



Lawmakers, conservative groups urge Supreme Court to keep online sales tax limits

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April 4, 2018

A bipartisan group of lawmakers, conservative groups and online businesses are urging the Supreme Court to keep in place limits on states' ability to require online retailers to collect their sales taxes.

Modifying the limits "would cause substantial damage to one of the most important and vibrant segments of the national economy," online auction giant eBay said in a friend-of-the-court brief filed Wednesday.

The Supreme Court is scheduled to hear oral arguments later this month in a case, *South Dakota v. Wayfair*, about the online sales issue.

The court ruled in 1992 that states could only require businesses to collect their sales taxes on remote sales if the business had a physical presence in their state. The ruling also said that Congress has the ultimate power on the issue.

South Dakota, seeking to get the court to revisit that ruling, enacted a law in 2016 that requires certain out-of-state online retailers to collect their sales taxes.

But in friend-of-the-court briefs filed this week, a number of stakeholders argued that the 1992 ruling should be upheld. Briefs supporting *Wayfair* were due Wednesday.

A group of lawmakers that includes House Judiciary Committee Chairman Bob Goodlatte (R-Va.) and Senate Finance Committee ranking member Ron Wyden (D-Ore.) said in their brief that "it is for Congress — not the Solicitor General, this Court, or the States — to decide the best interstate taxation scheme for Internet sales."

A coalition of conservative organizations — including the National Taxpayers Union Foundation, Americans for Prosperity and FreedomWorks — argued that it's important for the Supreme Court to make clear that states don't have unlimited ability to regulate outside of their borders.

"As an original matter, there is no valid reason to allow a state to impose regulatory tax-collection responsibilities on an out-of-state retailer without either a physical presence or a voice in the jurisdiction," wrote the groups, which are represented by former Solicitor General Paul Clement.

Others that filed briefs urging the court to keep the physical presence standard include Etsy, the Cato Institute, and New Hampshire and Montana, both of which don't have sales taxes.

Those who support South Dakota's law argue that states should be able to require businesses to collect their sales taxes if they have an economic presence in the state, even if they don't have a physical presence.

Stakeholders supporting South Dakota were required to file briefs by early March. Those who did include the Trump administration, a bipartisan group of Senators that includes Lamar Alexander (R-Tenn.) and Heidi Heitkamp (D-N.D.), retail groups and groups representing state and local governments.