



### SUPREME COURT WON'T RULE ON INTERNET SALES TAX

#### **Decision is a setback for online retailers Amazon.com and Overstock.com, which have battled New York State for five years over the collection of state sales taxes.**

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WASHINGTON —

The Supreme Court won't referee the fight between states and online retailers over taxing Internet sales, leaving states free to tax remote sellers and increasing pressure on Congress to resolve the long-running dispute.

The high court's decision Monday left intact a New York appeals court ruling that Amazon.com and most other online retailers must collect state sales taxes when they pay affiliates to promote links to their products. By refusing to hear Amazon's case, the justices sent reverberations to a dozen states with similar laws: Arkansas, California, Colorado, Connecticut, Georgia, Illinois, Maine, Minnesota, North Carolina, Rhode Island, Texas and Vermont. The Illinois and Colorado laws are tied up in court.

In seeking Supreme Court review, Amazon and another online retailer, Overstock.com, had argued that the New York court's ruling "provides a road map for other state legislatures to enact similarly burdensome legislation."

Other states might not follow suit, however, at least not immediately. That's because online and other remote retailers, including those that rely on phones and catalogs, usually cut ties to local affiliates in order to avoid collecting sales taxes.

The issue of Internet sales taxes has vexed lawmakers for nearly two decades. They are caught between serving Main Street "brick-and-mortar" businesses that pay taxes their online rivals sidestep, and their political desire to avoid being seen as raising or creating new taxes.

New York solved that dilemma on the side of taxation. "Today's Supreme Court decision validates New York's efforts to treat both online and brick-and-mortar retailers equally and fairly," said state Attorney General Eric Schneiderman.

Sales taxes are a crucial source of revenue in the 45 states that collect them, particularly in the wake of the 2009 recession. They are even more important in seven of nine states that have no state income tax, including Florida and Texas. (Two states, Alaska and New Hampshire, have neither tax.)

States stood to lose about \$23 billion last year because they could not collect sales taxes from most online, phone and catalog purchases, according to the National Conference of State Legislatures. The actual figure may have been lower because Amazon, the nation's leading online retailer, has begun building warehouses and collecting sales taxes in many states.

By turning down the case, the justices served notice that any possible solution to the dispute is likely to come from Congress. The Senate in May passed the Marketplace Fairness Act, which would let states collect sales and use taxes from online retailers without any physical presence in their states. The measure, which would apply to retailers with at least \$1 million in annual sales in those states, is bottled up in the House.

"At some point, this will be solved by either Congress or court action," says Max Behlke, manager of state-federal relations for the National Conference of State Legislatures. "Sales tax revenue is so vital to states."

The Supreme Court ruled in 1992 that North Dakota could not collect sales taxes from a mail-order business with no physical presence there. As a result of that legal precedent, states have sought only to collect taxes when local businesses are used as conduits. The New York court reasoned that Amazon and Overstock had a presence through their affiliated web sites.

"The world has changed dramatically in the last two decades, and it may be that the physical presence test is outdated," the state court ruled in a 4-1 decision. "An entity may now have a profound impact upon a foreign jurisdiction solely through its virtual projection via the Internet."

## TAX POLICY NEWS

### Amazon is now charging sales tax in Indiana, Nevada, and Tennessee

Three more states have joined the growing list where you'll be charged sales tax on Amazon purchases: Indiana, Nevada, and Tennessee. Amazon already collected tax in 16 states, and in 2016, South Carolina will join them, bringing the number up to an even 20. Technically speaking, you're supposed to add up purchases on your tax returns (the "use tax") no matter where you are, but that oft-ignored rule has increasingly given way to automatic point-of-sale charges. This hasn't happened without strong pushback from Amazon and other online retailers, though; they've gone through several long legal slogs as states pursue sales revenue and parity for local brick-and-mortar businesses.

Amazon's warehouse expansions have given it a physical presence in more and more regions, speeding up deliveries but also opening it up to taxes, but pulling out of a state isn't necessarily a panacea. Recently, the Supreme Court declined to hear an Amazon lawsuit against New York, after the company attempted to fight a ruling that its relationships with local affiliates constituted a physical presence. Though it opposes what it calls a patchwork of state-level taxes, Amazon supports Congressional efforts to establish nationwide online sales tax rules.



"Somebody needs a hug."  
© 2012 Johnny Hawkins

*"When the grass looks greener on the other side of the fence, it may be that they take better care of it there."*

*-Cecil Selig*

### CUOMO: 0% CORPORATE TAX RATE ON MANUFACTURERS

In the words of Gov. Andrew Cuomo, "You can't beat zero."

