

# Amazon wants voters to decide on tax collection

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(AP) -- Amazon.com Inc. wants California voters to decide whether to overturn a new law that forces online retailers to collect sales taxes there, setting the stage for a potentially high-dollar ballot fight next year that would pit business against business.

A petition for a [referendum](#) was filed Friday with the state Attorney General's Office so that voters can decide on the requirement, which was included in a state budget signed into law in late June.

The new law forces online retailers to collect California [sales taxes](#) by expanding the definition of having a physical presence in the state. The requirement now kicks in if an [online retailer](#) has a related company, such as a marketing or product-development arm, or affiliates in the state - individuals and companies that earn commissions by referring visitors to Amazon from their websites.

Passage of the law, which is projected to help the state collect an additional \$200 million annually, adds California to a growing list of states that have turned to such measures in hopes of bringing in more tax revenue. Its legislature passed a similar law in 2009, but then-Gov. [Arnold Schwarzenegger](#) vetoed it.

Billions of dollars are at stake as a growing number of states look for ways to generate more revenue without violating a 1992 U.S. [Supreme Court ruling](#) that prohibits them from forcing businesses to collect sales taxes unless the business has a physical presence, such as a store, in that

state. When consumers order from out-of-state retailers, they're supposed to pay the tax that is due, but they rarely do and it's difficult to enforce.

States are trying to get around the Supreme Court restriction by passing laws that broaden the definition of a physical presence. Online retailers, meanwhile, are resisting being deputized as tax collectors.

Amazon had thousands of affiliates in California, which received fees varying from 4 percent to 15 percent of each sale they brought to the company. Amazon, which is based in Seattle, cut ties with them after the law's passage.

Paul Misener, Amazon's vice president of public policy, said the referendum supports "jobs and investment in California."

"At a time when businesses are leaving California, it is important to enact policies that attract and encourage business, not drive it away," he said.

To bring the measure before Californians in the next statewide vote in February 2012, Amazon must gather more than 500,000 signatures by late September.

Assemblyman Charles Calderon, who introduced one of the bills that was combined into the online tax measure, called Amazon's decision "an odd tactic." The Whittier-based Democrat said the ballot approach also will face opposition from California businesses large and small that are hurt by out-of-state competitors who don't collect the taxes.

"They're willing to go through all of that rather than just collect the state tax and remit it?" Calderon said. "It shows how much they are committed to their business plan, which is centered around tax

avoidance, and that's the whole reason for the bills."

Efforts to force online retailers to collect sales tax are supported by traditional retailers and their lobbying arms in Washington, D.C., and Sacramento. They say online companies such as Amazon have an unfair advantage and can lure customers who seek to escape paying state and local sales taxes.

That led to an estimated \$4.1 billion in lost sales in California in 2010, the California Retailers Association said Monday in a statement responding to Amazon's planned ballot initiative.

In addition to Amazon, Overstock.com Inc. also has cut ties to California affiliates because of the law.

According to the Performance Marketing Association, there are 200,000 affiliates across the country, 25,000 of which are located in California.

Amazon also has dropped affiliates in Arkansas, Connecticut and Illinois after similar sales-tax collection laws were passed there. Overstock, which is based in Salt Lake City, also has shuttered its affiliate programs in several states due to the laws.

Amazon does collect sales taxes in North Dakota, Kansas, Kentucky and its home state of Washington. It collects in New York, too, as it fights the state over a 2008 law, the first to consider local affiliates enough of an in-state presence to require sales tax collection.

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