

COIN WORLD

Marketplace fairness

By [Armen R. Vartian](#) | 06-07-13

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Recently, the U.S. Senate passed a bill titled the Marketplace Fairness Act, which is commonly being referred to as the “Internet tax law.”

The bill is now before the U.S. House of Representatives.

This is a misnomer, because the bill involves far more than Internet sales, and would affect many coin dealers and collectors quite significantly, even those who don't do business on the Internet at all.

To understand the law, one must understand sales tax and use tax. Some states impose a sales tax on retailers for the privilege of retailing goods such as coins in-state, which leads to a common exception, namely for sales by out-of-state retailers.

Use tax

But states long ago devised a means to tax purchases by their citizens from out of state — the use tax. Use taxes, generally applying the same rate as a state's sales tax, are payable by the retail buyer and not the seller.

So while a collector in California is not charged sales tax when buying coins from a dealer in New York, in theory the collector owes use tax to the state of California. Unfortunately for states such as California, retail buyers rarely report such purchases or pay any use tax that might be due.

And, again in theory, local California dealers who must charge sales tax when selling to that collector are unhappy that the New York dealer can offer customers a “lower” price.

The proposed new law before Congress would require every coin dealer to charge whatever tax is due, whether sales tax to residents of the dealer's own state, or use tax to residents of other states, and then pay the tax to the appropriate states.

Leveling the field

Supporters say the law merely levels the playing field, and doesn't involve any new taxes, just a more reliable way to collect taxes already on the books.

Of course, there is an opposing view. For example, eBay has contacted its tens of millions of users to rally public opinion against the law.

It has been argued that retailers would be enforcing the laws of other states contrary to Due Process Clause principles, and that for all intents and purposes Internet commerce would become significantly more expensive, not to mention more confusing, because of the literally thousands of different state, county and municipal taxing authorities in the United States.

Hits consumers

Anti-tax advocates have also disputed whether this is a “new” tax, and both sides of the issue agree that consumers will be hardest hit, being forced for the first time to pay taxes, albeit ones that may have existed for decades.

Fortunately for the coin collector, however, many states either do not have sales and use taxes at all, or apply exemptions to coin purchases over a certain amount.

Also, the law exempts dealers whose annual sales are less than \$1 million, which will spare smaller dealers from having to cope with compliance (that threshold may rise — eBay has proposed setting it at \$10 million).

Finally, there are conditions to the law's taking effect, involving states consolidating their taxing authorities so dealers have only one rate to pay, and one place to pay it, for each state, and also providing dealers with free software to use in calculating how much sales tax is due.

These might never happen.

And, of course, to pass the House of Representatives, the anti-tax advocates will have to be convinced.

There's been little sign of that at this point.

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