
<td>45,116,346</td>
<td>23.3 %</td>
<td>1,256.2 %</td>
<td>2.9 %</td>
</tr>
<tr>
<td>North America</td>
<td>337,572,945</td>
<td>100,096,000</td>
<td>246,822,936</td>
<td>73.1 %</td>
<td>129.3 %</td>
<td>15.6 %</td>
</tr>
<tr>
<td>Latin America/Caribbean</td>
<td>631,249,882</td>
<td>18,096,319</td>
<td>173,619,146</td>
<td>29.9 %</td>
<td>860.9 %</td>
<td>11.0 %</td>
</tr>
<tr>
<td>Oceania / Australia</td>
<td>34,334,364</td>
<td>7,620,648</td>
<td>20,393,751</td>
<td>59.9 %</td>
<td>170.2 %</td>
<td>1.3 %</td>
</tr>
<tr>
<td>WORLD TOTAL</td>
<td>6,710,029,076</td>
<td>390,986,452</td>
<td>1,581,571,589</td>
<td>23.6 %</td>
<td>336.1 %</td>
<td>100.0 %</td>
</tr>
</tbody>
</table>

NOTES: (1) Internet Usage and World Population Statistics are for December 31, 2000. (2) Click on each world name for detailed regional usage information. (3) Demographic (Population) numbers are based on data from the US Census Bureau. (4) Internet usage information came from data published by Nielsen Online, by the International Telecommunications Union, by SIA, local Regulators and other reliable sources. (5) For definitions, disclaimer, and navigation help, please refer to the Site Surfing Guide. (6) Information in this table may be cited, giving the due credit to www.internetworldstats.com. Copyright © 2001 - 2008, Internet World Stats Group. All rights reserved/renews.

Source: http://www.internetworldstats.com/stats.htm

The Internet used to be a haven from taxes and fees. Legislators didn't want to stunt the growth of E-commerce, plus collecting taxes or other levies was technologically tricky way back in the 1990s. But better E-commerce technology and the boom in online sales have made the Internet a
tempting target for the government taxman and companies trying to grab more user dollars. States are hard hit by the falling economy since collections from sales and use taxes are plummeting.

Since the passage of the Internet Tax Freedom Act, on October 21, 1998 there has been an intense debate on whether to tax or not to tax Internet purchases. Its primary effect regarding sales taxes is to prevent states from either applying sales taxes to categories of electronic services or goods with no physical counterpart or applying discriminatory sales taxes on Internet commerce that do not, for example, apply to catalog sales. Online shopping has grown to $136 billion per year.

According to statistics from the Census Bureau of the Department of Commerce U.S. retail e-commerce sales for the fourth quarter of 2008, adjusted for seasonal variation, but not for price changes, was $31.9 billion, a decrease of 5.7 percent from the third quarter of 2008.

| Table 1. Estimated Quarterly U.S. Retail Sales: Total and E-commerce
| | (Estimates are based on data from the Monthly Retail Trade Survey and administrative records.) |
| Quarter | Retail Sales (millions of dollars) | E-commerce as a Percent of Total | Percent Change From Prior Quarter | Percent Change From Same Quarter A Year Ago |
| | Total | E-commerce | Total | E-commerce | Total | E-commerce |
| Adjusted 2 | | | | | | |
| 4th quarter 2008(p) | 938,052 | 31,946 | 3.4 | -7.8 | -5.7 | -9.1 | -5.5 |
| 3rd quarter 2008(p) | 1,017,954 | 33,873 | 3.3 | -1.5 | -1.1 | 0.2 | 4.2 |
| 2nd quarter 2008 | 1,033,794 | 34,237 | 3.3 | 0.7 | 1.6 | 2.4 | 8.3 |
| 1st quarter 2008 | 1,028,876 | 33,545 | 3.3 | -0.5 | -0.4 | 2.0 | 13.1 |
| 4th quarter 2007(p) | 1,032,540 | 35,795 | 3.4 | 1.6 | 4.0 | 5.2 | 18.4 |
| Not Adjusted 2 | | | | | | |
| 4th quarter 2008(p) | 990,135 | 37,073 | 3.8 | -4.0 | 17.3 | -5.6 | -4.9 |
| 3rd quarter 2008(p) | 1,021,820 | 31,613 | 3.1 | -2.6 | -2.8 | 0.9 | 4.6 |
| 2nd quarter 2008 | 1,048,726 | 32,509 | 3.1 | 8.6 | 0.4 | 2.3 | 8.7 |
| 1st quarter 2008 | 955,500 | 32,383 | 3.4 | -9.9 | -16.9 | 3.7 | 13.3 |
| 4th quarter 2007 | 1,072,153 | 38,992 | 3.6 | 5.9 | 29.1 | 4.9 | 19.0 |

