

NCSL SALT Task Force

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Update on Accelerated Sales Tax Collection by Non-Retailers

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Background – Concept

- Originally promoted as “real-time” sales tax collection
- Concept continues to change
 - Two transactions for every sale
 - Approximated “effective” sales tax rate
 - Collection by third party payment processors

Background – Jurisdictions That Considered and Rejected

- Connecticut
- Massachusetts
- Nebraska
- New York
- Puerto Rico

Background - NCSL Salt Task Force

- January 6, 2013, letter
 - Task Force has begun to study issue
 - Proposals raise concerns
- December 7, 2014, letter
 - Met at length with Proponents
 - Creates new burdens on businesses and states
 - Not a process Task Force could recommend

Massachusetts Legislation

- Sections 94 and 95 of House Bill 3800, **the Massachusetts state budget**, direct the Commissioner of Revenue to promulgate regulations to accelerate sales tax remittance by requiring third party payment processors to remit sales taxes at substantially the same time that any non-tax amounts are paid (usually on a daily basis) on transactions using a “...credit card, debit card, or similar payment arrangements...”
- There are **over 70,000 retail establishments** in Massachusetts. In addition, there are **over 700 third party payment processors** operating nationally that would be affected by the proposed system

Massachusetts Legislation

- Cost Effective?
 - Legislature gave Commissioner until November 1, 2017, to certify that implementing accelerated sales tax remittance is not cost effective to implement by June 1, 2018.

STRI Study: Daily Sales Tax Collection System Could Cost Massachusetts Businesses \$1.2 Billion*

- This study finds that implementing a daily sales tax collection system would cost businesses about \$1.2 billion in one-time, non-recurring costs and **an additional \$28 million in annual recurring costs**. This does not include the cost of integrating the systems of roughly 8,000 card-issuing financial institutions
- When comparing these estimated costs to a one-time revenue shift that could be accomplished without incurring such costs, it is evident that **implementing a daily sales tax collection system is not cost effective**
- It is extremely unlikely that a daily sales tax remittance system could be in place by the June 1, 2018, deadline required by the legislature in House Bill 3800. This uncertainty would create significant risk for retailers, payment processors, and the Commonwealth that the systems would not be operational by the statutory deadline

