

THE HONORABLE MARSHA J. PECHMAN

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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

AMAZON.COM, LLC,

Plaintiff,

v.

KENNETH R. LAY, in his official capacity  
as Secretary of the North Carolina Department  
of Revenue,

Defendant.

No. 10-cv-00664-MJP

**THIRD DECLARATION OF  
H. ALAN WOODARD IN SUPPORT  
OF NORTH CAROLINA MOTION  
TO DISMISS**

I, H. Alan Woodard, do hereby depose and say as follows:

1. I have previously provided two Declarations in this matter and provide this Third Declaration in Support of North Carolina's Motion to Dismiss. The information provided in the previous Declarations is incorporated herein by reference.

2. Internet retailers such as Amazon are costing the states billions of dollars in lost sales tax revenue. According to some estimates, states are losing about \$23 billion a year in uncollected sales tax on Internet purchases nationwide. See Exhibit 1. A study by Donald

THIRD DECLARATION OF WOODARD - 1  
10-cv-00664-MJP

N.C. Department of Justice  
Post Office Box 629  
Raleigh, North Carolina 27602  
(919) 716-6900 Fax (919) 716-6763

1 Bruce, William F. Fox and LeAnn Luna estimates that North Carolina will lose \$162 million in  
2 2010 from untaxed online purchases (using the more conservative estimate; the study's higher  
3 estimate puts this number at \$186 million for 2010). *State and Local States Tax Revenue Losses*  
4 *from E-Commerce*, 52 State Tax Notes 537 (May 18, 2009).

5           3.       Because the use tax is largely ignored by purchasers when sales taxes are not  
6 collected by the seller, only a small portion of the applicable use tax is collected. Indicative of  
7 the enormity of the problem, North Carolina purchasers paid \$5 million in total use taxes for the  
8 year 2008. *See* Exhibit 1. The study estimated that \$145 million was due as a result of online  
9 transactions for that year. The North Carolina Department of Revenue has preliminarily  
10 estimated that approximately \$50 million in sales or use taxes remains unpaid by Amazon or its  
11 customers for the audit period (August 1, 2003 through June 30, 2009). This figure does not  
12 include interest or penalties. Because the base of the sales and use tax is the same (the purchase  
13 price), the same amount of tax would be due whether a sales tax or a use tax were assessed on  
14 Amazon's transactions with its North Carolina customers.  
15

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17           4.       Amazon's aggressive tax avoidance policies are well-known in the state tax  
18 community. For example, *see* Exhibits 2 through 4.  
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20           5.       The filing of this lawsuit by Amazon claiming a violation of First Amendment  
21 rights has occasioned much national attention and discussion. For example, *see* Exhibits 5  
22 through 7.  
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1 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the  
2 United States that the foregoing is true and correct to the best of my knowledge, and that the  
3 foregoing declaration was executed on August 6, 2010.

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5 By: H. Alan Woodard  
6 H. Alan Woodard, Director Examination Division  
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