

Bill Analysis: House Bill 993 Substitute (LC 34 3380S)

HB 993 calls for scaled-down “Amazon law,” expensive sales tax holiday

Bill takes one step forward, two steps back

by Wesley Tharpe, Policy Analyst

Overview

House Bill 993 would make two changes to Georgia tax law, one that would bring in revenue and one that would significantly reduce it for two years. The first change would be to follow the lead of many other states by enacting a so-called “Amazon law,” which would require certain Georgia retailers to collect sales taxes on purchases made via the Internet. The second change would be to reinstate Georgia’s sales tax holiday for 2012 and 2013.

Cost

While the taxing of e-commerce would bring in new funds to state and local governments, HB 993 would actually decrease revenue in FY 2013 and FY 2014 due to the inclusion of the two-year tax holiday. The increased revenue from taxing online sales would be relatively low in the law’s first year but would rise to nearly \$20 million in subsequent years. However, reinstating the sales tax holiday would more than cancel out these gains. When the two components of HB 993 are considered together, the state could lose up to \$37 million in FY 2013 and \$30 million in FY 2014, as shown below.

State Revenue Impact of HB 993 Provisions, in \$millions

	FY 2013	FY 2014	FY 2015
Taxing Online Sales	9.0	18.9	19.8
Sales Tax Holiday (High)	-45.9	-48.7	—
Sales Tax Holiday (Low)	-32.8	-34.9	—
COMBINED IMPACT			
High Estimate	-36.9	-29.8	19.8
Low Estimate	-23.8	-16.0	19.8

Source: Fiscal Note, HB 993 Substitute (LC 34 3380S)

Local governments would see a significant revenue decrease as well. HB 993 would cost them up to \$29 million in FY 2013 and \$24 million in FY 2014. Assuming the sales tax holiday was not renewed beyond the two years called for in HB 993, starting in FY 2015 the taxing of e-commerce would bring in approximately \$20 million per year to the state government and about \$14 million per year to local governments.

What the Bill Would Do

Taxing E-commerce Sales

An estimated \$3.4 trillion worth of retail and wholesale transactions, or 17 percent of all U.S. shipments and sales, were conducted over the Internet in 2009.¹ Even though consumers owe these taxes on all products, out-of-state retailers are not required to collect them unless they have a physical presence in the state. Georgians are technically required to report these taxes on their annual tax forms, but few actually do. The resulting lost revenue is significant— Georgia will lose more than \$400 million in 2012 due to its inability to tax e-commerce, according to projections from a recent study.² Additionally, with consumers increasingly seeking out the best deals online, the loophole puts local brick-and-mortar businesses at a disadvantage. The Georgia Retail Association estimates online retailers can offer a seven percent lower price since the tax is not included.

In response, many states have begun implementing so-called “Amazon laws” that allow them to collect sales tax on certain online purchases. These laws are controversial, and many believe the issue will eventually have to be solved on the federal level. But in the meantime states believe these laws are necessary to increase revenue and eliminate the disadvantage for local businesses. The Georgia version, HB 993, is modeled on recent adopters such as Florida and New Jersey. It would only apply to transactions made through websites based in Georgia and considered affiliates of national retailers, which typically receive a commission for sales generated from ads on their sites. In other words the bill would only affect those online businesses that have some form of physical presence (technically known as “nexus”) in the state. This would allow Georgia to tax about one-tenth of all online purchases made in the state, according to industry sources.³

Reinstating the Sales Tax Holiday

Sales tax holidays allow consumers to purchase certain items tax-free on a few days each year, but they are highly-expensive for state and local governments. They have become increasingly common since the late 1990s, when New York first experimented with the idea. Sixteen states held sales tax holidays in 2011, down from a peak of 19 states in 2010. Georgia held an annual sales tax holiday for eight years until 2010, when lawmakers decided to forego it due to the budget crisis brought on by the Great Recession. As of 2011, all of the states neighboring Georgia had a sales tax holiday.

