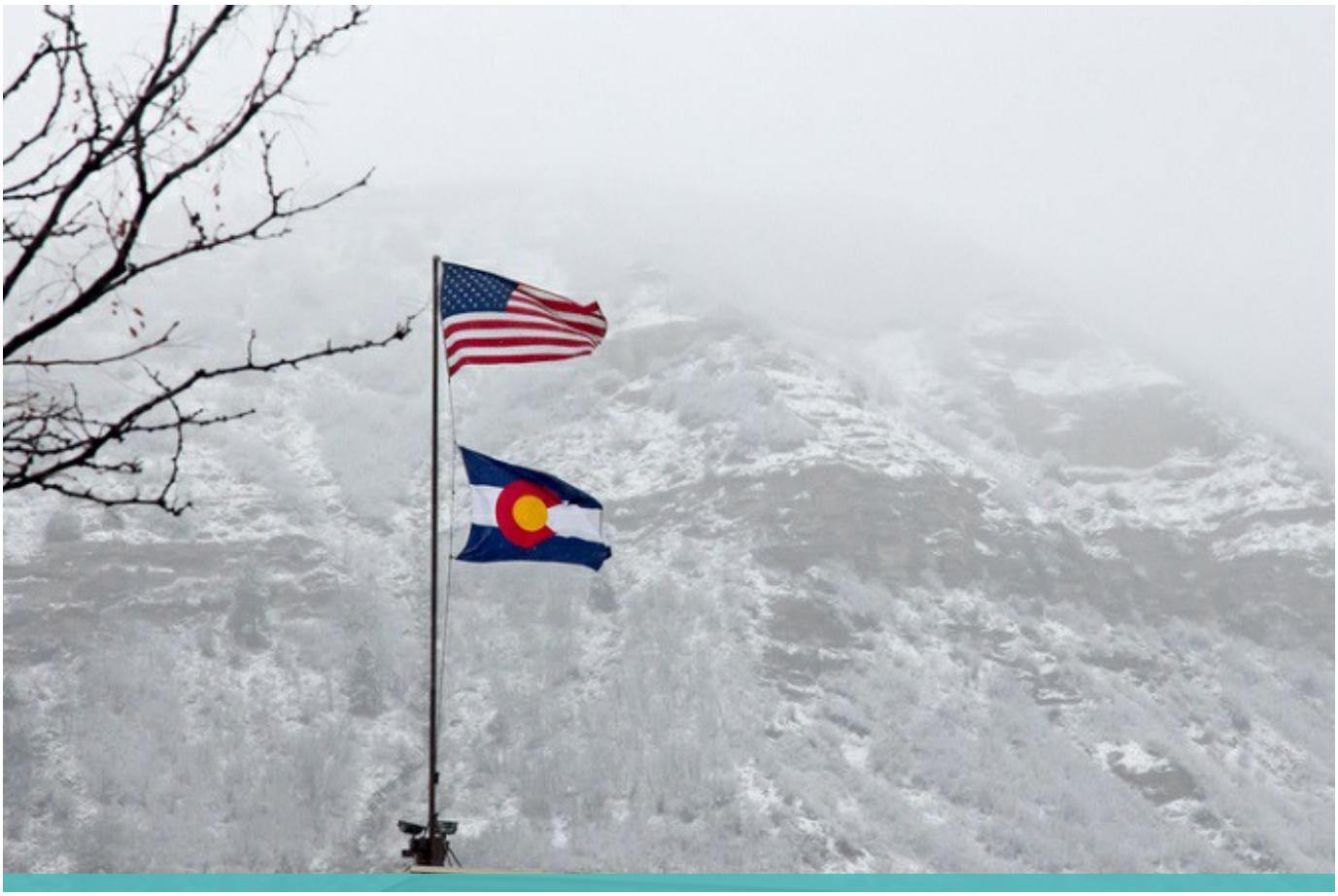
Colorado: Lawsuit over sales tax notification and reporting requirements settles



David M. Kall | Thursday, March 2, 2017

In the closely watched case *Direct Marketing Association v. Brohl*, the Direct Marketing Association, now known as the Data & Marketing Association (DMA), sued Colorado for its allegedly unconstitutional 2010 law subjecting internet retailers to notification and reporting requirements when the retailers cannot be required to actually collect the taxes. The law was the state's attempt to capture some of the tax revenue lost to purchases over the internet when the seller has insufficient nexus with Colorado to be subject to tax collection laws.

The DMA had challenged the law in both state and federal court, and appealed to the United States Supreme Court twice. In the last decision of that Court, on December 12, 2016, which we explained at the time, the Court denied DMA's petition for review, which left the Tenth Circuit's ruling, holding that the law does not violate the Constitution, in place.

Since that time, the litigation in state court remained pending, and in a February 23, 2017, press release, the DMA announced that the parties had settled. Declaring that the settlement "protects marketers from past liability," the group noted that under the document's terms, "direct marketers will not be liable for any penalties for past periods, and compliance obligations will not commence until July of this year." In exchange, the DMA agreed to dismiss its case and forego the opportunity to re-file at a later date.

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Team member bio