



AMERICAN CATALOG
MAILERS ASSOCIATION

Your Catalog Advocate!

General Industry Call to Action:

Challenge Tax Encroachment--
Your Assistance is Vital

April 27, 2010

Dear Member or Non-member Cataloger,

Since ACMA's inception three years ago, our organization has focused primarily on the very issue for which it was founded: being catalog mailers' watchdog group for keeping postal rates in check. To date, no organization had gone to bat solely for catalogers when it came to postal matters. Our mission is to advocate for catalogers where others cannot. We also partner with other organizations where catalog interests are squarely aligned.

One such collaboration revolves around the new Colorado sales and use tax reporting requirements for out-of-state sellers who do not collect sales taxes from Colorado residents for their purchases. This law became effective on March 1, 2010.

And with that, I pose the following: What's worse than having to pay sales taxes in every state? Having to report to every state every purchase your customers have made so the taxing authorities can start chasing your customers down and ordering them to pay back taxes.

Your Colorado customers now must get a statement recapping their purchases that you will also have to send to the Colorado tax collectors so they can hunt your customers down for the sales tax -- and probably with a penalty on top of this. This experience is sure to make Colorado customers think twice about ordering from you, plus you now have an added cost of compliance without any offsetting revenue. It's a triple whammy.

But wait, there's more. Tennessee, California and other states are considering this same law or watching Colorado's closely. Fact is, every state needs more revenue today. Out of state companies, who do not use any state services and who do not elect state politicians, are easy targets.

The Direct Marketing Association is coordinating a multi-industry legal challenge to the new Colorado tax law and will be using acknowledged state tax expert attorney George S. Isaacson to stop this from doing real damage to direct sellers of every type. We fully support DMA efforts here and respectfully request that you pledge some financial support to this effort so it may be successful.

Per a memo from DMA senior vice president, government affairs Jerry Cerasale, the new reporting law was passed by the legislature and signed by Colorado Governor Bill Ritter Jr., as part of a budget balancing package. DMA and others urged the Governor to veto the bill, but to no avail. It now must be challenged in the courts.

The reporting law requires non-sales–tax-collecting out-of-state marketers to notify Colorado purchasers with every purchase and includes the following stipulations:

- They are not required to collect sales tax;
- Sales or use taxes are owed by the purchaser unless the sale is exempt from sales tax even though purchased remotely, including over the Internet, telephone or catalog;
- The purchaser is required to annually file a sales/use tax return with the Colorado Department of Revenue and pay tax on those purchases on which the resident has not paid sales tax;
- The marketer is required to provide the purchaser with a year-end summary of the purchases the consumer made on which sales taxes were not collected; and,
- The marketer is required to provide the Colorado Department of Revenue an annual report on the total amount of all the purchaser's purchases on which sales tax was not collected.

More information can be found at www.taxcolorado.com.

Taxing indeed!

The proposed year-end notice to the Colorado purchaser regulations require the following:

- Notice sent by Jan. 31 only *via* First-Class Mail with “Important tax document enclosed” appearing prominently on the envelope;
- A summary of dates of purchase, description of product purchased and dollar sale amount for each purchase;
- A statement that Colorado requires that the purchaser file a sales/use tax return at the end of the year and pay tax on all Colorado purchases on which no sales tax had been collected;
- Inform for the purchaser that the form and further information is available at www.taxcolorado.com;
- Notification that the marketer is required by Colorado law to provide the Colorado Department of Revenue with the total dollar amount of purchases the purchaser made; and,

- Though not required, it may inform the purchaser whether an item purchased is exempt from Colorado sales tax.

The notice to the Colorado Department of Revenue must include this information:

1. Name of the Colorado purchaser;
2. Billing address of the purchaser if provided to the marketer;
3. Shipping address of each purchaser if provided to the marketer;
4. If the marketer has multiple billing and/or shipping addresses of the Colorado purchaser (Colorado purchaser is a consumer who has product shipped to him/herself in Colorado), provide all such addresses; and,
5. Total amount of Colorado purchases made by the purchaser from the marketer.

Nice. Simple and easy. No cost to you? NOT.

Along with the DMA, we believe that with ACMA support, a DMA-backed suit in Federal Court is the next reasonable course of action. As Jerry points out, the process must begin quickly. For one, this is now law. Also, the two other states mentioned above will soon follow. Plus, the Multistate Tax Commission is working on model legislation on this issue. Direct marketers need to unify behind a response. Every significant direct marketer has a dog in this fight and we hope every significant cataloger will make a pledge of support by writing a check today.

We join DMA in seeking \$5,000 or higher contributions from companies to fund this legal challenge. Any funds not used in the litigation will be returned *pro rata*. Mr. Isaacson, DMA's nominated tax attorney, will be making the court challenge. Both organizations ask that you help us stop these laws by contributing.

Checks should be made to "Direct Marketing Association" with a note in the memo "Colorado Tax Notice Litigation." Please send checks to

Jerry Cerasale
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For more information on how to join this effort, please contact me personally, or Jerry at the DMA: jcerasale@the-dma.org, 202-861-2423. Thank you in advance for your support.

All the best,

Hamilton

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