

## State Tax Update for Entities Doing Business with Companies or Customers Located in New York and Massachusetts

January 27, 2009

Recent court decisions in New York and Massachusetts may have tax implications for entities doing business with companies or customers in those states.

**New York** - The New York Supreme Court (trial court) recently held that Amazon.com could be required to collect sales and use taxes in New York because it entered into commission-type arrangements with New York resident businesses to advertise/solicit customers in New York through their websites. The court distinguished this type of arrangement from a mere advertising arrangement. It is likely that this ruling will impact how non-New York sellers will deal, or stop dealing, with New York advertising and other businesses that advertise the goods and services of such non-New York sellers on their websites. Whether this will ultimately increase New York sales and use tax collections or just hurt New York businesses that benefited from these arrangements is yet unknown. Both New York companies that earn money from website advertising and non-New York sellers should evaluate their activities in New York based upon this decision.

**Massachusetts** - Following the lead of courts in a growing number of states, the Massachusetts Supreme Court has ruled that Capital One Bank and Geoffrey, Inc. (Toys 'R' Us) have income tax nexus with Massachusetts because they allowed their intangibles to be used by other companies in Massachusetts for consideration. This economic nexus trend may raise substantial IP income tax issues for any business licensing intangibles to companies doing business in Massachusetts and a growing number of states.

### For Further Information

If you would like more information on these topics, please contact [Stanley R. Kaminski](#), any other [member](#) of the [State and Local Tax Practice Group](#), or the lawyer in the firm with whom you are regularly in contact.

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