

## Sales/Use/Indirect:

### California: US Supreme Court Denies Trade Association's Petition to Review Remote Seller Case

*Docket No. 22-1076*, US (cert. denied 6/20/23). The US Supreme Court denied a trade association's petition to review whether it may pursue a challenge in federal court against California's attempt to collect sales tax from its online remote seller members whose inventory was held in a nonaffiliated marketplace facilitator's in-state warehouses. Specifically, the trade association had asked whether:

**URL:** <https://www.supremecourt.gov/search.aspx?filename=/docket/docketfiles/html/public/22-1076.html>

1. The federal Tax Injunction Act (TIA) applies differently based on whether the plaintiff is a putative taxpayer or a "third party," and
2. Plaintiffs who cannot challenge tax information demands in state court have an adequate remedy to challenge those demands in state court.

In the underlying case, the trade association argued, among other claims, that California's attempts to collect sales tax from its online merchant members on their sales to in-state residents before October 2019 violated their rights under the US Constitution and the federal Internet Tax Freedom Act given that their contacts with California were limited to in-state storage of merchandise. In 2022, the United States Court of Appeals for the Ninth Circuit affirmed the district court's dismissal of the lawsuit to enjoin collection of California sales and use taxes as being barred by the TIA [see Case No. 21-16911, US 9th Cir. (November 9, 2022) for more details on the Ninth Circuit's ruling]. Please contact us with any questions.

**URL:** <https://cdn.ca9.uscourts.gov/datastore/opinions/2022/11/09/21-16911.pdf>

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