Source: Census Bureau, Department of Commerce

To get in on the cash flow, Web sales taxes have popped up in 22 states, with plenty more considering it. With the economy deteriorating and people experiencing higher fuel prices, more and more people are gyrating towards online shopping for cost savings and cheaper deals.

Ordering online and paying a minimal fee for postage is well worth the few days' wait for many. But higher taxes could change all that. More than 27 million small-business owners will potentially be affected by Internet sales tax. Last year in the United States, there was a unanimous vote in both houses of Congress to extend an Internet access tax moratorium, The Internet Tax
Freedom Act by another seven years. But the ban was not made permanent, and will expire in 2014 if not renewed.

On the basic issue of weighing the costs and benefits of enforcing taxes on the Internet, most of the discussion has taken place in the political arena rather than in academic research. Most of the existing academic literature on the subject of Internet taxes has been conceptual discussions and legal analyses. Most of the explicit discussions weighing the costs and benefits of tax policy toward Internet commerce has taken place in the popular press and has been more political. The lack of systematic data sources means that on many important points, the evidence is more qualitative and suggestive rather than definitive.

The conservative side is opposed to Internet taxation saying that it is too costly to collect tax on internet purchases [7]. They also believe that since Internet retailers do not have any of their operations in all the states, not every state should receive the sales tax made on the purchase. On the other hand, the liberal believe that taxation of the Internet should be lawful because states are losing valuable tax bases to Internet purchases. They believe that at current rates of online shopping, states are losing millions of dollars annually, a number that is growing exponentially every year that can be used for public roads, police protection, and education.

The two most well known forms of e-commerce are business-to-consumer (b2c) and business-to-business e-commerce (b2b). As its name suggests, b2c e-commerce involves businesses selling tangible and/or intangible items directly to consumers over some sort of digital or electronic medium. B2b e-commerce also involves the use of telecommunications platforms to sell goods and services to prospective clients or customers. The crucial difference is that b2b transactions are typically inter- and intra-organizational, whereas b2c is restricted to direct sales to private consumers.

With the advent of internet commerce, it is possible to purchase almost any type of goods over the Internet, ranging from pizzas to automobiles [. A contentious issue on the sales taxation of Internet commerce is likely to emerge in the collection of taxes related to tangible and digital goods bought and sold over the Internet. World wide, there are various forms of taxes and collection regimes. In addition, the shift from conventional sales to Internet sales makes it more difficult for the government to identify the location of the buyer and the seller, the status
(business, individual, others) of the buyer or seller, and the nature of the product itself. In terms of the location, both purchasers and sellers may have multiple locations, and the Internet makes it easier to conduct their transactions from the location that offers the greatest tax advantages. As a result, determining the location of buyers and the sellers' activities for nexus purposes is difficult when it comes to Internet commerce.

Online retailers don't have to collect sales tax on the items they sell if they're "out of state" companies. The U.S. Supreme Court said in 1992 that because of the way the economy is evolving, out-of-state mail-order companies are soliciting business in a state even if they're doing so "by a deluge of catalogs rather than a phalanx of drummers."

One sensitive area for the pro-tax crowd is voice over IP. When the moratorium was extended in 2004, taxes on VoIP services, which were just starting to replace conventional circuit-switched phone services, were permitted because of government concerns about losing a big source of revenue. Some aspects of the internet which will be affected by internet taxation and fee collection include [8]:

**Internet access**
Beginning next year, France will tax Internet access to replace lost revenue from the new ban on commercials on prime-time television. The Internet Tax Freedom act guarantees that any kind of internet access is not subject to taxation.

