



Overstock.com Challenges Constitutionality of New York's Internet Tax Law

May 30, 2008
SALT LAKE CITY, May 30 /PRNewswire-FirstCall/ -- Overstock.com, Inc. (Nasdaq: OSTK) announced today that it has filed a lawsuit challenging New York's new tax law that requires internet retailers to collect and pay to the New York state tax on their New York sales despite the fact that the retailer has no physical presence or nexus in New York. The controversial new law attempts to redefine the relationship that internet retailers have with their New York-based advertising affiliates by requiring that when those affiliates solicit customers, the internet retailers collect and pay sales and use tax from all their New York customers. Overstock.com, which is based only in Utah, has no operations in New York, and sells exclusively through the internet, views the new law as unconstitutional under both New York and federal constitutional provisions, including due process clauses under both constitutions and the commerce clause of the U.S. Constitution as well. The complaint filed in the New York Supreme Court calls upon the court to issue an injunction and to declare the law unconstitutional. It names as defendants in the suit the New York State Department of Taxation and Finance, and Tax Commissioner Robert L. Merga and Governor Paterson in their official capacities as state officers.

On May 15, 2008, Overstock.com announced it had notified more than 3,400 New York-based affiliate advertisers that as of June 1, 2008 they could no longer provide advertising for Overstock.com owing to the application of this law. If it had not taken the action, on June 1, the controversial new law would have required the company to collect an up to 8.75% sales tax on all its sales to New York customers. If the company's legal challenge succeeds, the company anticipates it will return to state's internet advertising affiliates.

"We love New York," said Patrick Byrne, Overstock.com chairman and chief executive officer. "But, we had to choose our New York customers over the New York tax collector armed with an unconstitutional statute."

"I am confident of our position in the suit," said Mark Griffin, Overstock.com general counsel. "The applicable United States Supreme Court cases on the question of whether the state can collect taxes under these circumstances make it clear that New York cannot constitutionally require Overstock.com to collect these taxes."

The company is the second large internet retailer to challenge the law. Amazon.com filed suit previously, alleging similar claims.

About Overstock.com
Overstock.com, Inc. is an online retailer offering brand-name merchandise at discount prices. The company offers its customers an opportunity to shop for bargains conveniently, while offering its suppliers an alternative inventory distribution channel. Overstock.com, headquartered in Salt Lake City, is a publicly traded company listed on the NASDAQ Global Market System and can be found online at <http://www.overstock.com>. Overstock.com(R) is a registered trademark of Overstock.com, Inc. All other trademarks are the property of their respective owners.

This press release contains certain forward-looking statements within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934. Such forward-looking statements include, but are not limited to, statements regarding a change in the new New York tax law, the company's tax nexus to New York, the forecasted success of the lawsuit, comments regarding the constitutionality of the New York law, and returning to the New York-based advertising affiliates. Our Form 10-K for the year ended December 31, 2007, our subsequent quarterly reports on Form 10-Q, or any amendments thereto, and our other subsequent filings with the Securities and Exchange Commission identify important factors that could cause our actual results to differ materially from those contained in our projections, opinions or forward-looking statements.

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