National Tax Recovery LLC

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HIGH COURT AVOIDS ONLINE TAX CASE

Justices will not take up the issue of state taxes on purchases made on the Internet-

WASHINGTON-

On perhaps the busiest online shopping day of the year, the Supreme Court refused to wade into a dispute over state sales taxes for purchases on websites like Amazon.com, an outcome likely to prompt more states to attempt to collect taxes on Internet sales. "It might be the last Cyber Monday without sales tax," said Joseph Henchman of the Washington based Tax Foundation.

It's all part of a furious battle also including legislation in Congress-among Internet sellers, millions of buyers, aggrieved brick-and-mortar stores and states hungry for billions of dollars in extra tax revenue.

The high court without comment turned away appeals from Amazon.com LLC and Overstock.com Inc. in their fight against a New York court decision forcing them to remit sales tax the same way in-state businesses do.

This could hurt online shopping in the state, since one of the attractions of Internet purchasing is the lack of a state sales tax which makes some items a little cheaper than they would be inside a store on the corner.

And the effect could be felt far beyond New York if it encourages other states to act. The National Council of State Legislatures estimates that states lost an estimated $23.3 billion in 2012 as a result of being unable to collect sales tax on online and catalog purchases.

The Court's refusal "allows states that have passed laws like New York's to continue doing what they've been doing," said Neal Osten, director of the Council's Washington office.

This decision came down on Cyber Monday, expected to be the busiest day of the year for online shopping. Huge numbers of people head online on the first working day after the long Thanksgiving weekend in search of Internet deals.

Overall, Internet shopping has become more and more popular, with National Retail Federation predicting that more than 131 million people would shop online on Monday, up about 2 percent from last year.

Web retailers generally have not had to charge sales taxes in states where they lack a store or some other physical presence. But New York and other states say that a retailer has a physical presence when it uses affiliates-people and businesses that refer customers to the retailer's website and collect a commission on sales.

The affiliates range from one-person blogs promoting the latest gadgets to companies that run coupon and deal sites.
Amazon and Overstock both use affiliate programs. Amazon has been collecting sales tax in New York, even as it fights the state over a 2008 law that was the first to consider local affiliates enough of an in-state presence to require sales tax collection. Overstock ended its affiliate program in New York in 2008 after the law passed and has ended its affiliate programs in other states that have tried to force it to collect sales taxes.

Without the affiliate programs, companies still can sell in those states but just won't partner with local people and businesses that refer customers to their sites.

Both companies collect sales taxes in some states. For example, Overstock.com collects sales tax in Utah, where it is based. Amazon says it collects sales tax in 16 states. Texas is among the states that has passed a law making sales taxes apply to Internet sales.

"The Supreme Court's decision validates New York's efforts to treat both online and brick-and-mortar retailers equally and fairly, by requiring all retailers with a presence in our states to collect sales taxes," said New York Attorney General Eric T. Schneiderman.

But each state has its own rules. While Monday's result settles the issue for New York, legislatures and courts in other states have come different conclusions-meaning that some Americans will still get state tax-free Internet purchases from certain websites, while others won't simply because of where they live.

In October, for example the Illinois Supreme Court threw out a law that would tax certain Internet sales, saying the "Amazon tax" violated federal rules against discriminatory taxes on digital transactions. State officials are considering whether to appeal their case to the U.S. Supreme Court.

And the big Internet sellers are hardly giving ground after Monday's Supreme Court result. Both Amazon and Overstock said they plan to press their case in Congress in hopes of getting a federal decision on Internet sales taxes that would apply to every state uniformly.

Amazon supports the Marketplace Fairness Act, which passed the Senate in May. That law would require states to simplify their sales tax laws in exchange for being able to tax Internet sales from companies with more than $1 million in sales annually.

The bill is now in the House, where there is no guarantee it will make it to a vote.

