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Original Article

A Critical Study on Impact of Wayfair Decision on Sales & Use Tax in Usa

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Abstract:

The term "tax" is derived from Latin word "taxare", which refers to predict or analyze and based on this terminology the taxation era has been evolved from assessment which led to estimation of tax amount for a particular individual or government wherein they have to pay to respective tax jurisdictions at city, county and state level. In USA there are various types of taxation levied the core categories include property tax, sales & use tax, severance tax, income tax, credits & incentives taxes etc., Among these the critical aspects and concepts were involved in sales & use tax. Sales & use tax is an continuous improvement in Usa, laws keep changing and it becomes a bit difficult for various authorities to cope up with the compliance activities pertaining to sales & use tax, in such scenarios the 2018 ruling by the U. S. Supreme Court in the case of South Dakota v. Wayfair, Inc. represented a significant change in U. S. tax regulations, eliminating the old "physical presence" requirement in support of a new standard that recognizes digital economic connections. In this article we are going to what's the act is about and whether it led to easiness or hindrances to US firms in sales & use tax compliance.

Keywords: *Sales Tax, Use Tax, Economic Nexus, Physical Nexus, Tax Compliance.*

Introduction:

The concept of sales & use tax is a complex and evolving concept in USA. The laws of sales and use tax vary from state to state and few states have very tedious compliance process in fact few states do not levy sales & use tax. Sales tax refers to collection of tax on purchase and sale of various goods & services whereas use tax is opposite of sales tax, use tax refers to collection of tax for the sales made outside USA or in other terms it can be stated as out-of-state sales. Both together sales & use tax serve as a critical revenue source for different states in USA. In such concept the other factors that impact the sales & use tax laws include market place facilitator rules, remote sales law, reseller regulations etc., The core aspect of sales & use tax includes taxations of products and services, there are multiple set of in-depth rules for taxation such as SaaS (Software-as-a-Service) is exempted in most of the states in USA whereas it is taxable in Massachusetts & Washington, secondary agricultural products like husks, cakes made from cow dung etc. are also exempted from sales and use tax.

The Process of sales & use tax is broad; Kneen observation has to be made during the process. The first step includes to determine whether the company has generated revenue or not in that particular quarter or year or not and if the company has generated the revenue, then the process of sales & use tax can be proceeded, if no revenue is generated then the concept of levying sales and use tax does not come into picture. Once the revenue is generated then the total revenue is allocated based on different states in US if the threshold is exceeded for that particular state, then the nexus will be established and sales tax registration takes place with the particular jurisdiction, parallelly physical nexus is also considered for determining of nexus. The next step in the process would be on payment of sales & use tax to the respective jurisdiction and after a quarter or so the sale & use tax filings would take place with state DOR websites. In USA sales & use tax is levied at state level but not at federal level. All the states levy sales & use tax except. Alaska, Delaware, Montana, New Hampshire and Oregon though Alaska permits for levying of local taxes in some parts. The sales & use tax rates vary from state to state like Maryland has 6%, Maine has 5.5%, Louisiana with 5-11%, Texas with 8.25% and California with 10.75%.

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Objectives Of The Study:

- To comprehensively analyse the South Dakota v. Wayfair, Inc. U.S. Supreme Court decision.
- To evaluate the multifaceted impact of the South Dakota v. Wayfair ruling on sales and use tax.

Research Methodology:

Sources of Data:

The data has been collected from below resources:

- **Primary source:** The primary data is collected from tax officers, tax associates, auditors, financial analyst, jurisdiction specialist.
- **Secondary source:** The secondary data has been taken from blogs, internet websites, articles & research journals.

Data Analysis & Interpretation

Objective-1: To Comprehensively Analyse The South Dakota V. Wayfair, Inc. U.S. Supreme Court Decision.

Introduction

Sales & use tax used to hinge heavily on the concept of nexus. Historically, Nexus only used to be meant as physical presence which was given by U.S. Supreme Court in various cases like National Bellas Hess, Inc. v. Department of Revenue of Illinois (1967) and Quill Corp. v. North Dakota (1992). Under these standards sales tax used to be collected only if their business is physically present in that particular state such as employees, stores, warehouses etc. The rise and growth in online marketplaces, Market place facilitators, digital transactions created challenges in terms of remote sales, these factors led to losses to most of the businesses. In response to overcome these challenges states began to explore various remedies and they came with concept called as economic nexus which was based on sales amount and transaction count.

The Supreme Court case South Dakota v. Wayfair, Inc. (2018) led to a drastic change in various rules & regulations pertaining to sales & use tax in US. On June 21, 2018 this case was related to a situation where an out-of-state seller can collect & levy sales & use tax on customers who are located in state. This case came into limelight when SD state challenged various sellers like Overstock.com, Wayfair, Inc. etc. to collect sales tax.

Explanation and Analysis

Long ago in 1992 in Quill vs North Dakota Case the US Supreme court has stated that only businesses with physical presence in a particular state has to collect sales tax. But as there was an advancement in technology online shopping was growing at a rapid pace and this led to purchases outside other states. In such case huge losses were incurred to in-state businesses.

Then later in 2016, South Dakota passed a law stating that any seller with over $100,000 in sales or 200 transactions in a particular state must levy sales tax even though there is no physical presence. But Wayfair and other firms challenged saying that it would lead to more complicated rules of sales tax for online sellers and market place facilitators.

The Supreme Court, in a 5-4 decision led by Justice Anthony Kennedy taking the side of South Dakota stated that old rule is no longer applicable and vague, new rule i.e. company can have an economic presence without having physical presence.

Objective – 2: To Evaluate The Multifaceted Impact Of The South Dakota V. Wayfair Ruling On Sales And Use Tax.

Shift from Physical to Economic Nexus:

- Implementation of this rule las led to charging of taxes not only to local stores but also it can be taxed on to online sellers as well.
- Change from old to new rule has led to more revenue generation and fierce competition between physical and online stores.
- Each and every state has different thresholds for tax collection. California has to exceed $500,000 in amount, Texas & New York - $100,000
- The compliance rules and regulations become more in-depth and complicated & it becomes hard for businesses to follow up with tax laws correctly and accurately.

  Effects on State Revenue Systems

- This law has also led to generation of more revenue. According to stats there has been a change of $7 billion increase in revenue from 2019 to 2025.
- It also led to follow similar rules for both local stores and online stores.
- The law also keeps up with the digital transformation and keeps up the growth of business.

Conclusion:

In conclusion we can state that the South Dakota v. Wayfair, Inc. U.S. Supreme court decision has led to a shift in paradigm in US sales and use tax. This law has led to revenue growth in USA, a greater number of online transactions, establishing of more business online etc. This also led to structuring of tax laws making it fair enough to meet the compliance standards and report the taxes to the IRS. Currently there have been changes in the threshold limits of various states and may be in coming days the NOMAD states i.e., New Hampshire, Oregon, Montana, Alaska, Delaware may adopt the sales and use tax laws and start levying in respective areas of business. The use of automated software's like Avalara, CCH etc. will help in handling multi-state obligations efficiently. States may also strengthen their market place facilitator laws and this decision will inspire various firms across the globe in digital tax systems. Overtime, this framework will provide stable revenue for states in promoting online and offline business.

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Conflicts of interest

The authors declare that there are no conflicts of interest regarding the publication of this paper.

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