

## 35 states and DC back bid to collect online sales taxes

November 3 2017, by James Nord

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Thirty-five state attorneys general and the District of Columbia this week signed on to support South Dakota's legal bid to collect sales taxes from out-of-state internet retailers.

South Dakota is asking the U.S. Supreme Court to review whether retailers can be required to collect [sales taxes](#) in states where they lack a physical presence. The case could have national implications for e-commerce.

South Dakota Attorney General Marty Jackley said in a statement Thursday that Colorado filed a friend-of-the-court brief supporting South Dakota's petition to the high court. The state is seeking to overturn legal rulings issued mostly before the online shopping boom that hamstringing officials who want to collect sales taxes from out-of-state retailers.

"South Dakota is leading the national fight to bring tax fairness for our local retailers and to help support main street businesses," Jackley said.

The support includes neighboring Iowa, Minnesota, Nebraska, North Dakota and Wyoming. The other states are: Alabama, Arkansas, California, Connecticut, Florida, Hawaii, Idaho, Illinois, Indiana, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Mexico, New York, North Carolina, Ohio, Oregon, Pennsylvania, Rhode Island, Tennessee, Texas, Utah, Vermont, Washington and Wisconsin.

The brief says the jurisdictions all rely on consumption taxes to fund essential government operations.

States have pushed Congress to address the issue without success, and one estimate put the loss to [states](#) at roughly \$26 billion in 2015. South Dakota estimates it loses about \$50 million annually to e-commerce.

"The problem with the physical-presence rule is that it was first conceived of in 1967, two years before the moon landing and decades before the first retail transaction occurred over the Internet," according to the brief.

Some companies such as Amazon have decided to collect state sales taxes despite the precedent.

South Dakota legislators passed a law last year requiring collection of the tax. The law was struck down in September by the state Supreme Court due to precedent. The state had welcomed the defeat so it could try to get the U.S. Supreme Court to take up the case.

It takes four U.S. Supreme Court justices to vote to hear a case, or grant certiorari. Jackley said that he hopes the high [court](#) agrees to hear the case and issues a decision by June 2018.

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Citation: 35 states and DC back bid to collect online sales taxes (2017, November 3) retrieved 3 May 2024 from <https://phys.org/news/2017-11-states-dc-online-sales-taxes.html>

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