

Republican Congressman Pushes Internet Sales Tax Plan

Rep. Bob Goodlatte's proposal would upend the legal framework for sales taxes across state lines



Rep. Bob Goodlatte, a Republican from Virginia, listens in the background during a House Judiciary Committee meeting in Washington in July.

By RICHARD RUBIN, Wall Street Journal

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WASHINGTON—A new Republican proposal to resolve the long-running fight over taxing internet sales across state lines drew praise from Amazon.com Inc. and House Speaker Paul Ryan, but other retailers and conservative groups remain wary.

Rep. Bob Goodlatte (R., Va.), Judiciary Committee chairman and the draft bill's author, must persuade conservatives he isn't pushing a tax increase or a sharp expansion of state power. And his idea hasn't caught on yet with brick-and-mortar retailers, state governments and lawmakers who spent years advancing their own solution.

Trade groups representing retailers and shopping centers have issued cautious statements, essentially thanking Mr. Goodlatte for proposing something without endorsing his idea.

The Retail Industry Leaders Association, whose members include Wal-Mart Stores Inc. and Best Buy Co. Inc., said it welcomed "an open debate in the House aimed at ensuring that all retailers can compete on a level playing field" but said it would "press for changes that achieve true parity at the point of sale."

The growth of internet commerce has strained the framework the Supreme Court affirmed in 1992, when it stopped states from applying sales taxes on sellers that lack a physical presence in the state. Internet retailers then achieved a price advantage by shipping goods into states without opening physical outposts.

Retailers complained about losing business to online competition. State legislators warned states were hemorrhaging billions of dollars in revenue. A bipartisan coalition formed around the idea of letting states tax those sales. Under their plan, California could force a large Nevada company to collect California sales taxes when it shipped a book into the state.

The Senate passed such legislation in 2013, but it has gone nowhere in the House, where Mr. Goodlatte spent years on his own alternative. This week, he released a new draft and a committee aide said Mr. Goodlatte wants it to become law this year.

Mr. Goodlatte would upend the legal framework for sales taxes. He would make states use the sales tax base of the retailer's state and a single tax rate determined by the consumer's state. The hypothetical transaction above, for example, would be taxed according to Nevada's rules for books at California's rate.

"This bill would create a new kind of sales-and-use tax structure, one never before implemented or even contemplated," said Verenda Smith, deputy director of the Federation of Tax Administrators, a group of state revenue officials.

Amazon, the largest online retailer, which now collects sales taxes in most states, backed Mr. Goodlatte.

"We urge Congress to act now," Paul Misener, Amazon's vice president for global innovation policy, said in a statement. "We recognize that there are multiple ways to draft this legislation, and, in addition to other bills, we also support Chairman Goodlatte's new alternative approach."

The bill would limit the complexity inherent in different states' sales tax bases and replace an unstable status quo with something so simple that it doesn't require the small business exemption in the Senate's bill, the Judiciary aide said.

"It would certainly be better than nothing, but it's not the optimal solution," said Edward Zelinsky, a Yeshiva University law professor who favors overturning the Supreme Court ruling and implementing something like the Senate-passed bill.

The idea, the committee aide said, keeps auditing power in the retailer's state, limiting conservatives' concerns about states applying their laws outside their borders. That reach still would be an issue, however, in five states without sales taxes—Delaware, Montana, New Hampshire, Oregon and Alaska. Retailers there would either apply the tax base of the state where they have their largest receipts or report sales to their customers' states to help those states enforce taxes their residents are supposed to be paying but typically don't.

"I am shocked Republicans would propose an internet sales tax," said Sen. Ron Wyden (D., Ore.) "This proposal would create a logistical nightmare for states like Oregon that don't have or want sales taxes. I will continue to oppose any efforts to impose a national sales tax scheme on Oregonians."

Many Democrats have backed the Senate bill, and they worry about the potential fiscal impact on their home states. Nudging them off the proposal they have supported for years would take some work by Mr. Goodlatte, who must also placate anti-tax conservatives in his own party. He also faces a short legislative calendar and the difficulty of pursuing controversial policies during the lame-duck period between the November election and the start of the new Congress in January.

Michael Needham, the chief executive officer of Heritage Action for America, said the small-government group would "carefully review" Mr. Goodlatte's bill.

"That said," Mr. Needham continued in a statement, "the Republican-controlled Congress would be wise to turn its attention to creating opportunity for everyone, not doling out favors to well-connected businesses and revenue-hungry state governments."

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