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# Big Brother is Watching . . .

## Don't Play Games With Sales Tax

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A prominent music dealer was recently accused by a State Government of evading substantial sales tax payments. If found guilty of the charges brought by the state, the retailer faces a possible prison term and substantial fines nearing \$400,000. In the interim, tremendous adverse media coverage has been detrimental to his company's reputation.

The case in question is a complex one which admits considerable debate and, as such, is to be resolved in a court of law. Consequently, we refrain from passing any judgment on guilt or innocence. However, the question of sales tax evasion is relevant to the music industry and warrants some scrutiny.

Article VII of the Constitution gives Congress the sole responsibility to collect taxes. Inasmuch as consistency has never been a strong suit of governing bodies, it's not surprising that 42 out of the 50 states have statutes requiring merchants to collect sales tax and remit it to the state. Adventurous souls who seek to challenge this seeming contradiction should save their energies for a more worthy cause.

Outwardly, most state statutes concerning sales tax are models of simplicity, explaining in clear language the responsibilities of the merchant. Unfortunately, interstate shipping clouds the issue. Among states with sales tax, the range is from 2% to 8.25%. For those dealers who operate near a state border and ship merchandise out of the state, there is a legitimate grey area concerning the payment of sales tax. Some bordering states have agreements, others do not. However, it behooves every retailer to carefully review the law and become conversant in its requirements.

Grey areas aside, many salespeople seek out ways of avoiding sales tax when pressured by a price conscious consumer. Whether it's shipping to a fictitious out-of-state address, writing the transaction up as an institutional sale, or simple not charging the tax, attempts to evade sales tax are categorically NOT WORTH THE RISK. Sales tax evasion carries draconian penalties that are not worth risking for a few extra margin points or a few incremental sales.

A former member of a state district attorney's office, commenting on the sales tax evasion, recently said, "From a political standpoint, we always go after small companies and try to make examples of them in order to discourage others from breaking the law. Elected officials don't like it when the office tackles a big firm that represents an im-

portant electoral constituency. Consequently, we always concentrated our efforts really nailing a few little guys to the wall."

If ever there was an industry that doesn't represent an important electoral constituency, it is the music industry. That underscores the importance of complying with the law.

For small retailers with one or two salespeople, the task of complying with sales tax requirements is relatively simple. Read the rules, and make sure everyone adheres to them.

For larger stores with numerous sales people, the task becomes a little more challenging, as zealous individuals, anxious to close a sale, can transgress from company policy. If you are serious about complying with sales tax statutes, a good first step is to communicate that approach forcefully to the employees.

One retailer we know has a store policy which states that any employee who knowingly attempts to evade sales tax will be summarily dismissed. Upon joining the firm, employees sign a form acknowledging this condition of employment. In the case of sales tax that is calculated too low, this same dealer deducts the difference from the salesman's commission, rather than approach the consumer with a revised invoice. These checks provide the sales staff with a serious incentive to comply with the law.

As a final note, the cost in terms of money, time, and effort to defend oneself against a state government anxious to encourage sales tax compliance is horrendous. Those under investigation can expect to have their books subpoenaed, their employees interrogated, and their reputations tarnished. No individual sale is worth the cost.

The odds of an individual music store ever being brought up on charges of sales tax evasion are slight. By the same token, the odds of your store burning down tomorrow are also slight; however, most dealers carry some form of disaster insurance. Think of efforts to judiciously comply with sales tax law as an insurance policy against stiff criminal charges and fines.

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