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TAX POLICY NEWS

HOW THE TAX CODE IS SQUEEZING PARENTS

Child care costs grew at eight times the rate of household income over the last year, but child care tax credits haven't change in a decade.

The average cost of care rose 2.6% last year at day-care centers and 4.8% for home-based care, according to a nationwide study released by Child Care Aware of America, which works with state and local agencies. In contrast, family income after taxes and other deductions rose by just 0.6%, and the overall cost of living grew by 1.6%. Child care is an increasingly difficult financial burden for working families to bear," says Lynette Fraga, executive director of Child Care Aware of America. Unlike all other areas of education investment, including higher education, families pay the majority of costs for early education."

Despite the rising cost of child care, the government's child and dependent care tax credit has remained unchanged since 2003 and, adjusting for inflation, has actually fallen over the same period. In most cases, middle and high-income families receive a 20% tax credit on child care expenses up to $3,000 for one child and a maximum of $6,000 for two or more children ($600 or $1200). Before 2002, that maximum allowable child care expense was $2,400 for one child and $4,800 for two or more children. (In theory, lower-income families can claim 35% of their expenses on the same costs, but in practice few low-income families owe enough tax to benefit from the credit.) For employers who offer it, employees can also set aside up to $5,000 in a flexible spending account for child care expenses that's deducted from gross salary before income taxes and social security and Medicare tax or if they have more than one child, use $5,000 from the gross salary and use the tax credit for the other $1,000. Open enrollment periods vary from company to company, but are often in the fall, according to a spokesman from the Internal Revenue Service.

Escalating child care costs are part of a long-term trend as the use of organized day-care centers has risen. Childcare payments for families with employed mothers have risen 50% from 2002 to 2011 and 250% over the last three decades, according to the U.S. Census Bureau. The average weekly payment for child care was $143 in 2011 or $7,400 per year, compared with $95 per week in 2002. Fraga says the rise in child care costs are due to heating, rent and other costs associated with running a small business. But they vary from state-to-state: The average annual cost last year for a four-year-old in center-based care was $4,312 in Mississippi and $12,355 in New York, the Child Care Aware study found.

So why haven't tax credits been increased? It's a relatively small tax credit so it doesn't receive the attention that other credits receive," says Elaine Maag, senior research associate at the Tax Policy Center, a nonprofit think-tank in Washington, D.C. Advocacy groups are typically going to take more time on credits that effect very low income tax families." Less than 1% of the child and dependent care tax credit goes to the lowest 1% of households; it's only available to those earning enough to owe taxes. Ultimately, Fraga says everyone ends up paying: Employee absenteeism as the result of child-care breakdowns, she says, costs U.S. businesses $3 billion annually.

President Obama has proposed expanding the child and dependent care tax credit, but has been blocked by Congress. Conservative groups argue that lower overall tax rates would be better. The tax code shouldn't be doing anything like this," says Curtis Dubay, senior tax policy analyst at the Heritage Foundation, a Washington D.C.-based think-tank. It rewards those who seek child care outside the home. Only 37% of working mothers with children say they would prefer to work full-time and 50% part-time, according to the Pew Research Center. Of course, others don't have a choice: In nearly every U.S. state, child care costs exceeds 25% of median income for single parents, according to Child Care Aware.

Comptroller Susan Combs Distributes $580 Million in Monthly Sales Tax Revenue to Local Governments

(AUSTIN) —Texas Comptroller Susan Combs said today that state sales tax revenue in November was $2.41 billion, up 2.8 percent compared to November 2012.

"State sales tax revenue continues to grow at a moderate pace as expected," Combs said. "Sales tax collections have increased for 44 consecutive months. Revenue from sectors such as wholesale trade, services industries and restaurants contributed to the most recent increase."

Combs will send cities, counties, transit systems and special purpose taxing districts their December local sales tax allocations totaling $579.6 million, up 5 percent compared to December 2012.

