

Wayfair: Substantial Nexus Without Physical Presence

South Dakota v. Wayfair settled the physical presence debate under the substantial nexus prong of the Complete Auto Test. The case was remanded to the South Dakota courts for further consideration of the commerce clause test’s remaining three prongs.

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**South Dakota v. Wayfair, Inc.,
2018 U.S. LEXIS 3835**

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More Challenges On The Way

Further, Wayfair only upholds the South Dakota law and only does so with respect to the issue of substantial nexus. It remains to be seen whether other state laws imposing collection obligations on out-of-state sellers will pass constitutional muster under Wayfair. To the extent other state laws apply retroactively, do not have sufficient safe harbor provisions or are otherwise burdensome on interstate commerce, those laws are ripe for constitutional challenges.

[High Court Kills Quill, But What's Left?, Law360, June 22, 2018.](#)