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E-Tailers' Customs Challenges: Where Shopping Meets Shipping

Definition: **e-tailer** (*n*): one that sells goods or commodities to consumers electronically, as over the Internet. Quickly, without reflection, what are the top three activities that you can typically do legally, either exclusively or at least sometimes, online? Shopping is on pretty much everybody's top-three list, regardless of where the list-maker lives. In the 21st century, it would be surprising indeed if shopping were excluded from a list of online activities.

To update Emily Dickinson for this later, material age, "There is no store like a lap-top." For those of us, like this author, who would rather go to the dentist than shop for clothes, for example, online shopping is a great opportunity, especially if there is no problem with being fitted for

proper size or some other reason that makes going to an actual brick-and-mortar store necessary.

In writing of online shopping I am not going to address the continuing, convoluted, and spirited debate between and among competing revenue agencies, consumers, online sellers, and bricks and mortar traditional retailers over the assessment and collection of sales and use taxes or VAT or goods and services tax (GST). That is a topic for another day in another column. But I will discuss here the customs experience, which creates its own indirect tax world.

Order Fulfillment

Without characterizing shopping as a metaphysical event, one feature of any online

experience is that it almost eliminates the physical aspect—"almost" because, for example, checking in for a flight from your desk at home or the office is usually completed by printing a boarding pass. So there is a tangible end result.

So, too, with online shopping. The shopper who logs in and places an order in an online store is using the services of an "e-tailer," as defined above. In dealing with an e-tailer, as in the earlier business model, the catalog house, the shopper never has to leave his premises to "go shopping." At the end of the experience, however, unless the purchase is a service or a product that is can be downloaded and installed on the shopper's computer such as music or software, the customer will have to provide a delivery address to receive the product. Until that physical delivery is made, the transaction is incomplete. Once such delivery is introduced, the transac-

tion remains tethered to the physical world.

Which leads to a corner of the physical world where, in "management-speak" or logistics terminology, delivery is referred to as "order fulfillment." Both the e-tailer and the traditional retailer must make sure that the customer gets delivery of his purchase. Order fulfillment is the Achilles heel of the e-tailer's business model.

Inbound Customs Issues

The special challenge of the e-tailer is to make order fulfillment easy. If the goods must cross borders, the e-tailer must solve the customs problem. This means, first, that the e-tailer must decide whether it or the customer will be the importer of record. This is not a minor point, since customs authorities look to the importer of record as the person primarily liable for customs duty and compliance with customs law obligations

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