STATE AND LOCAL TAX POLICY NEWS

SALES TAX WILL APPLY TO MEAL PLANS

Any New Year's resolutions about keeping a careful budget will meet fresh obstacles in January, when students will begin to ay a 7.5 percent tax on meal plans and tickets to events across campus.

Meal plans and event tickets sold on North Carolina university campuses were formerly exempt from the state's 6.75 percent sales tax, but the N.C. General Assembly repealed that exemption over the summer. The change takes effect Jan.1.
Each county may set its own rate in addition to the statewide 6.75 percent. In Orange County, the tax will be 7.5 percent. The increase in UNC's meal plan costs will directly reflect this change.

"To give you an example with real numbers, (consider) the Value 14, currently that plan is $1,725, so it's going to go up to $1,854. It's about a $129 increase," said Mike Freeman, director of auxiliary services. But it's not money we get. It's going straight to the Department of Revenue."
The revenue from the increase amounts to $625,000 a semester from meal plans alone. Freeman said the increase is a subject for concern, but Carolina Dining Services did not have room in it's budget to absorb the increase.

Whenever we buy something local like grass-fed beef, it costs a lot more than regular beef," Freeman said. "So we could do no more sustainable, no more local, but I don't believe in that and I don't think students believe in that."

The UNC Association of Student Governments has already passed a resolution calling for the reinstatement of meal plans, tax exempt status. "I think students may be unaware because there hasn't been much publicity, so I think there's going to be a bit of sticker shock heading into next semester," said ASG Spokesman Vincent Cahill.

Tickets for performances sold through the Carolina Union Activities Board will also be affected by the increase, but student ticket-buyers might not immediately notice the change. "The plan right now is that the Union and the Box Office are going to take care of paying the tax for all student organizations that go through them," said CUAB President Carly Mathews.
Mathews explained that CUAB will avoid charging students the extra fee, but student organizations may have to absorb the cost.

A $10 ticket would continue to cost ten dollars. However, because of the tax, the Union and the student organization selling the ticket would only receive $9.25 from the sale of the ticket.
"Administrators are working pretty quickly to figure out the best way to deal with this, because not only do they have to spread the word, but they're trying to figure out ways to work with student groups," Mathews said.

CUAB is working with its Board of Directors, which includes representatives from several of the largest student organizations on campus, to communicate information about the tax to affected groups.
Mathews said she doesn't think the tax will affect students access to performances.
"It depends on how the student groups respond," she said. "We are anticipating more groups requesting more money to offset the tax, because their $10 ticket doesn't count for $10 anymore."

STATE TAX COMMISSON: OFFSET PROPERTY/INCOME TAX CUTS WITH MORE SALES TAX

Albany, NY– A tax commission formed by Governor Andrew Cuomo recommended that the state should end a sales-tax exemption on clothes and consider lifting a gas-tax cap in favor of tax relief on low-income homeowners.

The commission, formed in 2011, sought to find ways to streamline New York's taxing structure because the state has among the highest taxes in the nation.

The commission offered ways to cut some tax breaks in exchange for property-and income-tax relief to low-income homeowners. It also proposed elimination an energy tax that businesses have criticized. "Today's report represents another step in that direction as we seek to simplify New York's antiquated and unnecessarily onerous tax code and to ease the tax burden on families and businesses statewide," Cuomo said in a statement.
The commission is one of two Cuomo has established to look at New York's tax system.

Another one headed by former Governor George Pataki and former Comptroller Carl McCall is expected to recommend ways to cut property taxes in New York. McCall also was a co-chairman on the commission that released its findings.

While it would limit some taxes, it would also end a popular sales-tax exemption on clothing purchases under $110. The report estimated that lifting the exemption would mean an additional $800 million into the state's coffers. The money could be used to offer property and income-tax breaks to lower-earning New Yorkers, the commission recommended.
It would also be used to eliminate the estate tax to 73 percent of New York, mainly middle and low-class families and small businesses.