**Internet neutrality**
A fundamental change in the way we use the Internet could come with President-elect Barack Obama. Net neutrality, or the idea that everyone gets the same information at the same speed, has been getting increasing political attention. In 2007, speaking to Google employees in Mountain View, Calif., Obama said, "We could see the Internet divided up between the highest bidders." An alternative, he said, is to ensure free and full exchange of information that starts with an open Internet.

**E-mail**
One bit of the Internet that seems safe for now is E-mail. When the United Nations proposed an E-mail tax (one U.S. cent for every 100 E-mails) to benefit developing countries in 1999, the outcry was so great it canceled the plan. Portugal, the Philippines, and France have attempted
similar SMS taxes, though none have been passed so far. But E-mail is more likely the exception than the rule.

**Digital downloads will cost now**

Wisconsin will collect sales taxes on Internet downloads of music, games, books, ring tones and other video entertainment -- a decision that angers some who will find the 5% tax added to their credit-card bills after Oct. 1, 2009. The District of Columbia and 15 states have similar laws, although none of those states borders Wisconsin. The tax proponents argue that fairness: Internet vendors shouldn't have a tax-exempt advantage over Wisconsin's brick-and-mortar retail stores.

**Tax reporting**

In states which collect internet taxes, taxes are paid voluntarily by individuals who purchase online. It becomes very complicated for individuals to self-report if the company selling the product does not add the sales tax at the time of purchase. Enforcing compliance on the part of states will be tedious and fraught with errors.

**Online travel services**

There is a reason some online travel sites can offer cheap hotel rooms: State and local governments contend that the sites are not paying all of their taxes. And faced with fast-shrinking budgets, those governments want the online travel services like Expedia Inc., Priceline, Orbitz and Travelocity to hand over what could amount to tens of millions of dollars [3]. Anaheim, Calif., is one of dozens of state and local governments trying to collect from the online travel services. This month, a city hearing officer concluded that travel companies owed Anaheim $21.3 million in back taxes, interest and penalties. Representatives of the travel companies predict that, if local governments succeeded in their efforts, prices for hotel rooms offered through Web sites would rise. This in turn will reduce e-commerce and thereby stop innovation and competitiveness.

**E-Commerce sales**

eMarketer revised its US retail e-commerce forecast, estimating that US retail e-commerce sales (excluding travel) will shrink by 0.4% in 2009, falling to $133 billion. B2C e-commerce sales in the region will grow at a 23.3% annual rate, reaching $168.7 billion in 2011.
Evaluating the costs and benefits of taxing Internet commerce

Cost-benefit analysis of levying internet taxes can be addressed from the following six perspectives: revenue loss from Internet commerce, competition with retail trade, distribution, enforcement costs, and externalities [5].

Revenue Loss from Internet Commerce

The most important presumed cost of not enforcing taxes on Internet commerce is the potential revenue loss. Sales taxes are, obviously, quite important to state and local government finance and come in second only to property taxes as an overall source of tax revenue and was the largest source of revenue for state governments. Give this importance, it is understandable why policymakers are concerned about the issue and decry the potential narrowing of the sales tax base. The calculation of lost revenue is very vague due to uncertainty with

a. Inclusion of business-to-business sales as well as business-to-consumer. The business-to-business is largely exempt from sales tax.

b. The predicted revenue losses ignore the possibility of trade creation.

c. The calculations have serious flaws by failing to account for the types of products being sold.

d. Obviously non-taxed categories account for more than 40% of total online sales
**Internet Competition with Retail Stores**

Another basic benefit claimed by advocates of enforcing taxes on Internet commerce is to eliminate the unfair disadvantage that uneven tax enforcement puts retail stores at relative to their online (and out-of-state) counterparts. If consumers, for example, would prefer to buy from a local store but buy online only to avoid taxes, the tax is creating inefficiency and is unfair.

**Distributional Considerations**

Not enforcing taxes on the Internet, as argued in the popular press, does have particular distributional effects. If online purchases are not taxed, anyone with enough money to buy a computer can avoid sales tax, while less well-off individuals cannot.

