

Retailers Forming Dot.com Subsidiaries to Avoid Collection Responsibilities Submitted by the e-Fairness Coalition

A recent publication from E-Commerce Tax Alert demonstrates the Internet sales tax loophole and the ways to exploit it

“As more established companies move on to the Internet, competitiveness with smaller dot-com operations creates questions over how to avoid sales and use tax nexus and keep the playing field level. While most large companies have nexus nationwide, small web-based upstarts often carefully choose where they locate with avoiding nexus in mind.

“How can your company meet this challenge? Some experts advocate having an affiliate conduct your e-commerce operations. It sounds radical, but it represents solid tax-planning advice for some companies selling goods on the web. Internet tax headaches and the accompanying competitive disadvantages may be avoided by setting up a nexus-breaking subsidiary to shield transactions from sales tax collection duties in all but a few instances.”

The article also states:

“Traditional companies must consider such factors because upstart competitors that sell exclusively on the Internet offer the same products without charging tax. Though consumers who purchase goods free of sales tax are supposed to remit use tax, most never do, and states rarely press the issue unless it involves business-to-business transactions.

“If sales tax is a competitive issue for booksellers, imagine the implications of purchasing large-ticket items tax-free. When an online customer faces the choice of purchasing a \$2,000 computer from a vendor who charges sales tax or one who doesn't, the decision is obvious, Lynch says.

“Internet sales continue to climb, and whenever sales tax is a competitive issue, traditional retailers should at least consider setting up a separate affiliate for online transactions.

"Too many businesses are not taking advantage of this," Lynch says. "There would be no reason not to form a separate company for electronic commerce."

This will be the future. Companies will form separate online subsidiaries to take advantage of the internet sales tax loophole.