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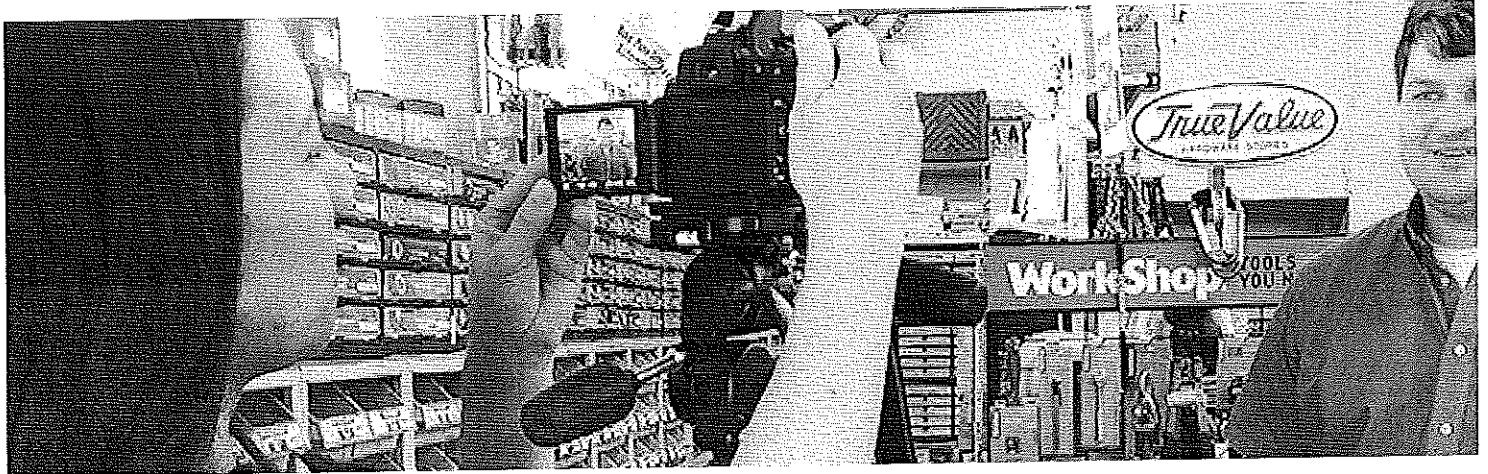
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THIRD-PARTY ONLINE SELLERS DRAW CLOSER TO BRICK-AND-MORTARS

April 6, 2018

Online marketplaces will either have to remit use tax or report sales made to Alabama consumers through third-party vendors under the latest revision to Alabama's Simplified Seller Use Tax.

Act No. 2018-539 by Rep. Rod Scott, D-Fairfield, and Sen. Trip Pittman, R-Daphne, takes effect June 1.

It requires marketplace platforms with \$250,000 or more in Alabama sales to either register with the Revenue Department as a simplified seller or report sales made by third-party vendors through their marketplaces. Minnesota, Pennsylvania, Rhode Island and Washington have enacted similar laws.

While making further reforms to **Alabama's Simplified Seller Use Tax**, which was first enacted in 2015, the new law brings third-party online vendors closer to being on the same level of taxation as Alabama retailers.

More than 190 sellers participate in Alabama's voluntary tax remittance program offered to sellers without a retail presence in Alabama. Through February of this year, \$94 million of previously uncollected taxes had been remitted to the state voluntarily through the program.

Based on the legislation's fiscal note, it could add \$40 million annually in previously uncollected taxes to that total. Those additional owed taxes will be collected by online marketplaces participating in the simplified seller program from sales made by their out-of-state, third-party vendors.

AMAZON-WHOLE FOODS ISSUE RESOLVED

The latest revision also allows current simplified sellers that acquire an in-state business to remain in the program. That provision was requested by the Alabama Revenue Department so the most prominent of the voluntary remitters – Amazon – could remain in the Simplified Seller Use Tax program.

In August, Amazon bought Whole Foods, which has stores in five Alabama cities – Hoover, Huntsville, Mobile, Montgomery and Mountain Brook. The Revenue Department said the change was needed so Amazon did not go from collecting 8 percent from Alabama customers to collecting only 4 percent – the state portion of the tax – on goods shipped throughout the state. While the Whole Foods stores give Amazon a presence in five cities, previous law may have eventually taken Amazon out of collecting local taxes in all but those cities. The new law prevents that loss.

The revised law requires the actual local and state sales taxes be collected by businesses that already exist in Alabama, like the Whole Foods stores, even if those businesses are purchased by a simplified seller.

CHANGES IN DISCOUNT AND DISTRIBUTION

The law also limits the future discount simplified sellers can receive for remitting taxes on time each month. Starting Jan. 1, 2019, simplified sellers will receive a two percent discount only on the first \$400,000 of taxes remitted. That makes the maximum discount \$8,000.

The distribution of the use tax remitted under the program also has changed. Currently, half of the 8 percent voluntary use tax collected is split evenly between the state's cities and counties. Under the new law, starting Jan. 1, 2019, the cities will get 60 percent and the counties 40 percent of the 4 percent in simplified sellers use tax that goes to local governments.

NATION'S HIGHEST COURT CONSIDERS ISSUE

The U.S. Supreme Court has agreed to delve deeper into tax remittance by online retailers.

South Dakota enacted legislation in 2016 requiring out-of-state online retailers with an economic presence to collect the state's sales tax. The U.S. Supreme Court decided Jan. 12, 2018, to hear that case. Arguments were heard April 17. Alabama is one of 35 states that asked the nation's highest court to review whether retailers can be required to collect sales taxes in states where they lack a physical presence.

*This article is part of the **Alabama Retail Report**, a communication for Alabama Retail Association members. Not a member? Join us!*

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Retail Association members for today's primary

MONTGOMERY – Alabama RetailPAC, the Alabama Retail Association's state political action committee, has made its first major endorsements in advance of the