

Tax Commissioner Peterson's Statement on Amazon Action

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Amazon has precipitously cut advertising contacts with Vermont online companies. Amazon's regrettable actions have nothing to do with the cloud issue, which refers to sales tax on some software. Instead, Amazon purported to act on the basis of Vermont's "click through advertising" law; a law that was passed in order to put pressure on Congress to enact the Marketplace Fairness Act – legislation Amazon publicly supports – and level the playing field for Main Street businesses. The Governor has been outspoken in urging Congress to act.

Vermont's click through law only takes effect upon adoption of similar laws by 1/3 of the states which have a sales tax. The Attorney General makes the determination of when that trigger has been met, and has issued no opinion on the matter.

The crux of the matter is the failure by Congress to overturn a hopelessly outdated U.S. Supreme Court case that allows the Amazons of the world to avoid collecting sales tax if they are not "physically" present in a state, regardless of how much commerce they conduct. New York pioneered a "Click Through Advertising" law, which says that if an online seller contracts to advertise on in-state New York websites, it will be considered physically present in New York. The U.S. Supreme Court refused to overturn New York cases upholding this law and a number of states have followed New York's lead.

In the meantime, as evidence of the lengths Amazon will go to avoid collecting sales tax due on products it sells, Amazon has severed advertising contracts in states with click through laws. This is part of its strategy to maintain a competitive advantage over bricks and mortar sellers on our Main Streets. In Vermont's case, Amazon acted even before our click through law took effect.

We regret Amazon's precipitous action, and rest assured, we will work to protect our Vermont-based bricks and mortar and online merchants. Given Congress' continued inaction, and Amazon's tactics, the Governor will be asking the legislature to amend our click through law to take effect one year after twenty-five states adopt click through laws. We will continue to work in collaboration with other states for enactment of Marketplace Fairness that will protect our Main Street businesses.