

6 State and Local Tax Trends That Are Evolving From The Wayfair Decision of 7 Years Ago

Conflicting nexus definitions and sales tax exemptions can result in inappropriate payments, often creating overpayments.

PHILADELPHIA, PA, UNITED STATES, May 29, 2025 /EINPresswire.com/ -- In 2018, the United States Supreme Court decided the case South Dakota vs. Wayfair, and the world of sales tax compliance would never be the same. Although the Wayfair decision was primarily directed at the retail industry, and especially for online retailers who were not paying states and local sales taxes on sales being made there, over the last 7 years, the decision has actually had an effect on virtually all companies doing business in multiple states and therefore owing sales and use taxes in many of them. Prior to 2018, companies needed a physical presence in a state in order to be responsible for the collection and remission of sales tax. After the Wayfair case, companies only needed what the Court defined as an “economic presence” in the state in order to qualify for sales tax liability. Although the Supreme Court made this monumental ruling that applied to all states, it left the details up to each state.

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William Flick, Managing Partner, EisnerAmper Advisory Group, LLC

90% of states charge sales and use taxes, although five states charge no sales tax. The concept of nexus in jurisdictions, for sales & use taxes, relates to the definition of business and locational overlap where one jurisdiction has tax collection precedence over others. For larger, multi-state companies, often this can mean that a company is wrongly or mistakenly billed for and/or pays taxes it doesn’t owe or from which they are exempt. If so, they may be ultimately qualified for a significantly sales tax refund.

According to Bill Flick, a Managing Partner at EisnerAmper Advisory Services, and a thought leader in sales tax policy and process said, “Unfortunately, many companies assume that the sales tax billed on an invoice is correct and pay that amount automatically. Or, sometimes when an invoice comes in with one sales tax amount, the lead bookkeeping software automatically adjusts it. The result is that companies can overpay over several years and ultimately can qualify

for a significant refund of taxes, often five, six and seven figures.”

Over the last seven years since the Wayfair decision, the issue of sales tax nexus has not remained a static affair for most states. States are continually revising definitions of sales tax nexus and that of companies’ SALT tax liabilities. Some of the sales tax trends are evolving are:

- sales tax increasing its influence in being a major source of government funding.
- revising the minimum amount of transaction threshold done in a state so that there is only a minimum dollar volume criterion there, not a minimum number of transactions.
- increasing the number and type of digital transactions that now qualify for sales taxes, including streaming, digital and software as a service (SaaS).
- providing for whether a non-sales-related employee, located in a state, is identified as relating to sales or not and therefore would trigger nexus qualifications or not.
- changing the definition relating the inventory stored in a state as a nexus qualifier, especially when it’s not controlled by that company there, still being under the control of Amazon, UPS, FedEx and other organizations/facilities.
- simplifying the qualification definition for a company to achieve or end sales tax nexus status,

When a company is buying and selling goods and services over a number of states, conflicting nexus definitions and sales tax exemptions can trigger inappropriate nexus definitions, often leading to identifying significant sales tax refunds from where a company can review their activity over as many as three years.

Said Flick, “It used to be that most companies waited for a sales tax audit to determine whether they owed more or got a refund in sales & use taxes. But sales taxes and the concept of nexus has gotten a lot more complicated since the Wayfair decision. These complications and nexus definitions often require companies to raise the priority they give to sales tax management to be more proactive. Many are including adding a sales tax expert to their financial team who specializes in this niche.”



William Flick - Managing Partner EisnerAmper

ABOUT: EisnerAmper Advisory Group

EisnerAmper, one of the largest business consulting groups in the world, is comprised of EisnerAmper LLP, a licensed independent CPA firm that provides client attest services; and EisnerAmper Advisory Group LLC, an alternative practice structure that provides business advisory and non-attest services in accordance with all applicable laws, regulations, standards and codes of conduct. Having recently joined the EisnerAmper family, FM Cost Containment is one of the leading forensic tax recovery firms in the United States, specializing in tax confirmation and recovery of overpayments of sales and use taxes, as well as tax audit defense, utilizing proprietary research and knowledge of little-known technicalities in the tax laws of each of the 50 states, including over 10,000 tax entities throughout the United States.

For more information, please contact:

William Flick

EisnerAmper Advisory Group LLC

40 Lloyd Ave.

Suite 308

Malvern, PA 19355

Phone: 484-580-8907

Email: william.flick@eisneramper.com

Website:

<https://www.eisneramper.com/about-us/professional-directory/bill-flick/>

LinkedIn: <https://www.linkedin.com/in/williamflick>

Twitter: <https://www.x.com/BillFlickJr>

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Leo Levinson

GroupLevinson Public Relations

2676646161 ext.

leo@grouplevinson.com

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