Do I REALLY Have To Pay Sales Tax?

Do I REALLY have to pay sales tax...I live out of state? Customers want to pay the absolute lowest NET price for their equipment. Many customers believe that they can "get out of paying sales tax" on anything that is purchased out of their state. Here is an example of both the seller's responsibility to collect and a buyer's responsibility to pay state sales tax. We will use Greg Smith Equipment as the "seller" and define our obligations (as a company) to collect state sales tax and the customer's responsibility to pay state sales tax.

Greg Smith Equipment has seven (7) brick and mortar locations in the USA. Two of the states (Delaware and New Hampshire) have NO state sales tax. The other five (5) states (Indiana, Georgia, Texas, Florida, and Arizona) have a state sales tax.

Let's assume that a customer (Either a business owner or Mr. Homeowner from Ohio) orders a lift from our Indiana store. He wants to have it shipped via Commercial Common carrier to his location. The cost of the lift is \$2295.00 and the freight cost is \$200. Greg Smith Equipment would charge the customer \$2495.00 and ship the lift to the designated out of state location. The customer would be responsible for declaring his "out of state" purchase to the State of Ohio and also be responsible for paying that sales tax (or use tax) to Ohio. Greg Smith Equipment is not authorized to collect out of state sales tax on products shipped (out of state) by a commercial carrier (Commercial truck line, UPS or Fed-Ex for example), unless it is shipped to a state where there is a GSE store.

There are several automotive equipment distributors that advertise on the Internet claiming to have multiple warehouse locations throughout the USA. These Internet companies want to appear "BIG", but they are really just very small operations who rely on other independently owned warehouses to stock and ship products. Actually, these "Internet distributors" do not own nor have any partial ownership in "their warehouses located all over the USA". If they really had ownership, they would be guilty of not collecting or paying appropriate state sales tax.

An online business is responsible for paying sales tax in states where it has **NEXUS**. For example, an online business will have to pay sales tax on orders shipped to states where it has offices or warehouse facilities. It will not have to pay sales tax on orders shipped to states where it has no physical presence.

Nexus determines whether an online business has to pay sales tax on orders shipped to a certain state. <u>Nexus</u> refers to the connection that a business has with a given state. If the business has nexus (a connection) with a state it will be responsible for collecting and paying sales tax on orders shipped to that state. Conversely, a business will not have to collect sales tax on orders shipped to a state where it does not have nexus.

Tax law is constantly evolving, so it's best to check with your tax professional regarding the current scope of nexus for various states. However, the 1992 Supreme Court ruling in the case of **Quill Corp. v. North Dakota** still largely defines nexus concerning sales tax. In this case, the Supreme Court ruled that a business must have a physical presence in a state for that state to require it to collect sales taxes.

If these Internet automotive equipment distributors (who claim to have warehouses in Arizona, Texas, California, Idaho, Michigan, Nevada, New York, Ohio, Mississippi, Massachusetts, and Florida) are NOT collecting state sales tax when shipping products to customers in the states listed above, only two conclusions can be drawn:

These Internet Distributors do not really have any ownership in the above listed warehouse locations or these Internet Distributors (if they do have ownership ((NEXUS)) in these warehouses) are breaking the law by not collecting the appropriate sales tax for each State.

Only one of those two conclusions can be drawn from the facts. Either these distributors are lying about the size (and ownership) of their organization OR they are breaking the law by not collecting the appropriate sales tax (and offering this non-collection of sales tax) as a "discount" to the customer.

Do you really want to do business with a company that operates on these principles? These companies are putting themselves at risk of being exposed as a company that is not truthful in their advertising and/or at a larger and more punitive risk of being brought to the attention of state tax agencies in all the states listed above for failure to collect appropriate sales tax. The (11) independently owned warehouses (located in the various states listed above) are also putting themselves at risk by shipping products into their own state without either collecting sales tax or being furnished with the correct sales tax exemption documentation.

All consumers want the highest quality equipment at the lowest possible price. Greg Smith Equipment is committed to provide that value to our customers. Greg Smith Equipment will not "bend nor break" the sales tax laws to gain an unfair price advantage. Greg Smith Equipment really does own or lease seven (7) brick and mortar locations (nexuses) located throughout the USA. We have been in business for over thirty years and plan on being around for a few more decades. We know the sales tax laws and we take our responsibility to enforce them very seriously.

You should consult your tax adviser and/or attorney to determine what impact, if any, sales tax may have on your tax situation.