**Enforcement Costs**

One frequently mentioned potential cost to taxing Internet commerce is the difficulty of enforcing such taxes. The potential enforcement problems of Internet taxes are numerous. Complex tax regulation enforceable on a mature market might eliminate whole classes of small, less sophisticated Internet sellers. Some administrative aspects of remittance still remain. They may entail preregistration with certain state tax authorities and a significant amount of paperwork. A second set of potential enforcement difficulties concern the difficulty of identifying individuals or even transactions in the electronic environment.

**Externalities and Under-Provision**

A final set of cost associated with taxing Internet commerce relates to the potential existence of externalities. If taxes were applied effectively to Internet purchases, there would be a significant reduction in the amount bought online. Many of the arguments in the political arena that we should protect or nurture the Internet at an early stage of development are in this spirit. There is suggestive evidence of spillovers and of information problems that should be considered costs of aggressively applying taxes.
Expected global growth of E-business is shown in the figure below:

![Development of the Global E-Business Markets 2007-2010](chart.png)

Source: Skillnet

### Against Internet Taxation - The Rationale:

“In my view, the Internet has the most profound liberating potential since Gutenberg’s invention of the printing press, which allowed the mass distribution of ideas, thoughts and information. This legislation is a step forward to keeping the Internet free of unfair, discriminatory taxation policies that would impede its future growth as a source of commerce, education and information.”

**U.S. Senator George Allen (R-Virginia)**

On the introduction of S. 777, Internet Tax Nondiscrimination Act

April 26, 2001

Tax opponents have specious arguments to support their stand. One is that the state and local tax codes are too complex to follow. That idea played a big role in the Supreme Court decision. But 22 states have since simplified their sales-tax policies as part of Streamlined Sales Tax Project.

When it comes to the issue of taxing e-commerce, most governments appear to be of two minds [4]. On the one hand, they seem to recognize that e-commerce remains in an incipient stage of development, even though yearly increases in combined b2c and b2b revenues have slowed considerably since 1997. The tendency in countries such as Canada, Australia, and the United
States, therefore, has been to encourage ecommerce development by remaining non-interventionist in the area of internet taxation. Policymakers and businesses opposed to Internet taxes argue that the Internet should remain a “global free trade zone,” unencumbered by overlapping and discriminatory taxes imposed by the country's 30,000 taxing jurisdictions. However, if taxes are imposed on Internet commerce, this zone of freedom and opportunity will become enmeshed in government bureaucracies. Excessive taxation and higher pricing may lead people to seek the same products from overseas suppliers who are not subject to same taxation rules. Some examples include online purchase of prescription drugs from Canada, medical tourism tours to under-developed countries, relocations businesses to tax free havens like Bahamas etc.

At the same time, however, taxing authorities in the US and elsewhere have expressed a number of concerns in relation to the impact of e-commerce on tax collection. One of the more common concerns articulated in the literature is the ability of consumers to buy goods and services from merchants located outside the reach of their own government’s taxing authorities. More specifically, there are two aspects of cross-border e-commerce that have caught the attention of tax analysts and policy makers. The first, and perhaps most controversial, issue is the buying and selling of intangible “goods” from external (or non-domestic) sources. A number of consumer items have recently undergone a digital conversion of sorts. Books, software, video material, film, and music can now be stripped of their physical qualities and supplied from almost any location. This transition represents an important departure from how these items used to be delivered and taxed [2].

Of course, a more deeply integrated consumer market system – characterized by multiple points of consumption – makes it more difficult for independently administered tax agencies to identify, monitor, and resolve international “tax” transactions. Furthermore, since “consumption taxes are levied on the principle of taxation at the place of consumption,” several complications arise [6]. For instance, “in the case of business to consumer transactions, the supplier who would normally be responsible for collecting consumption taxes may have limited means to prove the location of their customers. Another potential problem concerns whether most governments possess the technical and human resources capacity to examine all of the various types of commercial transactions that originate from within their borders. Although state and local governments enjoy a significant amount of freedom in determining their tax policies, their tax discretion does not extend beyond their geographic boundaries. Many states are now parties to an agreement, “The
Streamlined Sales and Use Tax Agreement”, whose purpose is to simplify and modernize sales and use tax administration in order to substantially reduce the burden of tax compliance. Today twenty-two states have adopted the simplification measures in the Agreement and more states are moving to adopt the simplification measure.

