

American College of Tax Counsel Files Amicus Brief With U.S. Supreme Court

Nationwide non-profit association of tax lawyers filed a "friend of the court" brief in support of a petition for Supreme Court to hear important sales tax case

ROCHESTER, NEW YORK, UNITED STATES, April 27, 2023 /EINPresswire.com/ -- The [American College of Tax Counsel](#) (the "College") announces the filing

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C. Wells Hall, III, counsel of record for the College

on April 13, 2023, of an amicus brief with the United States Supreme Court in the case of Quad Graphics, Inc. v. North Carolina Department of Revenue (No.22-890). The College filed the amicus brief in support of a certiorari petition filed on behalf of Quad Graphics Inc. The amicus brief urges the Supreme Court to take up the case to resolve the question of the jurisdictional limit on a state's authority to impose its sales tax upon a sale of goods and services in the state. The College filed the amicus brief in support of the petition and seeks a reversal of the North Carolina Supreme Court's decision to impose sales tax on a transaction consummated outside its borders, and within

the borders of another state.

The issue in the case is whether a state may impose sales tax on a transaction consummated outside its borders as a result of post-sale activities resulting in the delivery of goods into such state. The College's brief explains that the United State Supreme Court's precedent in *McLeod v. J E Dilworth Co.*, laid down a clearly understandable rule regarding the location of a sale for purposes of determining which jurisdiction can levy its sales tax on that event, and that the North Carolina Supreme Court's decision concluding that Dilworth is no longer binding precedent of the United State Supreme Court creates uncertainty about Dilworth's ongoing salience and will likely proliferate among other states.. The College urged the United State Supreme Court to provide clear guidance regarding the jurisdictional reach of a sales tax.

Background of the Case

North Carolina sought to impose sales tax on a vendor who sold printed materials that were created at printing facilities across the United States, none of which were in North Carolina. The vendor employed sales representatives who solicited orders, but those orders were filled outside

North Carolina and the resulting product was delivered to a common carrier outside North Carolina. The contracts between the vendor and its customers stated that possession, legal title, and risk of loss passed to the customers when the product was delivered to the carrier outside North Carolina.

In this case, the North Carolina Supreme Court approved the imposition of sales taxes on sales made by the out-of-North Carolina vendor that were consummated out-of-North Carolina for the delivery of goods into North Carolina. As Wells Hall, who appeared as counsel of record for the College explained, "The location of a sale has long been the factor that determines which state has the constitutional authority to impose a sales tax on the sale. In the Dilworth decision, the Court laid out a clear and usable rule identifying the location of a sale where the goods or services are shipped or delivered across a state line. In Quad Graphics, on the other hand, the North Carolina Supreme Court decided that Dilworth was no longer good law or binding precedent. We believe that the determination of whether the long-standing place of sale rule of Dilworth is or is not good law and is not still applicable to the states should be made by the U. S. Supreme Court, so there is a uniform and consistent understanding of the jurisdictional law applicable to sales taxes. Until the Supreme Court overrules Dilworth, the lower courts should not be deciding for themselves which of the Court's precedents are out of date." The College encouraged the Supreme Court to grant the petition to ensure a uniform application of a state's power to impose sales tax on transactions consummated outside its borders.

About Amicus Briefs

A brief by Amicus Curiae ("friend of the court"), or an amicus brief, allows a person or organization with a strong interest in or important views on the subject matter of a case to file a brief explaining those views and urging the court to rule in a manner consistent with those views. Amicus briefs are often filed in cases of broad public interest and are filed with the permission of the court and typically, as in this instance, with the consent of all the parties in the case.

About the American College of Tax Counsel

The American College of Tax Counsel is a nonprofit association of tax lawyers in private practice, in law school teaching positions, and in government, who are recognized for their excellence in tax practice and for their substantial contributions and commitment to the profession. One of the chief purposes of the College is to provide a mechanism for input by tax attorneys into the development of U.S. tax laws and policy. The College's brief was submitted by its governing Board of Regents, represented by attorneys C. Wells Hall, III, Charles II. Mercer Jr., Reed J. Hollander, of the law firm of Nelson Mullins Riley & Scarborough LLP.

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