
The sales tax invasion has begun

BLOG



In zombie movies, unsuspecting innocents often fail to recognize that the zombie apocalypse has begun. The first of the undead stumble through the village or city unnoticed or mistaken for drunks. Only when it's too late do the living realize they're surrounded.

This horror movie cliché came to mind when Sens. Jeanne Shaheen and Maggie Hassan released a [letter](#)

<https://www.shaheen.senate.gov/imo/media/doc/2018-11->

[28%20Sales%20Tax%20Letter.pdf](#)] on Wednesday urging Congress to pass a one-year moratorium on internet sales tax collections that were allowed by this year's Wayfair ruling at the U.S. Supreme Court.

"Some states have established implementation dates as soon as January 1, 2019," they wrote jointly with Oregon Sens. Ron Wyden and Jeffrey Merkley.

In zombie movies, as in real life, politicians are usually the last to know.

The Union Leader [story](http://www.unionleader.com/news/business/senators-push-for--year-delay-in-online-sales-tax/article_d8df7c26-1031-5e4e-93ba-b9660c1cff5a.html) [http://www.unionleader.com/news/business/senators-push-for--year-delay-in-online-sales-tax/article_d8df7c26-1031-5e4e-93ba-b9660c1cff5a.html] on the senators' letter put the big news at the bottom: The Attorney General's Office has received its first query from a New Hampshire retailer who has received a sales tax notice from another state.

That's confirmation that cross-border sales tax collections into New Hampshire are no longer theoretical. The vanguard is here.

The letter was from Indiana. Indiana is not waiting until Jan 1, 2019. It's post-Wayfair sales tax law [took effect on October 1](https://www.in.gov/dor/6367.htm) [https://www.in.gov/dor/6367.htm]. The letter to the New Hampshire retailer was dated November 9, Senior Assistant Attorney General Frank Fredericks confirmed.

"It was more of a you may qualify" letter, and not a collection letter, Fredericks said. Coming only five 1/2 weeks after Indiana's law took effect, it indicates that states will move quickly to begin the process of identifying and contacting retailers that sell to their residents.

Indiana is hardly the only state with a post-Wayfair law already in effect. New Jersey's [took effect on November 1](https://www.state.nj.us/treasury/taxation/remotesellers.shtml) [https://www.state.nj.us/treasury/taxation/remotesellers.shtml]. As this newsletter reported over the summer, Vermont's law predated the Wayfair decision and [took effect on July 1](https://tax.vermont.gov/business-and-corp/sales-and-use-tax/sales-and-use/wayfair) [https://tax.vermont.gov/business-and-corp/sales-and-use-tax/sales-and-use/wayfair].

In their letter, the senators also asked Congress to ban retroactive cross-border sales tax collections. Again, it's a welcome initiative, though a little late. New Jersey's law covers sales in the "current or prior calendar year."

States also are preparing to go after individuals who sell through marketplaces such as Etsy and Ebay. The Multistate Tax Commission's Uniformity Committee recommended [<https://www.law360.com/tax-authority/state-local/articles/1097655/marketplaces-should-collect-tax-for-vendors-commission-says>] in October that states require marketplaces to collect sales taxes from their vendors.

Panelists at a Bloomberg-sponsored conference in Washington on Thursday predicted that every state with a sales tax will pursue requirements next year compelling marketplaces to collect sales tax from their vendors, Law360 reported [<https://www.law360.com/tax-authority/state-local/articles/1106463/panelists-see-states-moving-en-masse-toward-marketplace-laws>].

With no federal or state law in place to protect them, New Hampshire businesses and marketplace sellers are completely vulnerable.

"It's a little bit of a wild west show because nobody knows where it's going or how it'll play out." Nancy Kyle, president and CEO of the New Hampshire Retailers Association, told The Broadside.

Legislators can provide some certainty — and protections — next year, though they should act quickly. With non-sales-tax states outnumbered 45-5, the odds of Congress passing protecting legislation is about as good as surviving a zombie attack when outnumbered by the same ratio.

NOVEMBER 30, 2018

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