

Amazon negotiating for sales-tax exemption in trade for 5,000 new Texas jobs

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Amazon.com is negotiating a deal with Texas officials that would see the online retail giant promise to bring more than 5,000 jobs and \$300 million in capital investments to the state over the next three years - if in exchange lawmakers will grant Amazon a 4 1/2-year exemption from collecting tax on online sales, according to documents obtained by the American-Statesman.

The proposed deal would be implemented by attaching it to Senate Bill 1, the wide-ranging fiscal matters bill being debated in the Legislature's special session. SB 1 is a must-pass measure essential to balancing the state's 2012-13 budget.

A draft copy of the conference committee report that would add the language to SB 1 was obtained by the American-Statesman. Mark Miner, spokesman for Gov. Rick Perry, confirmed Monday that the governor's office has seen the draft copy of the proposed legislative language.

"The governor is always working to create jobs in Texas, and he supports any kind of legislation that would accomplish that goal," Miner said. "His focus has always been on the Texas economy and creating jobs in this state. He's always talking to companies in Texas that want to expand, or companies outside of Texas who might want to locate here."

The proposal is similar to one Amazon recently struck with South Carolina, where that state's legislators approved a 4½-year exemption on collecting sales tax in exchange for Amazon creating at least 2,000 jobs and investing at least \$125 million through the end of 2013.

The proposal is the latest twist in Texas' standoff with the world's largest online retailer over the collection of online sales tax. The state stepped into the national debate over that issue last September, when Comptroller Susan Combs sent Amazon a notice that it owed \$269 million in sales taxes it failed to collect on Texas transactions from 2005 to 2009.

Combs has said Amazon is required to collect sales taxes on Texas transactions because it has a distribution center in Irving, constituting a physical presence in the state.

Under a 1992 U.S. Supreme Court decision, if a company has a physical presence in a state, it can potentially be required to collect sales tax there, legal experts say.

Seattle-based Amazon, which had \$34 billion in sales in 2010, has consistently opposed collecting tax on its online sales. That has drawn fire from state governments facing budget shortfalls and from traditional retailers, who say online sellers essentially give customers an automatic discount when they don't collect taxes.

Combs has estimated the state loses \$600 million a year from untaxed online sales.

Perry, however, has criticized Combs for her pursuit of Amazon, and said in February that he hoped legislators would do something to keep Amazon from pulling up stakes.

Instead, the Legislature to this point has gone in a different direction.

During the regular session, both the House and Senate overwhelmingly passed a measure by Rep. John Otto, R-Dayton, that aimed to tighten the state's rules on when online businesses such as Amazon must collect sales tax. That bill, House Bill 2403, sought to more clearly define what constitutes physical presence in the state, spelling out that a distribution center or warehouse in the state qualifies, as does having a "substantial ownership interest" in a subsidiary operating in the state.

Perry vetoed that measure, but the bill's identical language was attached to SB 1. An amendment filed by Rep. Bill Zedler, R-Arlington, to strip the language from SB 1 was defeated in the House on June 9.

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