

The Virtual Advantage: A review of the efforts to alter the rules of collection of state sales and use taxes from out-of-state e-tailers

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States have been prohibited from requiring out-of-state e-retailers who lack a physical presence in the state from being able to collect and remit state sales or use taxes on revenue generated from in-state purchases. The physical presence requirement has provided e-tailers with a competitive advantage in terms of price as compared to residential businesses. Since 2004, total annual online sales in North America have increased by \$318 billion, resulting in annual sales of \$400 billion, with worldwide online sales exceeding \$1 trillion annually. While retailers are unable to mandate collection of sales or use taxes on e-tailers without a physical presence within the state, consumers are required to report the taxes on their returns; however, it is estimated that only four percent of residents voluntarily report these taxes. As such, experts have calculated that states lose more than \$12 billion per year in lost sales and use tax. In 2018, however, the Supreme Court of the United States will be hearing a case challenging the current prohibition and plethora of precedence, to determine whether a state should be able to impose the burden to collect state sales taxes on outof-state e-tailers who lack a physical presence with the state in which the consumer purchased the item. Additionally, Congress continues to consider legislative action to afford states the power to mandate collection of sales taxes on nonresident sellers who lack a physical presence within the state. The possible changes relating to state's sales tax collection will alter e-tailers pricing strategies, minimizing the feasibility of the cost leadership approach. The purpose of this article is to analyze the genesis of cases relating to the collection of state sales taxes as well as recent congressional efforts to amend the current law and to describe how the changes will impact the ability of e-tailers to pursue a price leadership strategy. This research is important for two central reasons. First, extant research has not explored states sales tax differences in terms of Porter's pricing strategies. Secondly, the regulatory landscape is positioned to change, meaning existing practitioners will need to reevaluate their current strategies in order to adapt to the new regulatory environment.