"The commission recognizes that a broadened sales tax base will allow for greater predictability and stability of revenue collections for the state, increased revenues for local government and a larger share of the tax burden being shifted to nonresidents," the report said.

The report suggests the state might consider tying property taxes to household incomes, called a circuit breaker and something progressive groups have wanted for years.
"We believe that this could be one of the most important and critical tax relief mechanisms in the report, and we're happy to see its inclusion," said Ron Deutsch, executive director of New Yorkers for Fiscal Fairness, a labor-backed group.

Yet some labor groups warned that New York already has the highest income inequality in the country. Some tax breaks for businesses proposed in the report could make the gap worse, the groups said. "Any tax reform proposals should be judged on whether they make inequality worse or better," said Michael Kink, executive director of Strong Economy For All Coalition. "Judged by that standard, the idea that New York would cut taxes for hugely profitable banks and millionaires is just plain bad."

Ted Potrikus, executive vice president at the Retail Council of New York, said lifting the exemption would hurt stores and would make the state less competitive with neighboring states. "It's a complete obliteration of something that people have come to love," he said.

New York currently has a cap on gas taxes. Only the first $2 per gallon is taxed, and even with the cap New York has among the highest gas taxes in the nation when local and federal taxes are included. The commission said lifting the cap might be something for the state to discuss. It would bring in an estimated $371 million a year in new revenue.

Karin Kennett White, deputy director of the state Motor Truck Association, said New York already has the second highest trucking costs in the nation, behind only Oregon. Any increase in gas taxes could hurt commerce, she said.
Some business groups said they were encouraged by the report. They said he recommendations include a variety of ways to simplify New York's tax code.

Another recommendation would be to more quickly phase out an 18-A tax, which hit businesses with a 2 percent assessment on electric, gas, water and steam usage. It is set to expire in 2018.
"Its become clear that we can and must reduce New York's crushing tax burden," the Rochester-based group Unshackle Upstate said in a statement. "We appreciate the governor's efforts and strongly believe that real tax relief must happen in 2014."
The commission was critical of one of the state's most expansive tax incentives: the $420 million a year that goes to the film industry. The report said the program should be lowered to $370 million a year. "The commission believes that the credit should be scaled back because it does not appear to pay for itself in its current form," the report said.

HOSPITALITY NEWS

Quote of the Month:

"If you work just for money, you'll never make it, but if you love what you're doing and you always put the customer first, success will be yours."

-Ray Kroc

Have a Happy New Year!

National Tax Recovery LLC

"My advice, Cinderella, is pay sales tax on the pumpkin *before* it changes into a golden carriage."

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HOTEL TAX NEWS:

NASHVILLE, Tenn. — **Taxes on people staying in motels and hotels in Tennessee are some of the highest in the country. A proposed 3 percent increase, argue three hotel owners in Wilson County, is bad enough. The added revenue will pay for a proposed new county-owned building, which they said only local residents will use.**

What's worse, they said higher hotel taxes will dissuade people from staying. The start of such a trend, they said, will have a ripple effect on the rest of the county, as fewer people will eat out and buy local gasoline.

Why are county officials singling them out, the hotel and motel owners ask?

As Tennessee Watchdog previously reported, a proposed expo center would showcase trade shows and conventions.

People will not come from out of county to take advantage of the building, said Roshan Patel, owner of the La Quinta Inn off Interstate 40 in the county seat of Lebanon, drawing from professional expertise.

"Already, there's not much in Wilson County that attracts people for destination purposes. They will eat, fill up gas, and that's pretty much all they contribute to the local tax base," Patel said.

"The majority of our traffic is going to be transient traffic off the interstate, which is either going to the Carolinas up north or people going into Texas, maybe. We sometimes have overflow from Nashville."

Travelers won't hesitate to drive on to the next county, Patel said.

Bhavin Ghodasara, who owns the Hampton Inn in Mt. Juliet, has the most to lose.

