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## Amazon Picks Supreme Court Tax Fight Over New York, But Collects In Virginia, Georgia, 10 Others

Amazon famously started life in the “no-taxes ever” column. More recently, the [Bezos](#)-driven behemoth emerged from its chrysalis with a pair of sales tax wings. Starting September 1st, Amazon adds two states, Virginia and Georgia, to its growing stable of states in which it collects sales tax and remits it to the state.



Amazon already collects sales tax in Arizona, California, Kansas, Kentucky, New Jersey, New York, North Dakota, Pennsylvania, Texas, and Washington. See [About Sales Tax on Items Sold by Amazon.com](#). Plus, Amazon taxes are coming soon to Connecticut, Massachusetts, Nevada and Indiana. See [Amazon Will Begin Collecting Sales Tax in Georgia](#).

Brick and mortar merchants use this as another chance to discuss the [Marketplace Fairness Act \(S.336/H.R.684\)](#). The bill would allow states to collect taxes on purchases made by their residents from online businesses based in other states. It was passed in the Senate and has the support of over

60 in the House. Still, it may not pass anytime soon, if at all. See [Online Sales Tax Inevitable, Senate Passes Marketplace Fairness Act](#).

Online sellers already collect sales tax from customers in their **own** states. The key for phone, mail and online orders is whether the merchant has a presence in your state. In [Quill v. North Dakota](#), the U.S. Supreme Court required retailers to collect tax from out-of-state customers with a physical presence in the customer's state. Yet today some states require merchants to collect taxes if they merely have in-state affiliates.

Is that constitutional? A New York court said yes, reasoning that affiliation agreements can give a vendor a kind of in-state sales force. Of course, if you don't pay **sales** tax at checkout, you pay **use** tax later, whether the purchase was personal or business. States historically didn't enforce use tax except against businesses, but many state income tax forms now collect use tax too.

eBay is fighting sales taxes and may see Amazon as a turncoat. After all, Amazon was built on sale tax advantage, something companies like Walmart and Best Buy have decried. But now, Mr. Bezos has hired famous D.C. lawyer Ted Olson to fight tax on Amazon shoppers in New York state. He is a heavyweight.

Mr. Olson was victorious in getting the Supreme Court to overturn California's same-sex marriage ban. In 2000, he won the Bush v. Gore case that decided the Presidency. As Amazon's new champion, Mr. Olson asks the Supremes to hear Amazon's challenge to New York's demand that it collect tax from shoppers in the Empire State. See [Amazon takes tax fight to Supreme Court](#).

Amazon argues in its Supreme Court petition that the New York law is unconstitutional. Yet Amazon has made deals to collect taxes in many other important states, including California. New York seems worth fighting for, especially since Amazon can service New Yorkers effectively from distribution centers in neighboring states.

Of course, Amazon continues to support the [Marketplace Fairness Act \(S.336/H.R.684\)](#), saying it would level the playing field. All states would be able to tax online shoppers and some collection rules would be simplified. But as that controversial debate plays out, Amazon proves once again that it is very savvy and know how to pick its battles.

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