



Debate swirls over tax break for Cabela's

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Reporter

SCARBOROUGH (Aug 30): Local and state officials are scrambling to respond to the threat that Cabela's, the center of the first large development on Scarborough's Haigis Parkway, could pull out because of a dispute over a proposed sales tax exemption.

At issue is a request from the sporting goods outfitter for a ruling from Maine Revenue Services that would allow the store to exempt its Maine customers from the 5 percent sales tax on catalog and Internet sales.

The Nebraska-based Cabela's argues that it is actually three separate companies – Internet, catalog and the physical store. Because the catalog and Internet companies would still be located in other states, the company argues its customers should continue to be exempted from the state's sales tax.

This ruling, said Gene Beaudoin, a developer with New England Expedition, is necessary for Cabela's to come to Maine. "Either Cabela's is allowed to have its Internet and catalog sales remain untaxed and the project is on, or they don't come to Maine and the project is dead," said Beaudoin.

Opposition to the tax break, however, is growing. A letter sent to Gov. John Baldacci on Aug. 15 from the heads of the Maine Municipal Association, Maine Chamber of Commerce and the National Federation of Independent Businesses encourages the state to reject the Cabela's exemption.

A member of the Legislature's tax committee, Sen. Ethan Strimling (D-Portland), also has submitted a bill that would block Cabela's from receiving the tax break.

"If Cabela's continues its efforts to seek an exemption from collecting sales taxes that every other retail chain with a business in Maine is required to collect, then I will pursue legislative action to block those efforts," he said.

"My hope and expectation is that Maine Revenue Services will say that this isn't legal," said Strimling. "This is about fighting for Maine businesses like the Kittery Trading Post and L.L. Bean."

According to Dana Connors, head of the state chamber, "As much as we want the business, and we do... if parties are treated differently and some have an unfair advantage, it becomes an equity issue."

In its letter, the Chamber said other national retailers with storefronts and catalog sales in Maine, like JC Penney, Williams Sonoma and Crate and Barrel, all charge sales tax on their catalog and Internet sales.

In an interview for an earlier Current story, L.L. Bean spokesman Richard Donaldson said that L.L. Bean would consider the tax exemption an unfair advantage. According to Donaldson, the competition is welcome but not the sales tax exemption.

"It's a matter of principle for us," he said. "We do not think that's right. For us to be penalized because we have our headquarters in Maine would not be fair."

Meanwhile, work is still going forward on the development. On Monday night, Beaudoin went before the Scarborough Planning Board for a preliminary review of the other buildings in the development.

Beaudoin and New England Expedition have been planning the \$75 million project covering 70 acres for about a year. Cabela's would be housed in a 125,000-square-foot building. Other buildings in the project, ranging from offices to restaurants, a hotel and a bank, would not exceed 20,000 square feet.

"We think there is a good argument on both sides. This is not an easy decision for the state," said Town Manager Ron Owens.

He hopes the ruling will favor Cabela's. "It would be a significant blow to the development we're hoping to bring to the parkway," he said. About \$10 million has already been spent on infrastructure improvements to the parkway.

Harvey Rosenfeld, president of Scarborough Economic Development Corp., said if Cabela's backed out, he would continue to work with New England Expedition to find a new anchor store.

"If this project worked, it would generate an incredible amount of interest in the parkway," said Rosenfeld. "We really need a first development. We're certainly not asking the state to break the law, we're asking them to do a careful review."

He said he hopes Cabela's would come to Maine even without the exemption, weighing a significant increase in customers over the sales tax the store would charge on Internet and catalog sales.

In Augusta, Jerome Gerard, head of the Maine Revenue Services, said under law he can't talk about individual taxpayers or their requests for rulings from his department. He said the revenue service receives 50 to 100 requests a year for advisory rulings, and they are usually turned around within 60 days.

On the issue of determining whether a catalog retailer has to collect sales tax if it builds a store here, Gerard said that would be determined by a review of the retailer's operations. But one way or the other, his department wants the sales tax.

"We want the use tax collected and paid, and that's all there is to it. In one fashion or another, that's the ultimate goal," he said.

Cabela's currently has stores in a dozen states and is planning more in nine others. Revenue departments elsewhere have ruled there is enough difference between the store and catalog or Internet operations – from return policies to limited cross promotion – to allow the catalog and Internet sides of the business not to collect sales tax.

Sen. Lynn Bromley of Cumberland County, the Democratic chairman of the Legislature's Business, Research and Economic Development Committee whose district includes part of Scarborough, said the chamber's letter to the governor shocked her.

"I get beat over the head quite frequently by the chamber about being business-unfriendly, and I can't think of anything more unfriendly than just deciding they don't want a particular business in the state because of competition," Bromley said.

"I'm trying to get people to understand that they're not looking for special legislation. They're asking the governor to look at the federal statute as other states have," Bromley said.

Victoria Wallack of the State House News Service contributed to this report.