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Q: What is the physical and economic nexus?

A: Physical nexus was established by *Quill v. North Dakota* in 1992, when courts ruled that companies must allocate their sales and taxes to states in which the company held a physical presence (i.e. office buildings, warehouses). However, with the surge of e-commerce businesses, states felt they were losing revenue due to the physical nexus rules. In 2018, *Wayfair v. South Dakota*, retracted the rules of physical nexus with economic nexus. Economic nexus rids the physical presence requisite previously established. Economic nexus has established monetary sales values and sales transactions volume as the determining factors of establishing nexus.

Q: What does economic nexus mean for companies dealing with interstate businesses?

A: With the new economic nexus rules in place, companies worry about their exposure to sales tax in other states. Small companies are mostly exempt from the implications of *Wayfair v. South Dakota* because the minimum sales threshold in most states to create economic nexus is $100,000 (except Kansas). For larger companies, this means making sure your sales are able to be tracked by state and being diligent about following each state's requirements and filing periods. Companies aren't out of pocket for sales tax directly, but they need to make sure they are collecting and remitting based on states they believe their company will reach thresholds for (use prior periods as a baseline).

Q: Do the states have uniform filing periods and remittance dates?

A: Unfortunately, each state is able to determine when the filing dates will be, whether they choose a calendar or fiscal year in which sales volume and transactions must be calculated from.

Q: What downfalls does economic nexus have on companies?

A: Seeing as there is no uniformity between states for thresholds or filing periods, it will become difficult for smaller companies who may not have the software needed, to keep up with these demands. This may create a burden on companies financially to invest in the proper POS system that can collect the necessary data to apportion out the income per state correctly. It will also be more time consuming when it is time to file sales and use tax returns for each state. Some companies might be used to filing one or two returns and might find that number increasing drastically.

Q: Are there any severe consequences?

A: Unfortunately, if your company is not keeping up with deadlines and filing periods correctly, each state has penalties and interest they could assess on the amounts that were due. If you are a wholesaler, keep in mind you need to keep proper records of resale certificates or you could be found personally liable for sales tax due.