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## The Internet Can Be Taxing

Amazon.com LLC v. New York State Department of Taxation & Finance is a case with far-reaching ramifications. The reason this case is such a hot topic is because it could shape how sales tax is imposed on e-commerce in New York State (and possibly the rest of the country) going forward. New York State amended part of its tax law to try to force online retailers to collect sales tax on purchases made by New York State residents.



In 2010, the New York State Supreme Court ruled that this new law “is constitutional on its face and does not violate the Equal Protection Clause either on its face or as applied” thus, upholding the tax law. This ruling is being challenged by Amazon.com LLC and could end up before the U.S. Supreme Court one day.

Many believe that this New York ruling is vastly different from the 1992 U.S. Supreme Court ruling in the case Quill Corporation v. North Dakota. The Supreme Court ruled that a business needed a physical presence in a taxing jurisdiction in order to have “nexus” with that taxing jurisdiction. Without nexus, the taxing jurisdiction could not force a business to collect and remit their sales tax (and/or self-assess use tax). The New York law does not require the same type of physical presence.

Recently, an Illinois court ruled that the Illinois version of the “Amazon Law” was unconstitutional. It appears the U.S. Supreme Court could have to make a ruling on if and how state and local taxes can be applied to e-commerce. Of course, Sales Tax Defense LLC will let you know if and when such an event occurs!



### Success Story

Sales Tax Defense LLC recently resolved the sales and use tax audit of a business with a wide variety of sales; the business had sales subject to sales tax, sales excluded from sales tax and sales exempt from sales tax. Many businesses and individuals do not realize that there is a difference between being excluded from tax and exempt from tax, but there is.

During the audit, this was a key distinction which had to be addressed with the auditor. Between our understanding of the tax law and our ability to work with the business to obtain the documentation needed, we were able to illustrate that the business’s sales reporting was completely accurate.

With the business’s expenses and assets split between its New York office and its out-of-state office, these were also areas of the audit which required both discussion and documentation to clarify the assets’ location with the auditor. By working closely with the business, we were able to show the auditor that New York State sales tax was paid when due.

**The result of this audit was the “Stanley Cup” of tax audits - a “no change” – which means the tax auditor agrees that no tax is due!**

### About Us

We are a dedicated team of tax professionals who have committed our careers to helping businesses and fellow professionals with tax problems. Since the only work we are focused on is solving tax problems, businesses never have to be concerned that we will try to sell them other services they do not need. And professionals never have to be concerned with us encroaching on their client relationships, because we view you, our fellow professional, as our client.

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