Any tax increase in Mt. Juliet would push that hotel tax rate even higher than Lebanon's, at 22 percent, when combined with the city's hotel tax rate of 5 percent, the county's current 5 percent rate and a 9 percent sales tax.

"I've looked, but I haven't seen a higher tax rate in the country. This is something our competitors can easily take advantage of," Ghodasara said.

"These are not customers. These are guests in our county. If you treat them with respect and courtesy they will come back. If they don't get it they will easily go back to wherever they want to go."

Tennessee Watchdog was unable to reach County Commissioner Jeff Joines for comment. As previously reported, Joines is a strong advocate for the expo center and the higher hotel tax.

Joines told Tennessee Watchdog in November that county residents would find the tax more acceptable, as it would be a tax on tourists only. Ghodasara was upset when Tennessee Watchdog told him about Joines' remarks.

"That is actually painful to hear. I can't believe a county official would say that," Ghodasara said.

"Does this man own a business? Does he own a hotel or restaurant? Does he know what it means to earn customers for that business day in and day out. He is ruining the county's image by saying that — by saying that these people who come through here are disposable and are suckers for staying in Wilson County, and we will take as much money out of them for staying here."

Sanket Patel, who owns the Quality Inn in Lebanon, meanwhile, told Tennessee Watchdog he thinks Joines and other advocates for the higher hotel tax simply don't have a good sense for business.

Hospitality Tax News:
Duluth City Council approves hospitality tax plan

The Duluth City Council has approved plans to divvy up more than $7.7 million in hospitality taxes it expects to collect next year.

Councilors voted 6-1 in support of funding recommendations from city administration, with Jim Stauber in sole opposition.

He said his primary objection was over $12,500 designated to pay for membership on a rail alliance working to advance the Northern Lights Express line, which advocates hope will one day run between Duluth and the Twin Cities. Stauber has long been skeptical of the project and has been one of its most vocal opponents.

Although the city has set aside only $12,500 in hospitality taxes for the alliance in 2014 — the smallest allocation to be made next year — Stauber said the cumulative effect of Duluth's participation in the initiative has been costly.

"This means we will have spent about $275,000 to date to sit on a committee. It's not like they're actually building a railroad or anything," he said. "We're merely sitting on a committee, and our participation has been abysmal."

Stauber said that even Gov. Mark Dayton has acknowledged that plans for the railroad are unlikely to be realized any time soon.

"We don't have that kind of money to waste," Stauber said.

Stauber's philosophical objections to the project came as no surprise to David Montgomery, Duluth's chief administrative officer, who said it remains to be seen if the money will be needed in 2014. Nevertheless, money for the rail alliance was included in the budget as a placeholder, because the majority of council members and Mayor Don Ness have continued to support efforts to bring the Northern Lights Express project to fruition.

The 2014 hospitality tax plan approved Monday will hold funding levels steady for most organizations. But a few entities will receive a boost.

The Duluth Entertainment Convention Center will see its 2014 payment increased by $120,800 because of a state law designating that a certain percentage of hospitality tax revenues must go to pay off debt on the Amsoil Arena. The DECC again will be the largest single recipient of hospitality taxes, garnering $2.86 million in 2014 — 4.4 percent more than it did last year.

Spirit Mountain also will receive a bump of $145,700 to help pay off debt related to the expansion of its Adventure Park.

Meanwhile, the amount of hospitality taxes transferred to the city's general fund will jump up by $90,000 to cover the cost of hiring police park rangers as well as paying for Police and Fire Department overtime related to tourism events.

Hospitality taxes are generated by special additional sales taxes charged on lodging, and on food and beverages served in the city.

Hospitality tax collections are projected to increase by 8.15 percent next year, compared with 2013.

Not all the city's anticipated hospitality tax receipts have been dedicated. The city expects to hold $34,900 as undesignated funds in 2014.