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STATES URGE REVERSAL OF PHYSICAL PRESENCE RULE THAT BARS COLLECTING SALES TAX FROM ONLINE RETAILERS

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Thirty-six state attorneys general, most recently joined by California and Hawaii, have filed an amici curiae brief urging the U.S. Supreme Court to reconsider the "physical presence test". The test requires that a retailer have a physical presence within a state before being subject to the collection of sales and use tax by such a state.

The test was established by the 25-year-old case of *Quill v. North Dakota,* long before the existence of online retailers and e-commerce, as we know, today. The crux of the argument against the physical presence test is that out-of-state online retailers that sell goods to in-state residents receive an unfair pricing advantage over in-state retailers because the out-of-state online retailers are not required to collect sales or use tax from the customer.

The attorneys general filed the brief in support of a petition submitted by the state of South Dakota asking the Supreme Court to reconsider the issue in a case the state brought against several retailers, including Overstock.com and Newegg, Inc. A number of other organizations have also submitted supporting briefs, including the National Governors Association.

MEET THE TEAM

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