With that in mind, Cuomo on Monday released a series of tax-cutting measures to stimulate New York state's economy. At the top of that list is an initiative to drop the corporate tax rate on manufacturers to zero percent. Officials say ending the corporate tax would aid some 4,300 manufacturing companies statewide. If the state Legislature approves, it would provide an additional \$25 million in tax relief for Upstate businesses and complement the proposal to reduce property taxes on manufacturers.

And there is second proposal from Cuomo to lift Upstate manufacturers by reducing their property tax rate by 20 percent.

Cuomo recommends that the state immediately eliminate the two percent Temporary Utility Assessment (18-A) levied on commercial electric, gas, water and steam utility bills for industrial customers and accelerate the phase-out for remaining customers. The phase-out will save businesses and residents \$600 million over the next three years.

Cuomo also called for additional changes to reduce New York's property taxes, which he said at \$51 billion a year, are the highest in the nation and more costly than income taxes, which add up to \$40 billion annually. The Democrat pointed to the high number of local governments spread throughout New York — 10,500 in all or one government for every 395 residents — as a leading source for the high property taxes.

"We're government-crazed in this state," said Cuomo, who proposed tying a freeze on property taxes to a consolidation, or sharing of services by local municipalities.

In all, Cuomo's tax-relief package, outlined here, adds up to \$2 billion.

Cuomo is to deliver the annual "State of the State" address this week but said there are too many initiatives for just one speech so he called reporters together Monday to outline his financial program. He noted the state has made strides, pointing to lower spending, taxes and unemployment and a rise in jobs.

## STATE AND LOCAL TAX POLICY NEWS

# Tax credits spurring Staunton development

**STAUNTON** — Imagine the city without the Stonewall Jackson Hotel, without the R.R. Smith Center, without the Wharf District, without the old Lee High. Imagine those buildings in disrepair, with broken windows, peeling paint and animals running around them. Imagine how many other businesses in Staunton wouldn't exist without those elements in place.

Now you're seeing Staunton as it would exist without the state and federal tax credit programs, programs that have jump-started more than \$60 million worth of projects large and small since the state program started in 1997.

The Staunton Performing Arts Center plans for the Dixie and Arcadia buildings downtown also will rely on tax credits. Judy Mosedale, president of the for-profit company that owns the buildings, said the credits will be "essential" to making the project happen, and will probably total \$5 million between the federal and state programs.

"I can tell you that the projects in Staunton certainly would not have happened if not for the historic tax credits," said Robin Miller, developer of the Old Y Lofts at East Frederick and North Augusta streets and the Villages at Staunton at the original Western State property at Greenville and Richmond avenues. "They bridge the gap between the cost and the ability to finance a deal."

A new Virginia Commonwealth University study puts that impact in real terms: Every dollar spent in state historic tax credits leads to about three times that amount in private investment in rehabilitation projects. In Staunton, that's more than \$40 million before you even factor in the federal tax credits.

"Everything that (historic rehabilitation) does for a community is just stunning," said Frank Strassler, executive director at Historic Staunton Foundation. "There's no other project like it."

Since the state historic tax credit program began in 1997, the program has sent more than \$14 million in tax credits to people rehabilitating properties in Staunton's six historic districts. The study broke out details for each metropolitan statistical area in the state, then grouped the rest together.

Of the 300 projects in non-metro areas, almost a third of them were in Staunton, according to state data provided by Historic Staunton. Waynesboro and Augusta County also had projects, putting this region in the top 5 for preservation projects statewide. Richmond MSA leads the way with almost 1,200 of the 2,375 projects — almost half. Hampton Roads MSA (278), Northern Virginia MSA (269) and Roanoke MSA (121) are next on the list.

Historic Staunton's data through 2011 lists 90 projects, but the true number for the region would also include Waynesboro and Augusta County projects, plus Staunton projects from 2012 and 2013. Those numbers weren't immediately available.

"It's been a huge economic development catalyst," said Kathy Frazier, co-owner of Frazier Associates. "It's an economic tool that's just there to be used."

Historic rehabilitation projects have a big impact on local economies for a few different reasons, Strassler said. The biggest is that the jobs during the project are almost all local.

"These projects have such an incredible impact because they're labor-intensive," Strassler said. "You're not exporting that money out."

Strassler points to a 2010 Rutgers study that found historic rehabilitation projects are far more effective than other types of stimulus projects, including roads and other construction projects. The study's findings noted that a preservation-related job only cost \$9,000 for the government to create through tax credits while the average cost of to create a job in the federal stimulus project was \$248,000.

"Historic preservation projects, because of their very nature, create more impact," Strassler said.

The state program has an extra impact on Staunton because of all the homes in historic districts. One big restriction on the federal program, which started in 1977, is that it only applies to income-producing buildings. The big projects qualify for those, as do rental properties. But homeowners have restored about a dozen houses with the state credits, according to the Historic Staunton data, many of which are in Gospel Hill and Newtown historic districts.

