

# Amazon asks Supreme Court to block NY sales tax

September 2 2013, by Jay Greene

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Amazon.com Inc. is taking its tax fight to the U.S. Supreme Court, asking the justices to block a demand from New York authorities that it collect a sales tax on goods sold in that state.

The online [retail giant](#) hired Theodore B. Olson, former solicitor general of the U.S., to represent the company in its petition to have the case reviewed by the court.

The filing, made Friday, seeks to persuade the court to consider the [constitutionality](#) of states collecting taxes from companies that don't have such physical operations as warehouses in those states.

This dispute is similar to battles Amazon has fought in other states. The company has long relied on a 1992 Supreme Court ruling that gave retailers a pass on having to collect sales in states where they don't have a [physical presence](#). Retailers with physical locations have lobbied for years to get online retailers to collect taxes on sales, arguing that the 1992 ruling gave online competitors an unfair advantage.

New York was among the first states to try to get Amazon and other online retailers to collect taxes. The state argued that a referral program the company runs, called Amazon Associates, gives the company a presence in New York. That program offers bounties to website operators for sales of Amazon products they generate through links on their pages. The company has thousands of associates in New York.

In March, the New York Court of Appeals upheld the state law requiring the collection of [sales taxes](#) by Amazon and other online retailers.

With some states that have made similar claims, Amazon has negotiated deals to collect taxes, often in exchange for [tax incentives](#) to build operations in those states. In other states, Amazon has terminated the associates programs in order to avoid tax collection.

Because New York was among the earliest states to force tax collection, it is the only state that Amazon has sued. And even though Amazon is suing New York, it nevertheless collects taxes on sales there, one of 10 states where it does so.

The case will likely set a legal precedent since the ruling in the 1992 case, *Quill Corp. v. North Dakota*, came before Internet sales became a significant business.

In its filing, the company argues that upholding the New York state law would "significantly and unduly burden interstate commerce," and that it would provide "a road map for other jurisdictions to inflict similar burdens on interstate commerce."

The news of the filing was first reported Wednesday by the Financial Times.

In addition to litigating this case, and negotiating with some states, Amazon is also pursuing the matter in Congress.

The company is backing a bill that would create a federal law, the Marketplace Fairness Act, that would require online retailers with sales of more than \$1 million to collect taxes for states in which they sold to customers.

Amazon declined to comment on the Supreme Court petition.

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