

Cabela's ends fight over sales tax

By JOHN RICHARDSON, Staff Writer *Portland Press Herald / Maine Sunday Telegram*
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Cabela's, the outdoor equipment retailer, has withdrawn its request for a controversial tax ruling and is moving ahead with plans for a megastore in Scarborough.

The Nebraska-based company submitted a brief letter to Maine Revenue Services late Tuesday, ending months of speculation about whether the store would drop its expansion plans here because of a disagreement over sales-tax liability. The company also sent the letter to the project's developer and the Scarborough Planning Board, which met Tuesday evening to begin reviewing the proposal.

"What this means is we're no longer waiting for the ruling," said Gene Beaudoin of New England Expedition LLC.

Beaudoin's development company wants to make a 125,000-square-foot Cabela's store the anchor of a \$75 million mixed-use project on Haigis Parkway. After discussing the letter from Cabela's, Beaudoin presented details of the project, including office buildings, a 200-room hotel, restaurants and a bank.

Cabela's had said it would not come to Maine unless the revenue service ruled that the company will not have to collect sales taxes on catalog and Internet sales in the state. Although state law says a retailer with a physical presence in Maine must collect those taxes, the company has argued that its retail business is separate from its catalog and Internet business. A ruling against the retailer in Maine could open the door to other states demanding payment.

Cabela's pitch drew objections from L.L. Bean and others who said a ruling in the company's favor would give one retailer an unfair advantage over others. Company and state officials have been exchanging information on the legal standards and Cabela's corporate structure for months.

The letter from Cabela's Senior Vice President Mike Callahan resolves the question of whether the retailer still wants to expand here. "We look forward to opening a Cabela's retail store in Scarborough," Callahan wrote.

But it does not entirely explain why the company is dropping its request for a tax ruling and, in effect, agreeing to collect the catalog sales tax if the state wants it to.

"Cabela's is presently re-evaluating its expansion strategy in the Northeast, which may result in a modification of our approach in Maine. We would like to withdraw our pending ruling request as it will not accurately reflect any changes caused by any new approach," Callahan wrote.

The letter does not say how Cabela's is changing its expansion plans, and Cabela's officials could not be reached late Tuesday.

One modification that could settle the issue in Maine and avoid a precedent for other states would be to bring some piece of its catalog or Internet business here in addition to the retail store.

A Maine call center or distribution center, or even an Internet kiosk, could allow Cabela's to collect the tax without setting a precedent for states with retail stores alone, according to state Sen. Lynn Bromley, D-South Portland. Bromley, Sen. Philip Bartlett, D-Gorham, and others have been talking to Cabela's officials about creative ways to preserve the Scarborough plan. "I think this is just really good news," Bromley said. "My hope is they bring their online functions here."

The cost of collecting sales taxes in Maine was never a big issue for the retailer, Bromley said. Cabela's receives about 165,000 catalog orders from Maine every year, for about \$10 million.

Cabela's was more concerned about setting a precedent for other states and being able to compete against similar national chains such as Bass Pro, she said.

David Ewald, a Minnesota-based consultant who monitors state tax policies toward Cabela's for Gander Mountain, a competing chain, said it's unusual for a state not to agree with the retailer's interpretation of tax law. "It sounds like Maine had some backbone," Ewald said. "It proves what we've said. The retailers will go where they can make money, and you don't need to give them money to come."

Bromley said that interpretation is not exactly accurate. "There were four or five times that Cabela's was very willing to fold up the tent and go," she said. "It was close to dead many times."

Bromley said she and others saw a lot of positives in the plan, including hundreds of jobs with good wages and health insurance. She also did not want to present the image of Maine as being unwelcome to businesses. A spokeswoman for Gov. John Baldacci said he was delighted by the company's decision.

"At the beginning of this process, Governor Baldacci said he hopes Cabela's comes to Maine. This is another example of Maine being open for business," Crystal Canney said.

Staff Writer John Richardson can be contacted at 791-6324 or at: jrichardson@pressherald.com.

