

The Bottom Line on Internet Sales Tax

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Presented by...

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South Dakota V. Wayfair, Inc.

**THE CHANGING SALES AND USE
TAX LANDSCAPE**

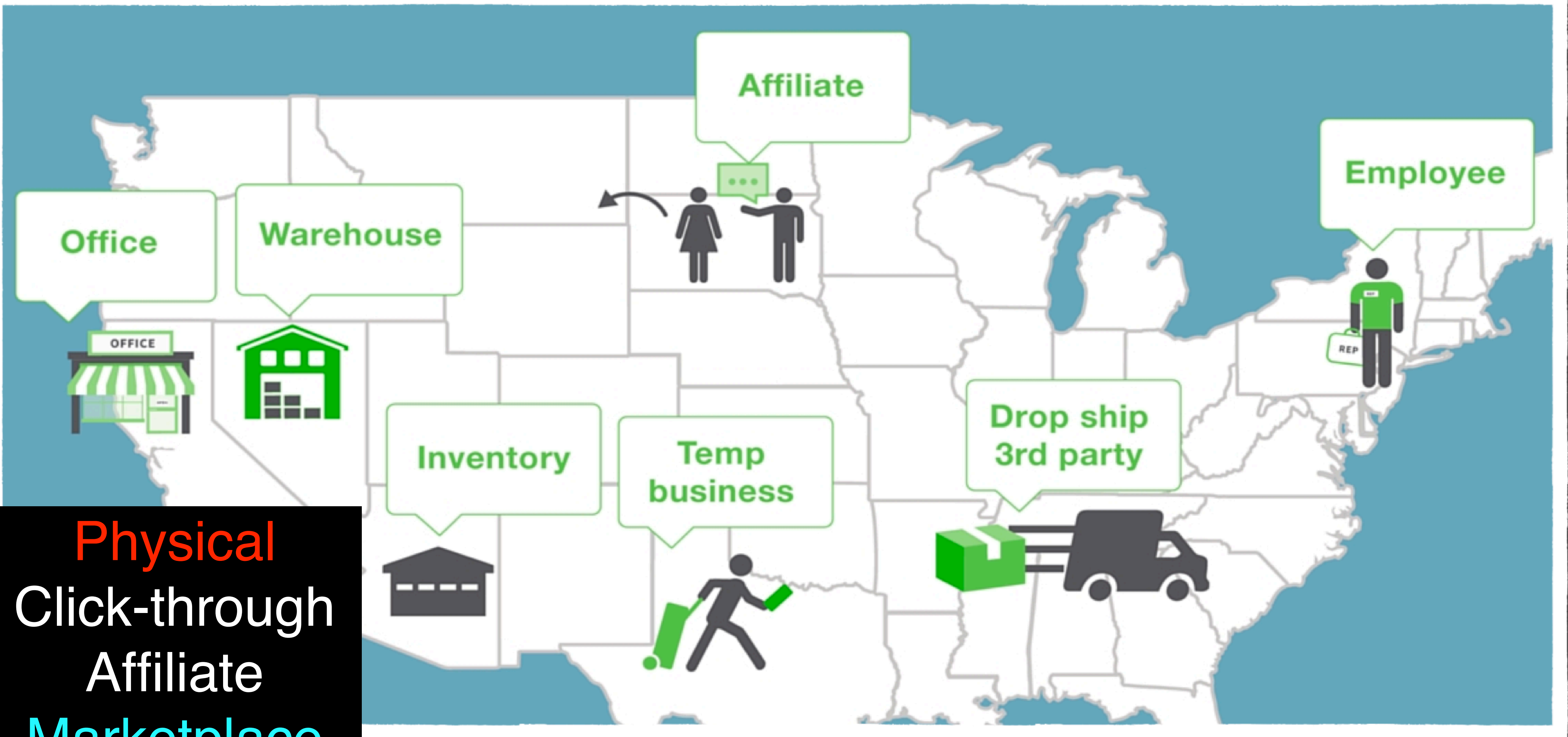
“Has the new Supreme Court decision truly leveled the playing field between brick & mortar and online retailers alike?”



What is Nexus?



“**Nexus**” is the determining factor of whether an out-of-state business selling products into a state is liable for collecting sales tax on sales into that state. Nexus is required before any taxing jurisdiction can impose its tax on a business.



Physical
Click-through
Affiliate
Marketplace
Economic

TYPES OF NEXUS

The Old Ruling...

1992 Supreme Court Decision
Quill Corporation v. North Dakota

The Court ruled a company only had to collect sales tax (and file appropriate sales tax returns) for transactions within a particular state if it had a **physical presence (a.k.a. “nexus”)** in that state (i.e. brick & mortar store)

“Physical” Nexus

Physical nexus is when a business has a “physical” presence in another state. Common items that create physical nexus are the location of:

- Office / warehouse
- Employees / agents
- **Inventory**
- Soliciting sales (i.e. trade shows)



The New June 2018 Ruling ...

2018 Supreme Court Decision
South Dakota v. Wayfair Inc.

The Court ruled all companies that conduct business online will need to comply with the sales tax collection and reporting laws of **every state** where they transact internet sales. (There are a few exceptions...mostly for businesses with low revenues or few transactions within a particular state...but for the most part, everyone is now required to play by the same rules)

“Economic” Nexus

Economic nexus is associated with a **dollar amount of gross sales** or the **number of sales transactions** within a state.

No physical presence is required.



“Marketplace” Nexus

A **Marketplace Facilitator** is a business that contracts with third parties to **sell goods and services on its platform** and facilitates retail sales.

Are you a
Marketplace Facilitator?



A bit of **good news** for online retailers ...

- Many states are setting “small business” annual thresholds that must be exceeded before sales tax is collected
 - ✓ Dollar thresholds: **\$100k – \$500k**
 - ✓ Unit thresholds: **100 – 200 units**
- Marketplace facilitators are collecting, reporting and remitting for many states.

Economic Nexus...how the states are reacting:

	NONE	\$100K OF SALES AND/OR/BOTH 100/200 TRANSACTIONS	\$250K SALES	\$500K SALES	PEND- ING	NO SALES TAX
ONLY SALES FROM RETAILER		AR, AZ*, CO, FL, GA, HI, IL, IN, IA, LA, MA, ME, NV, NC, ND, NM, RI, UT, VA, WY	MS	TN, TX		
MARKETPLACE SALES COUNT TOWARD ECONOMIC THRESHOLD		CT, DC, ID, KY, MD, MI, MN, NE, NJ, OH, OK, PA, SC, SD, VT, WA, WV, WI	AL	CA, NY		
	KS				MO	
						AK, DE, MT, NH, OR

(Updated December 15, 2019)

Consider Sales TaxAdmin Resource



- ❖ These are sales tracking software applications that integrate with over 700+ software platforms (including QuickBooks, NetSuite & AIMsi)
- ❖ They also assist retailers in determining nexus
- ❖ They provide sales tax reporting & filing for all applicable states, cities & townships, including foreign VAT and sales tax exemptions

What should I do next to minimize risk?

Brick & Mortar Stores

- Know your state rules & factors that create nexus in your neighboring states
- Be aware of how deliveries are made into those neighboring states, or inventory warehoused in 3rd party fulfillment centers (i.e. Amazon)

Remote Retailers

- Track monthly sales to each state in both dollars and number of transactions
- Monitor out-of-state sales on a regular, monthly basis
- Watch for State Updates (www.salestaxinstitute.com)



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