

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



Merrit M. Jones

San Francisco

merrit.jones@bclplaw.com

+1 415 675 3435

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