

FOCUS ON LAW & ACCOUNTING

Ruling on interstate online sales tax levels playing field

By **LOUIS LEMASTER**

Special for Lehigh Valley Business

If you sell wares online, you may have seen the U.S. Supreme Court's decision to change course when it comes to the collection of sales tax by remote companies selling on the internet.

This occurred when the top court sided with South Dakota in its case against



LeMaster

Wayfair, saying it violated that state's law requiring it to collect sales tax.

States prosecute violators of tax laws every day. But what makes this victory especially important is that South

Dakota established a

sales tax requirement that companies with more than \$100,000 in sales or delivering 200 or more transactions into the state annually must collect the state's sales tax even if they do not have a physical presence in the state.

Wayfair continued to operate, citing prevailing commerce law requiring a physical presence, and did not collect South Dakota sales tax. Lower courts agreed with Wayfair, which gave the Supreme Court the opportunity to revisit the precedent and reverse course when siding with South Dakota in its June 21 decision. The framework now exists for

other states to follow suit.

HELPS BRICK-AND-MORTAR STORES

As one might imagine, there are supporters and detractors of this new requirement.

The largest supporter is the Main Street business community, which must collect state and local sales by virtue of its physical presence.

These businesses long have complained and fought to be heard that remote online vendors shipping to their customer base from outside their taxing authority created a significant competitive disadvantage.

The concept that our business owners should be allowed a level playing field is easy to support.

IMPERFECT SYSTEM

Pennsylvania is one of many states that requires the purchaser to pay the 6 percent sales tax in the form of use tax when the seller does not collect it (when sales tax is not collected, the buyer reports it as use tax due, but there is little difference otherwise).

The use tax regime is imperfect and impossible to enforce economically.

The value in a level playing field for our state and local taxing authorities to collect their fair share of taxes helps reduce the burden on all taxpayers that already comply.

BAR COULD BE LOWERED

Among detractors, the large remote

sellers such as Wayfair gain most of the headlines. These large companies, including Amazon, will adapt easily since they have an established infrastructure to deal with the complex differences in tax law among all states and local authorities.

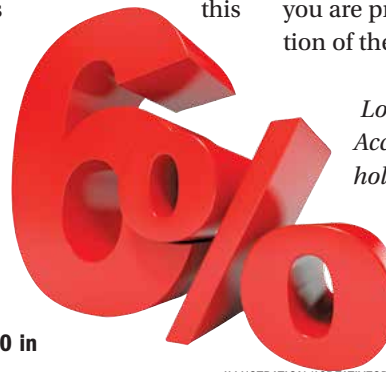
The small remote seller, perhaps just branching out to add internet sales to its operations, will be forced to invest additionally in back office functions.

South Dakota set the bar at \$100,000 of sales or 200 transactions, which provides some protection to the new entry, but the bar has been raised, additional costs will be incurred and other states likely will challenge to set that bar much lower.

IMPOSSIBLE TASK FOR CONSUMER

Let's not forget the consumer. Who among us is investing the time to review every transaction each year to identify where he or she did not pay the rightful sales tax, and add it to the list of other similar transactions this year so that you could send your 6 percent use tax to Pennsylvania?

In real terms, that \$5 razor you bought before online sales tax will now cost \$5.30 in Pennsylvania.



ILLUSTRATION/ICREATIVE3D

It's not hard to see why states prefer to enforce the collection on the remote seller.

To be honest, many of us would prefer it as well, when the alternative is reviewing every single purchase we make each year to pay use tax properly.

LOSS OF PURCHASING POWER

With this change, we have gained simplicity, and we have likely gained tax law compliance as well. But the fact remains we may be losing some percentage of our purchasing power as remote sellers comply with the change to collect sales tax.

In real terms, that \$5 razor you bought before online sales tax will now cost \$5.30 in Pennsylvania.

That most definitely levels the playing field with the local grocery store already charging \$5.30, and that is great. But if you do a lot of buying from remote sellers, online or otherwise, you may soon find you are providing from your budget a portion of the dollars used to level that field.

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