

Sales and Use Tax Changes Timeline

2005

- A California appellate court declared internet bookseller, Borders Online, LLC, had substantial nexus with the state and was required to collect use tax on sales to its California customers because the customers could return books to an in-state affiliate.
- Nationally, affiliate nexus is more aggressively pursued.

2015

- Justice Kennedy gave a concurring opinion on the appeal of the injunction in Direct Marketing Association (DMA) v. Brohl (2015) stating the Court should revisit its “questionable” decision in *Quill*.

2017

- Massachusetts implements “Cookie Nexus” rules, requiring many online sellers without a physical presence in the state to collect and remit sales and use tax.
- South Carolina files suit against Amazon for failing to collect sales tax on third party sales through its marketplace.
- South Carolina administrative law judge refused to force Amazon to collect sales tax; Amazon says the state does not have the authority to require it to collect the tax on such sales.

1992

- With *Quill v. North Dakota* (1992), SCOTUS set a physical presence standard by ruling that a state cannot require a business to collect use tax from in-state customers without a physical presence in the state.

2013

- NY Court of Appeals upheld New York’s law imposing “click through nexus;” through these types of arrangements a vendor was deemed to have established an in-state sales force. As a result, more states began passing “click through nexus” laws.

2016

- South Dakota and Alabama challenge the physical presence requirement of the *Quill* decision; remote sellers should keep in mind that sales tax changes may be on the horizon.
- The 10th Circuit upheld the *DMA* decision stating that Colorado’s notice and reporting requirements did not violate the dormant Commerce Clause and could be enforced.
- SCOTUS declined to hear the appeal in spite of its ruling on injunction in 2015.

2018

- Amazon’s home state, Washington, becomes the first state to implement marketplace facilitator tax collection requirements.
- SCOTUS heard oral arguments in the South Dakota v. Wayfair case, in which *Quill*’s physical presence requirement was challenged.
- **SCOTUS ruled against Wayfair**, declaring that states may require remote sellers without a physical presence in the state to collect sales tax on sales to in-state residents.