New Illinois Tax Law May Strike Hard Against Affiliates

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A new Illinois law purporting to preserve and create jobs in the state may soon be putting Illinois affiliates out of business. Governor Pat Quinn recently signed a law requiring online retailers to collect sales tax on purchases made in Illinois, on the premise that the companies have a presence in the state due to in-state affiliates. This follows the Supreme Court ruling in *Quill v. North Dakota,* 504 U.S. 298 (1992), which stated that vendors are only required to track and collect sales tax on transactions for states in which they have a physical presence.

Illinois lawmakers claim that the bill will level the playing field for small businesses to compete with online merchants, and will generate $150 million in tax revenues annually. However, the plan could backfire on the state. Amazon.com, the online retailer at which the law is largely aimed, has responded by promising to terminate all of its Illinois affiliates in order to avoid charging the state sales tax. Other major online merchants such as Overstock.com are vowing to follow suit.

Illinois has cause to believe that Amazon will follow through with its threat. It has responded to similar laws in Colorado, North Carolina, and Rhode Island by terminating its contracts with affiliates in those states. In fact, officials at the Rhode Island Department of Revenue “do not believe that there has been any sales tax collected as a result of the Amazon legislation” according to Paul Dion, the head of the department’s revenue analysis-office.

Rather than support small businesses, this law will put Illinois affiliates out of business. We believe that this law unfairly targets internet affiliates, costing them their jobs and costing the state income tax revenue. Since the state will not generate additional sales tax if online retailers terminate their in-state affiliates, Illinois will be left in a worse position than it was before. We believe that this law punishes the small businesses which it purports to help, and that it should be repealed.

FTC Beat is authored by the Ifrah Law Firm, a Washington DC-based law firm specializing in the defense of government investigations and litigation. Our client base spans many regulated industries, particularly e-business, e-commerce, government contracts, gaming and healthcare.

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