

THE HONORABLE MARSHA J. PECHMAN

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

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

**SECOND DECLARATION OF
JENNIFER GALBREATH IN
SUPPORT OF PLAINTIFF'S
MOTION FOR SUMMARY
JUDGMENT**

NOTE ON MOTION CALENDAR:
August 6, 2010

I, Jennifer Galbreath, declare under the penalty of perjury as follows:

1. I have previously submitted a declaration in this matter in support of the motion for summary judgment of Plaintiff Amazon.com LLC ("Amazon"). I have personal knowledge of the matters referred to in this declaration, either directly or based on due diligence and reasonable inquiry, including my review of Amazon's business records. If called as a witness, I am competent to testify to those matters.


2. Amazon uses an Amazon Standard Identification Number, or "ASIN," to identify each product in its catalog and its systems. Sales information for each product is stored by ASIN as well.

1 3. The ASIN level sales report that Amazon gave to North Carolina's Department
2 of Revenue is the same report format Amazon has provided in other sales tax audits. To the
3 best of my knowledge, North Carolina is the first state to demand Amazon produce personally
4 identifiable customer information (names and addresses).

5 4. Amazon collects sales tax only in Kansas, Kentucky, North Dakota, New York
6 and Washington. To facilitate the collection and payment of these taxes, starting in 2008, in
7 addition to ASINs, Amazon began to assign "product taxability codes" ("PTCs") of the sort
8 cited by DOR in its papers, specifically tailored to the particulars of the tax laws in each of
9 these five states. These codes were developed and assigned to products specifically at the
10 level of detail necessary for the taxability requirements of Kansas, Kentucky, North Dakota,
11 New York and Washington, respectively. The overwhelming majority of the items sold even
12 in these states are coded with the "general merchandise" PTC because there are no special
13 taxability rules applicable to those items.
14

15 5. Amazon does not assign or maintain PTCs at the level of detail necessary to
16 determine taxability in any state in which Amazon does not collect sales tax, including North
17 Carolina.
18

19 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the
20 United States of America that the foregoing is true and correct to the best of my knowledge
21 and belief.
22

23 
24 Jennifer Galbreath
25 Senior Tax Manager, Indirect Taxes
26 Amazon.com, Inc.
27 Dated: Seattle, Washington
August 9, 2010

CERTIFICATE OF SERVICE

1
2 I hereby certify that on August 9, 2010, I electronically filed the foregoing with the
3 Clerk of the Court using the CM/ECF system, which will send notification of such filing to all
4 parties listed to receive electronic notice in this case.

5 DATED this 9th day of August, 2010.

6 DAVIS WRIGHT TREMAINE LLP

7
8 By: s/ Steven P. Caplow

9 Steven P. Caplow, WSBA #19843

10 1201 Third Avenue, Suite 2200

11 Seattle, Washington 98101-3045

12 Tel.: (206) 757-8018

13 Fax: (206) 757-7018

14 E-mail: stevenaplow@dwt.com