



## **Cabela's is fighting Kansas tax on online, catalog sales**

TOPEKA, Kan. (AP) — Outdoor gear seller Cabela's (CAB) is fighting Kansas' attempt to collect \$392,000 in sales tax, penalty and interest on Internet and catalog sales.

The case is thought to be among the first to set the stage for clarifying Kansas' 2003 tax law on merchandise bought by Kansans online or through catalogs and delivered to them in the state.

Cabela's, based in Sidney, Neb., is the nation's largest direct marketer. The sales tax assessment does not involve sales at the store. It targets three subsidiaries — Cabela's Catalog, Cabelas.com and Cabela's Marketing and Brand Management.

The Kansas Department of Revenue audited financial records of the subsidiaries from August 2002 to September 2004.

The agency concluded the subsidiaries were "doing business in this state" under a Kansas statute enacted in 2003 and should have forwarded sales tax on tangible personal property delivered to Kansas customers for use in the state.

In January 2006, the state issued assessments of tax, penalty and interest for \$253,700 to Cabela's Catalog, \$110,600 to Cabelas.com, and \$28,500 to Cabela's Marketing and Brand Management.

Now, a challenge of the assessments is pending before the Kansas Board of Tax Appeals.

Officials of Cabela's in Nebraska have not commented on the case, and attorney William Prugh of Kansas City, Mo., who represents the company in the tax appeal, said he wasn't authorized to speak for the company.

But in the notice of appeal submitted to the Board of Tax Appeals, Prugh argued the online and catalog "tax assessments are invalid, null, void and unconstitutional, and should be set aside."

Attorneys for Cabela's maintain the company set up Internet and catalog divisions as separate entities without a physical presence in Kansas, despite presence of a retail store.

In the appeal notice, the company's attorneys say corporate affiliates of Cabela's don't have a "nexus, a place of business or a physical presence in Kansas, so the affiliates are not liable for use taxes in the state of Kansas."

Sen. David Haley, D-Kansas City, said the outcome of the Kansas case has implications for taxpayers, especially those living in Wyandotte County, where the Cabela's store is situated near Kansas Speedway.

Tax revenue generated by the store is earmarked to repay sales tax and revenue, or STAR, bonds used to finance development at the Kansas Speedway and the Village West district.

Haley said applying Cabela's sales tax revenue on Internet and catalog transactions would speed retirement of the STAR bonds.

"It has tremendous implications for the taxpayers of Wyandotte County," Haley said. "We're anxious to get Cabela's, Nebraska Furniture Mart and the speedway on the tax rolls."