



STATES OF AFFAIR

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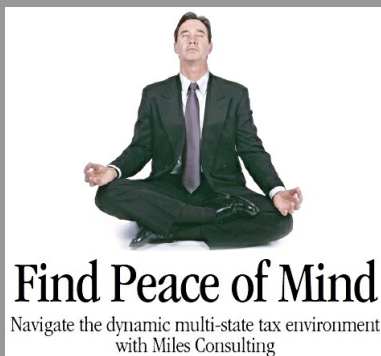
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Greetings!

So, what's new in state sales tax? Today - EVERYTHING!!

In a much anticipated ruling, the U.S. Supreme Court today ruled 5-4 in favor of overturning its 1992 decision in *Quill*, which set a standard requiring substantial physical presence before a state could enforce the sales tax collection responsibilities on a seller. In today's case, ***South Dakota v. Wayfair, Inc.***, writing for the Court's majority, Justice Kennedy indicated "...the Court concludes that the physical presence rule of *Quill* is unsound and incorrect. The Court's decision in *Quill Corp v. North Dakota*, 504 U.S. 298 (1992), and *National Bellas Hess, Inc. v. Department of Revenue of Ill.*, 386 U.S. 753 (1967), should be, and now are, overruled."

What does this mean for our clients? The short answer is that companies will now need to consider not only whether they have physical presence (or "boots on the ground") nexus in a given state, but also whether their sales activity in a state exceeds certain "economic nexus" thresholds (such as the South Dakota threshold of \$100,000 of sales or 200 annual transactions). If so, they will need to register with the state and collect and remit sales taxes. Note that the ruling only addresses the South Dakota legislation, which also was not retroactive. However, we can likely infer that the Court believes that the thresholds set by South Dakota are "substantial nexus" as required by another famous US Supreme Court state tax case in *Complete Auto Transit*, and that similar legislation passed by other states will also be held to be Constitutional. And many states have similar statutes ready to go. In short, if you've been putting off that nexus study...it's time to revisit it. Also note that while this case related to online retailers, the ruling is not limited to e-tailers. This ruling impacts anyone selling into the state. For those of you wondering if you need to start filing today, the practical answer is probably not today. But very soon.

The longer answer is that much still remains to be seen. Will other states pass economic nexus statutes similar to South Dakota's? Likely! But what if the thresholds are lower? Will they still be constitutional based on today's decision? Will Congress continue to consider legislation that could raise the threshold to \$1 Million (or more) before creation of nexus, like the various Marketplace

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Fairness Act bills have proposed for years? Will Congress consider a bill that would codify *Quill* via the No Regulation with Representation proposed legislation? (See our [blog](#).)

Dissent: In his dissenting opinion to today's ruling, Chief Justice Roberts indicated "The Court...breezily disregards the costs that its decision will impose on retailers. Correctly calculating and remitting sales taxes on all e-commerce sales will likely prove baffling for many retailers." He added "The burden will fall disproportionately on small businesses." And that's where we shake out. Most of our clients fall into the category where the ruling will prove to be burdensome in terms of complexity, compliance and cost. There are still many unanswered questions. As always, we are here to help. Stay tuned to this newsletter, our blogs and social media as we help you keep up with the latest and how it will affect your companies. Or give us a call. Let's talk. Soon!

Happy Summer!,
Monika Miles
Miles Consulting Group, Inc.



CALIFORNIA AND MARKET-BASED SOURCING- ATTEMPTED CLARIFICATION?

Market-Based Sourcing of revenue for services as related to income tax apportionment purposes is becoming a trend among states. As our economy becomes more service intensive, determining how to properly source service

and intangible revenue is vital to the states. According to [Bloomberg BNA](#), California's latest draft rules for market-based sourcing of sales of intangibles are confusing and could affect defense contractors, asset managers, and R&D service companies.



On May 18, 2018, the California Franchise Tax Board (FTB) held its third Interested Parties Meeting (IPM) regarding proposed amendments to California Code Regulations, Title 18 (CCR), Section 25136-2. This section of the CA Regulations describe the provisions of market-based sourcing rules for California taxpayers.

[Click here to read more about California and its Market-Based Sourcing rules.](#)

AN UPDATE ON RECENT CALIFORNIA TAXES: WHAT YOU NEED TO KNOW

Have you been keeping up with California's recent news regarding taxes? From cannabis to tap water and gas, various tax legislation in [California](#) would impact all residents. Here's a recap of each one.



California's Taxes on Gas

[Senate Bill 1](#) increased gas taxes by 12 cents per gallon, diesel fuel 20 cents per gallon and raised vehicle fees. The legislation was approved by both the Legislature and the governor back in April and is projected to raise \$5.4 billion a year for road and transit projects. While the tax revenue is earmarked for important work within the state, 51 percent of registered voters report they'd repeal the tax if it were placed on the statewide ballot in November.

[Click here to read more about recent taxes in California.](#)

GEORGIA'S NEW ONLINE SALES TAX BILL: WHAT YOU NEED TO KNOW

In its anticipation of Wayfair, Georgia recently [passed House Bill 61](#), legislation requiring online retailers that make at least \$250,000 or 200 sales a year in the state to collect sales tax or send "tax due" notices to customers spending a minimum of \$500 on their websites.



[Click here to read more about Georgia's new online sales tax bill.](#)

FOCUS ON RHODE ISLAND

This month we travel north east to The Ocean State of Rhode Island. It is nicknamed the Ocean State due to its large number of ocean front beaches, large bays and inlets that amount to about 14% of its total area. The state is mostly flat with no real mountains.



Rhode Island has two distinct natural regions. Eastern Rhode Island contains the lowlands of the Narragansett Bay, while Western Rhode Island forms part of the New England Upland. The state's forests are part of the

Northeastern coastal forests ecoregion.

[Click here to read more about the tax landscape in Rhode Island.](#)

What's Up at Miles Consulting?

Networking:

[NAWBO SV](#)

As the Immediate Past President of the National Association of Women Business Owners, Monika invites you to its next meeting on June 26. The International Man of Memory, Chester Santos, will be speaking about memory training for professionals. For more information on this event, [click here](#).

[AFWA](#)

As a member of the Accounting & Financial Women's Alliance, Monika invites you to its next meeting on July 24th.

Educating:

Monika is a featured blogger at [SalesTaxSupport](#). Check out her latest blog [here](#) about the California Manufacturer's Sales Tax Exemption.

Don't forget - We do customized multi-state tax presentations for local accounting firms; invite us to do one at your firm! Stay tuned for upcoming webinars!

For more information, please call us at 408-266-2259.

About Miles Consulting

Miles Consulting Group is a professional services firm specializing in multi-state tax solutions. We address state and local tax issues for our clients, including general state tax consulting, nexus reviews, credits and incentives maximization, income tax and sales/use tax planning, and other special projects. We also specialize in SaaS and other technology industries. For more information visit, www.milesconsultinggroup.com.