A second concern relates to the digitization of private services. The potential spread of service-oriented purchases from remote jurisdictions might make it more difficult for revenue officials to collect consumption taxes on certain internet transactions. Ultimately, it is asserted that, in jurisdictions where consumption taxes are a significant source of government income, an increase in purchases from external suppliers might result in a noticeable decline in tax yields. Yet, at this stage it remains unclear how the outright taxation of global e-commerce transactions will affect corporate profitability and growth.

Finally, the issue of “permanent establishment” (PE), or determining whether a server or website constitutes a fixed place of business, has caused some concern in several higher-taxing countries. As one might expect, the uncertainty associated with PE provides some businesses with opportunities to avoid certain tax obligations.

An Internet sales tax could encourage exporting jobs to different states, just like the foreign offshoring found in the manufacturing sector. Supporters also worry about the "digital divide" and how the United States is falling behind broadband-connected economies in Asia and Europe.

With the growing impact of economic globalization on fiscal policy reform and the shift to a more liberalized international trading and investment system make it difficult for countries to enforce vital tax policy initiatives and decisions independent of trade and investment considerations. Internet technologies, such as e-commerce, have a direct and profound influence over consumer and corporate purchasing habits and trends. In other words, they drive globalization.

Several research studies conducted to examine the effect of sales taxation on internet purchases has revealed the tax effect to be significant and in one such study it was noted that applying a provincial average sales tax of 14% to all Internet sales in Canada would reduce the number of online buyers by as much as 44%. Additional research suggests that there is substantial substitution between online and offline retail and tax avoidance may be an important contributor
to e-retail activity. Cost of living may be higher in places with high tax rates and this could be the real reason of buying goods over the Internet in such places. Sales taxes are an important driver of e-retail activity. Studies show clearly that sales are higher in states that levy higher sales taxes on traditional retail purchases.

**Some proposed solutions to internet taxation:**

School of Public Policy at Pepperdine University: Excerpt from a report written as a policy recommendation for the state of California with California’s Electronic Commerce Advisory Council as the major client.

**The National Sales Tax -- Alternative One**
Under a national sales tax option the federal government would determine the rules and tax rates for all domestic electronic commerce. A uniform national e-commerce tax would apply to all domestic sales. It would be collected by the federal government, with the revenue then rebated to the states based on where the point of sale occurred.

**Freedom of States -- Alternative Two**
The "Freedom of States" policy would give taxing authority, and the right to regulate e-commerce, to the individual states. The federal government would continue to determine import and export fees and taxes. Each state would be able to adopt whatever policies it deemed appropriate, at whatever rates it felt were appropriate.

**Internet Tax Equity Policy -- Alternative Three**
The third option proposed would involve allowing the states to collect taxes on all goods, regardless of the method of transaction, under a federally-regulated tax policy. The strategy behind this federal basis of regulation is to avoid the dilemma of double taxation that threatens when different states have not only different tax rates, but completely different policies in general.
Conclusion

Increasing tax rates is unpopular. At the same time, however, it is important to understand that raising taxes is not unprecedented. The ability of e-commerce to expand the boundaries of consumption and to dematerialize business operations has implications for a range of critical tax sources and tax policy. However, each country’s, state’s, or province’s experience with e-commerce will differ considerably, and the impact of e-commerce on tax collection will be determined, in most cases, by the existing tax system itself. Should sales over the Internet receive preferential treatment given the fledgling nature of e-commerce and its essential role in the prosperity of the U.S. economy? Or should Main Street be given a chance to compete against cyber-malls and local governments be able to add online sales to their tax bases?

And as we continue through the digital age, when the timing and scale of the Internet's regulation and taxes are still being hashed out, it seems certain we can be sure to expect death and, now, Internet taxes. [9] The extension of the Internet tax moratorium has enabled it to grow and thrive as a tool for education, opportunity and commerce like never before seen. The efforts of those who see this fantastic medium as nothing more than a new government cash cow, if successful, will grind its progress to a screeching halt. Congress should resist the states' "simplification" plan and make permanent the Internet tax moratorium.
References


