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makes their products more appealing, states are mounting a relentless assault on the Quill decision. For example, in 2016, South Dakota passed an economic nexus ...

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Supreme Court arguments are about to begin in [South Dakota v. Wayfair, Inc.](#), and it's vital for online retailers, as well as the tax and accounting advisors who serve them, to understand how the court's decision may impact them. *South Dakota v. Wayfair* is a challenge to *Quill Corp. v. North Dakota*, 504 U.S. 298 (1992), a previous Supreme Court decision reaffirming that a state could not require a business to collect and remit sales tax unless the business had a physical presence in the state.

The Quill decision, however, occurred before the explosion of ecommerce, which has enabled online retailers to easily sell into states in which they have no physical

presence. In fact, according to the U.S. Accounting Office, states lost \$13.4 billion in

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declaring an “[urgent need for the Supreme Court of the United States to reconsider the physical presence precedent](#).”

Wayfair, Inc. immediately challenged the law and the case has now made its way to the Supreme Court, where arguments are expected to begin on April 17, and a ruling is expected by late June. With this in mind, it's time for tax and accounting professionals who support online retailers to understand the possible consequences of a Supreme Court decision.

If South Dakota Wins

Should the court decide in favor of South Dakota, a number of scenarios are possible. Several states have actually anticipated a South Dakota victory, adopting similar laws and hoping that a South Dakota win means their laws will automatically become legal. However, this is not guaranteed. The court could make its decision very specific to South Dakota, which would require these other states to carefully examine their laws to ensure they won't face additional court challenges.

It is also possible that Congress could finally take action. A court decision in favor of South Dakota essentially says that it's law as written is sufficient under current federal law to give the state the authority to levy sales taxes on out-of-state sellers. However, Congress could simply change the federal laws related to sales taxes and nexus, which would essentially reverse the Supreme Court's decision. Then again, Congress could go in the opposite direction, giving states more authority to collect sales taxes. They could also do something in between, granting the states more authority while imposing a number of restrictions.

If Wayfair Wins

Should the court decide in favor of Wayfair, Inc., the entire sales tax issue would

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Retailers Need to Act

Online retailers need to be ready no matter how the Supreme Court decides *South Dakota v. Wayfair*. Sales tax collection is almost certainly in their future, whether this year or next, and they should begin immediately working with the appropriate resources to identify the states already collecting sales and use taxes and whether they have any retroactive liability.

The next step is to acquire the services and technologies they need to track, calculate and collect appropriate sales taxes in any state. Only by doing so, can they eliminate the possibility of finding themselves faced with the onerous task of spending hundreds of hours manually calculating sales tax and filling out returns for multiple states at the same time.

Online retailers that want to face the future with confidence – and ensure their ability to focus on satisfying the needs of customers – should immediately develop a reliable strategy for tracking evolving sales tax regulations, assessing their impact on their businesses, and automating sales tax compliance.

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Sales Tax • Small Business

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