

Amazon to Disclose Third-Party Seller Data to New York

Posted on May 18, 2018

Amazon.com Inc. is complying with New York's request to hand over data on third-party vendors with sales into the state.

“Amazon has received a valid and binding legal demand from the New York State Department of [Taxation and Finance] requiring that Amazon disclose the following information about your business,” [according to a May 15 email sent by Amazon Services to its marketplace vendors](#).

Timothy Noonan at Hodgson Russ LLP, whose firm first made the email public in a [May 16 blog post](#), told Tax Analysts that New York's request was likely made in the form of a subpoena. “The tax department has the authority under the law to issue subpoenas,” he told Tax Analysts May 17.

Amazon said in the email that it would disclose the following information on the third-party sellers: name, address, federal tax ID number, total amount of their Amazon sales during calendar year 2014, and total amount of their Amazon sales made to New York customers during 2014.

The retailer said it would provide the information to the state by June 1 “for all Amazon.com sellers who have not elected to use our tax calculation services for sales to customers in New York.”

New York's information request did not include a monetary threshold, and according to Noonan, will likely extend to all third-party sellers with sales into New York.

What is occurring in the Empire State isn't an isolated incident. Massachusetts, after much back and forth with the online giant, [sent out similar requests to Amazon](#) requiring the company to turn over third-party seller data. And although no laws are currently on the books requiring Amazon to turn over third-party seller data in Massachusetts and New York, [Rhode Island recently enacted a law](#) requiring that data, prompting Amazon to send a similar letter in February to its third-party sellers into the state.

States may be gearing up for a change in the law if the physical presence standard under *Quill Corp v. North Dakota* is overturned, but Noonan said this isn't New York's first attempt to get its hands on the data.

“It plays into the tax department's attempts to require compliance by these marketplace sellers,” Noonan said. “They tried twice to initiate legislation to essentially require Amazon to become the tax collector for the sales of the marketplace sellers.” Noonan is referring to Democratic Gov. Andrew Cuomo's attempts to [impose sales tax collection requirements](#) on online marketplaces as part of his recent budgets. “They failed twice to get that passed,” he said.

That may be why the state is trying to collect information, which may be able to help New York pass a marketplace law in the future by showing the State Legislature how much money is going untaxed, Noonan said. "It could be information-gathering with respect to that," he said.

Tax Analysts also reached out to other marketplace providers, including eBay Inc. and Etsy Inc., on whether they received similar requests by the state to disclose third-party seller information. The companies did not respond to the media query.

While additional information could aid the tax department's attempt to pass legislation, the state could also use the data to determine whether many of the marketplace sellers already have nexus. Noonan said some of the providers could have nexus simply by using Amazon's marketplace through an affiliate-type nexus, because Amazon has nexus with New York or the companies have nexus with the state independently. "This way the New York tax department can look at some of the big providers and audit them," he added.