* State Tax Research Institute (STRI) Report by Scott Mackey, September 28, 2017

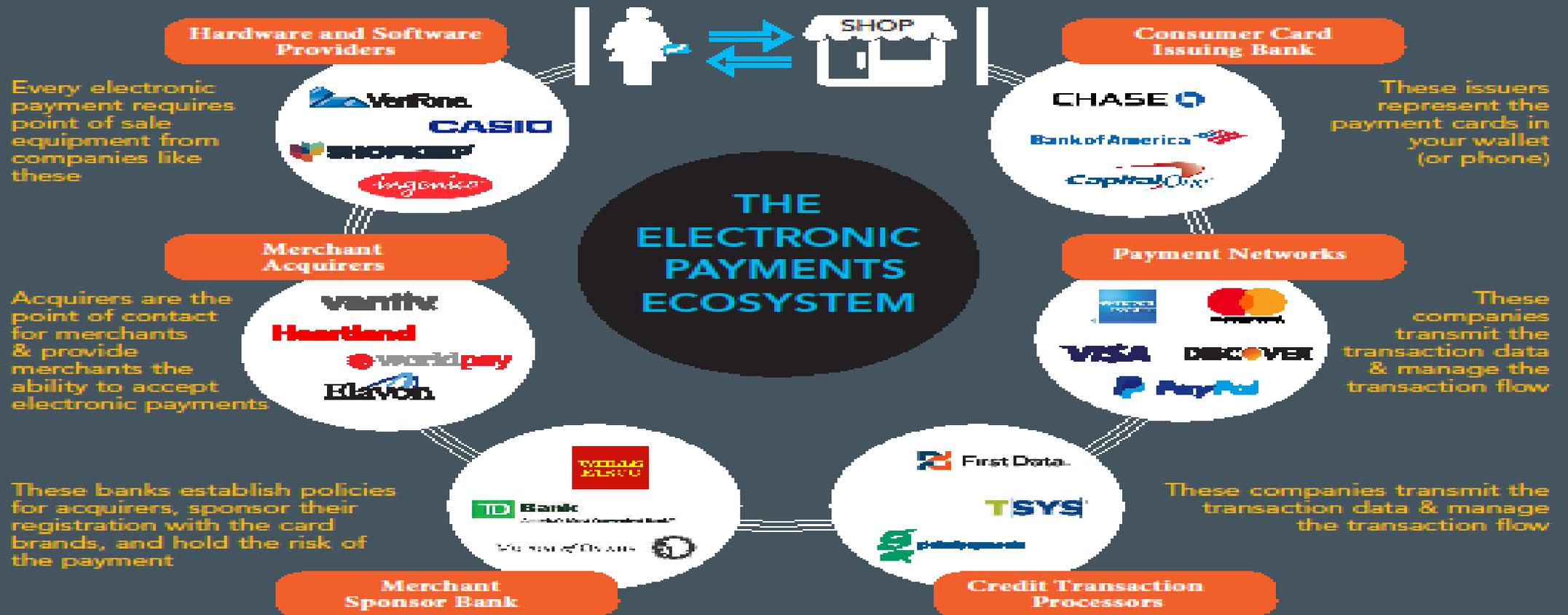


Consider the common exchange between a merchant and a consumer

Electronic payment methods like credit, debit, prepaid, gift & benefits cards as well as automatic withdrawals provide speed & immense efficiency, however, they require a complex support system

AN ENTIRE INDUSTRY OF COMPANIES MAKES THIS ESSENTIAL PROCESS POSSIBLE

The electronic payments industry includes hundreds of strong companies from public Fortune 500 companies to small, local sales organizations & tech firms



The companies included are examples of ETA member companies that perform each step in the process

Communications Industry Study

- 4 Carriers participating (AT&T, Sprint, T-Mobile and Verizon)
- Cost to implement: \$95 -102m non-recurring and \$6-8m recurring costs
- Over 125 different billing systems
- Taxing services completely and infinitely more complicated

Communications Industry Study

Bottom Line? It's Complicated, Really Complicated

- New systems required to separate MA sales tax from rest of billed charges including 911 fees and other taxes.
- Multiple Billing Systems and Multiple Payment Options: IVR, On-line, Autopay, Kiosks, Stores – Each billing system would need substantial modification and upgrade to interface with 3rd party payment processor.
- Lack of clarity on how tax is remitted when payment consists of split cash/credit card, multiple credit cards, gift cards, credit cards.
- Disconnect between sales/payments: Payment for services not a direct correlation between sales so sales tax amount could unknown.

Communications Industry Study

Bottom Line? It's Complicated, Really Complicated

- Payments are made to an account, rather than paying a specific amount due on a transaction and payments may be partial or cover multiple transactions.
- Account may be comprised of taxable and non taxable goods and services.
- Services could be provided within and outside out of Massachusetts
- Retail sale/revenue booked for tax purposes does not occur until the billing cycle occurs, which is when the services are fixed and determined.
- Customers change their minds – often. Prorated charges, cancellations, credit adjustments etc. – what happens when customer uses a different payment method after the original transaction? How is the tax payment reconciled?

Communications Industry Study

Additional Concerns:

- Audit process changes and traceability/reconciliation concerns: Who would ultimately be responsible for unpaid taxes under audit?
- Refunds: How does a customer seek a refund for erroneously collected taxes?
- Increased opportunity for errors: The carriers may not be able to properly reconcile the reports received by the 3rd party processor and could over or under remit.
- Result of all of this? Never ending complications, expense and risk for companies providing communications services.

Massachusetts – Commissioner's Certification

- NOT cost-effective to implement by June 1, 2018
- Not technologically impossible

Cost v. Benefit

- ALL of the asserted benefits can be achieved by implementing an estimated prepayment
- Staggering costs to businesses to implement

Questions?

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