HB 993 would reinstate Georgia’s tax holiday for two years. There would be a two-day holiday in August for various “back-to-school items,” such as clothing, school supplies, and computers. The second holiday, held in October, would be for household appliances and other items that qualify as energy-efficient (i.e. labeled as Energy Star). Tax-exempt back-to-school purchases would be limited to items costing less than \$1,000, while eligible energy-efficient items would have to be less than \$1,500.

Policy Considerations: Positive Progress Hamstrung by Inclusion of Tax Holiday

Collecting sales taxes on a portion of online purchases is a positive step forward for Georgia. HB 993 would not technically create a new tax since these levies are already owed; it would simply allow the state to collect what it is rightly due. Since Georgia faces a structural deficit with a projected budget shortfall of \$320 million in FY 2014, new revenues are needed now more than ever. And taxing remote sales is good tax policy for other reasons as well. Failing to tax e-commerce puts local Georgia businesses at a competitive disadvantage against their online rivals, and it also disproportionately benefits more affluent customers who have greater access to credit cards and computers. Taxing Internet sales levels the playing field on both fronts.

Unfortunately, this admirable move is critically undermined by the push to renew the sales tax holiday. Despite their political popularity, sales tax holidays are universally viewed as bad tax policy. They fail to stimulate state economies; provide only minimal relief to middle class families; and starve the state of desperately needed revenue. Here is what economists, informed policymakers, and experts from all sides of the political spectrum have to say about them:

Tax Foundation; “Sales Tax Holidays: Politically Expedient but Poor Tax Policy,” 2011

“Sales tax holidays introduce unjustifiable government distortions into the economy without providing any significant boost to the economy. They represent a real cost for businesses without providing substantial benefits. They are also an inefficient means of helping low-income consumers and an ineffective means of providing savings to consumers.”

Institute on Taxation and Economic Policy; “Sales Tax Holidays: A Boondoggle,” 2011

“Sales tax holidays are also promoted as a boon for a state’s retailers because they are said to boost sales. Evidence supporting this claim is weak, and common sense suggests it may not be true. Incentive programs are more likely to merely shift the timing of purchases made than to motivate an unplanned purchase.”

Special Council on Tax Reform and Fairness for Georgians; Final Report, 2010

“Though economic literature is somewhat limited, it does provide some evidence against sales tax holidays. Among the findings are that consumers tend to shift consumption in time to take advantage of these holidays rather than increasing consumption, that higher income households are more likely than lower income ones to shift consumption in time, and that retailers do not fully pass along the tax savings from the sales tax holiday to consumers, absorbing a portion into profits instead.”

GSU Fiscal Research Center; “Sales Tax Holidays and Revenue Effects in Georgia,” 2011

“Overall, the evidence to date on sales tax holidays does not support the arguments of their proponents... The evidence with regard to sales tax holidays boosting sales of non-exempt items or attracting significant cross-border shoppers suggests they do not. On the other hand, the cost of these uncertain benefits in terms of lost state revenues is substantial.”

With Georgia still recovering from four years of deep budget cuts and future deficits considered likely, every dollar must count. Georgians are in dire need of positive investments in education, transportation and public safety, because those lay the foundation for a strong economy and enhance the state’s quality of life. Revenue-losing bills like HB 993 undermine Georgia’s economic health though by draining the state of the revenue necessary for such essential investments. If lawmakers continue to insist on a cuts-only or even a “revenue neutral” approach, it will be impossible to strengthen the state’s prospects for the future. That is why state leaders should avoid expensive gimmicks like the sales tax holiday and instead pursue a balanced approach to tax policy that includes new revenue for meeting Georgia’s growing needs.

Endnotes

¹ Maguire, Steven. “State Taxation of Internet Transactions,” Congressional Research Service. 11/1/2011.

² Donald Bruce, William F. Fox, and LeAnn Luna, “State and Local Government Sales Tax Revenue Losses from Electronic Commerce,” University of Tennessee, 2009.

³ Jones, Walter. “Online sales tax heads to vote,” Morris News Service. 2/28/2012.