

NEWSPAPER COLUMN

TO: Area Newspapers FROM: Senator Karin Brownlee DATE: June 30, 2003

For a number of years local and state governments have realized that they are missing out on sales tax revenue from Internet sales. Congress has had a moratorium on Internet sales tax for several years while lawmakers at various levels figure out a fair and equitable way to tax these sales. Officials estimate that Kansas could lose as much as \$246 million by 2006 on Internet sales.

On a related note, Kansas has a number of sizable companies with a physical presence in our state that are not collecting sales tax on remote sales to Kansas residents. Remote sales includes both Internet and catalog sales. Typically a physical presence within a state is the basis for declaring that a company has nexus and thus should collect that state's sales tax. The Kansas Department of Revenue (DOR) has been addressing this problem and is making progress. In the mean time, "main street businesses" that sell their products in their retail shops are at a competitive disadvantage to companies that sell the same item and do not charge sales tax.

In an effort to correct some of these inequities, the Streamlined Sales Tax Project on a national level is gaining steam in several state legislatures. This project is leading the way for states to have uniform sales tax systems so that main street businesses are not disadvantaged and local and state governments can recapture the possible lost sales tax. Kansas passed HB 2005 this year in an attempt to comply with this project and to have a vote at the table as this sales tax system continues to develop.

Frankly, the Kansas Legislature inadvertently created a tremendous burden on small and medium sized businesses as the law requires the sales tax change to apply to intrastate sales. No longer will a business which delivers its products... flowers, newspapers, vitamins, furnaces, etc., to a different taxing jurisdiction be allowed to charge one tax rate. The point of delivery or destination will determine which tax rate will be charged. It is likely that we will be moving a few dollars of tax revenue from one jurisdiction to another within our state. However, businesses responsible to collect this tax (and send it to the state) could be paying thousands of dollars to figure out how much to charge their customers. Some states allow businesses to keep a small percentage to administer these headaches; Kansas does not.

Several communities which are considered regional centers for commerce will likely come out on the short end of the deal as their tax base will be shifted to the point of delivery. It's possible that Johnson County which provides nearly one-third of the state's tax base could also be affected adversely. In Wyandotte county, several new businesses are being financed through an incentive called STAR bonds which allows the sales tax revenue to pay off the bonds that finance part of the project. For certain businesses that deliver a good portion of their products, it is unclear if the once secure funding stream will now be directed to other localities. Even worse, those products which are delivered out of state will not generate the state sales tax.

The Legislature would be wise to delay until 2004 this new tax law which is to take effect July 1, 2003. This would require a special session but it might be well worth it to the businesses that are stressing over how to comply and how much they will be forced to spend during this recession to comply. If you have comments on this, please email me at brownlee@ink.org. Learn more about this law at <http://www.ksrevenue.org/pdf/Notice2003-04.pdf> or <http://www.streamlinedsalestax.org/>.