"These tax credits are there to help you pay for doing the project correctly," Kathy Frazier told local residents at an Historic Staunton presentation.

Frazier, co-owner of Frazier Associates, said she thinks there would be even more tax credit projects if more people knew about the program. She said 42 percent of the Virginia Main Street communities haven't had a tax-credit-financed project in the past seven years.



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## Quote of the Month:

*“What lies behind us  
and what lies before  
us are tiny matters  
compared to what  
lies within us.”*

*-Henry Stanley  
Haskins*

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OVERPAID MILLIONS  
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CEO/President



## HOSPITALITY NEWS

### **HOTEL TAX NEWS:**

#### **Destiny USA planning \$75 million hotel, will ask for tax breaks-**

SYRACUSE -- Destiny USA has told the City of Syracuse and Onondaga County that the company is planning a \$75 million hotel across Hiawatha Boulevard in what is now parking lot space. The proposed hotel would have 252 rooms along with conference space.

It appears Destiny USA will ask for tax breaks or a PILOT (Payment in Lieu of Taxes) agreement. In a letter to Syracuse Mayor Stephanie Miner and Onondaga County Executive Joanie Mahoney, Destiny USA management say they plan to ask the Onondaga County Industrial Development Agency "to induce the project and grant financial assistance - similar to other hospitality projects in the region."

In the letter, Destiny USA says they are currently working with the financial markets to secure independent financing for the project. The company estimates the hotel would create 300 construction jobs and 80 permanent jobs.

The proposal calls for the hotel to connect to Destiny USA by a pedestrian bridge. Construction could begin this spring, Destiny USA hopes to have the hotel open for the 2015 holiday season.

Mayor Stephanie Miner's office confirmed they received the letter on Wednesday but had no further comment. Syracuse Common Council President Van Robinson said that based on past practices, he expects Destiny USA to set up discussion groups with councilors to answer questions about the proposal.

County Executive Joanie Mahoney told CNY Central that a hotel is the logical next step for Destiny USA.

She says the right hotel project could complement the mall and bring in more tax revenue for Onondaga County but Mahoney said she wants to make sure the hotel will maximize benefits for the area.

Destiny USA has said 25 to 30% of the tenant's business comes from Canadian tourists. Tourists who spend at least 24 hours in the U.S. can bring more goods back across the border into Canada duty free and many stores believe an on-site hotel would be a draw for shoppers from the north.

#### **Downtown Dallas' historic West End Marketplace eyed by developers for new hotel-**

*One of the largest and most prominent buildings in downtown Dallas' West End entertainment district has been closed for more than seven years.*

*The 240,000-square-foot West End Marketplace at Market and Munger streets once held a shopping center, a movie theater and Planet Hollywood nightclub.*

*Over the past few years, potential tenants have looked at using the landmark brick building for everything from a school to office space.*

*Now, a new proposal could see the more than century-old building repurposed as a hotel.*

*Irving-based NewcrestImage LLC is asking Dallas for economic development incentives to convert the seven-story building.*

*The city would provide \$4 million in tax-incentive finance district funding to pay for restoring the historic building's exterior, streetscape improvements and other costs associated with turning the vacant structure into a hotel.*

*"We do think this could be a good addition to the West End," said Karl Zavitkovsky, the city's director of economic development.*

*In business since 1993, NewcrestImage is a privately owned hotel development, construction and management firm. NewcrestImage owns and operates 16 hotels, with five properties under construction and two more in planning stages. The company has new hotel developments in East Texas, the Houston area, Waco, Midland and Oklahoma City.*

*NewcrestImage just opened two hotels in Grapevine, a Courtyard by Marriott and a TownePlace Suites hotel.*

*And it's developing a historic downtown New Orleans hotel into an AC Hotel, Marriott's new urban-style hotels, which are similar to Starwood's Aloft brand.*

*"This redevelopment will serve as an enormous shot in the arm from a perception and reality perspective for the greater downtown area, particularly the West End," said John Crawford, CEO of the economic development group Downtown Dallas Inc. "They are a quality group and will add greatly to the mission of rebuilding the West End and surrounding area.*

*"We have already started to see a new level of activity in the West End, and this will serve to increase the momentum."*

*Developer Fairfield Investments has just broken ground on a 267-unit apartment block in the West End at Ross Avenue and Houston Street.*

*The West End has one small hotel. The 150-room Springhill Suites on Lamar Street was built in 1996.*

*The West End Marketplace opened in 1986 as Dallas' first festival marketplace. The vacant warehouse with wooden beam interior construction was converted into a combination of shops, eateries and entertainment venues with an interior atrium.*

*The building closed in 2006 after lagging customer traffic caused many of the tenants to shut down.*

*The former industrial plant was built in 1902 for the Brown Cracker & Candy Co. — "the largest bakers of crackers and fancy confections in the Southwest."*