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# States With Economic Nexus

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Business Activity Tax Simplification Act of 2011  
How Much Should Borders Matter?  
The Energy and Security Nexus: A Strategic Dilemma (Enlarged Edition)  
Nexus Requirements for Taxation of Non-residents' Business Income : a Normative Evaluation in the Context of the Global Economy  
NEXUS, New Exporters to United States South  
The Future of State Taxation  
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Exploring the Nexus Doctrine In International Tax Law  
Tax Reform  
Income Stripping Strategies Between States

## The Future of the Economic Nexus Standard for US Sales & Use Tax Collection

*States With Economic Nexus*

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### CASON DUDLEY

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#### **Business Activity Tax Simplification Act of 2011** Routledge

This research examines the nexus standards for business activity taxes at the state level in the United States. While some states determine nexus under the U.S. Commerce Clause based on a physical presence test, other states determine nexus using an economic presence test. This lack of uniformity presents problems for multistate taxpayers. To address this issue, the U.S. Congress must enact legislation establishing a uniform nexus standard for business activity taxes

Watson CPA Group

This book explores one of the most fundamental issues of international tax law: the conditions under which a state may assert a taxing claim over business income derived by a person who is neither its national nor its resident. The term "nexus" or "genuine link" is commonly used in international tax scholarship to describe such basic requirements for the exercise of income tax jurisdiction. When it comes to non-residents, income tax is intimately connected to the notion of "source", in that every state has the right to tax income derived from sources located within its territory. The main purpose is to analyse the appropriateness of different nexus norms used by states in the taxation of non-resident business income. Particular attention is drawn to developments associated with the global economy, e.g. the introduction and expansion of e-commerce and the rise in cross-border services trade.

Methodologically, the value-oriented approach is followed, analysing the research question in light of traditional tax policy benchmarks, such as equity, neutrality and administrability. A substantial part of the analysis is devoted to the permanent establishment (PE) concept, which acts as a general proxy for the source of business income in a tax treaty context. One conclusion is that the use of a PE nexus in its traditional forms (i.e. fixed place PE and agency PE) places inappropriate restrictions on the tax jurisdictions of the "market states", where the customer base for taxpayer goods and services is located and important benefits related to the derivation of non-resident income are provided. This book advocates an evolutionary approach through a new PE-deeming rule based on a de minimis revenue threshold being added to tax treaties, supplementing traditional PE forms. This rule would allow a state to tax a non-resident taxpayer's business income as soon as he derives an ex ante specified amount of gross revenue from catering to customers located in that state, irrespective of physical presence. The proposal suggests that the administrative concerns surrounding the application of such a rule can be resolved in a comprehensive manner, e.g. by relying on an interim withholding regime in respect of business-to-business payments.

*How Much Should Borders Matter?* DIANE Publishing

Justice Kennedy's concurring opinion in *Direct Marketing Association v. Brohl* marked a rare occasion: a Supreme Court Justice urged states to promulgate laws that violate the Commerce Clause. The hope that Justice Kennedy shares

with the states is that the Supreme Court will ultimately have an opportunity to recraft the Commerce Clause analysis in relation to sales and use tax collection. Given the chance, Justice Kennedy would do away with *Quill Corp. v. North Dakota's* physical presence standard and replace it, in all likelihood, with some sort of measurement based on an out-of-state vendor's economic presence in the state. As the issue plays out in coming years, the Commerce Clause will take center stage. In all of this though, the Due Process Clause should not be ignored. This Article considers due process implications related to state economic nexus laws that were promulgated in response to Justice Kennedy's concurring opinion. It identifies due process vulnerabilities among these laws and offers a recommendation on how the states might accommodate both the Commerce Clause (assuming a reversion from physical presence) and the Due Process Clause. To complement this discussion, a due process analysis is offered with respect to state notice-and-reporting statutes. The Tenth Circuit recently upheld Colorado's notice-and-reporting law as a lawful exercise of state power under the Commerce Clause. Other states have followed Colorado's model and enacted their own versions. This Article tests these laws for due process vulnerability and identifies Louisiana's version as a model for other states.

*The Energy and Security Nexus: A Strategic Dilemma (Enlarged Edition)*  
Lulu.com

The relationship between energy and security has been receiving increasing attention over the last few years. Energy literally drives the global economy. Societies rely on it for everything from advanced medical equipment to heating,

cooling, and irrigation. Whether it derives from advanced nuclear reactors in developed nations or simple wood stoves in the developing world, energy is recognized as vital to human welfare. It influences our economic, political, and social policies. Possessing or not possessing sufficient energy determines a state's political and economic power. Competition for energy has been, is, and will be a source of conflict. The choices nation-states make when it comes to energy will have a profound bearing on a wide range of security concerns, from nuclear proliferation to climate change. [Nexus Requirements for Taxation of Non-residents' Business Income : a Normative Evaluation in the Context of the Global Economy](#) Lulu.com

Under the US Constitution businesses can only be coerced to collect sales and use taxes if they have sufficient nexus with a given state. Until last year, business-to-consumer sales by out-of-state vendors remained effectively untaxed if the seller did not have a physical presence in the state where the consumer lived. With its landmark *Wayfair*-ruling the Supreme Court changed its course and widened the door for the States to coerce remote sellers (including those located outside the US) to collect the tax by accepting an economic nexus standard. This article explains the political and constitutional background to the issue of sales tax collection in relation to B2C sales made by out-of-state vendors, discusses the reasoning of the majority and dissenting opinions in the *Wayfair* ruling, and analyses its implications.

[NEXUS, New Exporters to United States South](#) Springer Nature

State tax systems have generally not changed dramatically over the last 50 years, yet they are facing profound

challenges. Increased international trade, the advent of electronic commerce, evolving federal-state relations, and interstate competition are just some of the developments that will have a powerful influence on how states collect revenue. This collection of essays from leading tax scholars addresses a wide variety of issues concerning the major sources of state tax revenue and provides insight into what has worked in the past and what will or will not work in the future.

### **The Future of State Taxation**

Springer

While the 1992 Supreme Court case *Quill vs. North Dakota*, 112 S.Ct. 1904 (1992), re-affirmed a bright-line, physical presence nexus standard for sales and use tax purposes, the court case explicitly left open the question of whether the same nexus standard applied to state corporate income taxes. The state taxation literature has extensively examined state corporate income tax characteristics and revenue implications; however, little research has focused on which types of corporate activities result in a state asserting nexus. Using data from the BNA Survey of State Tax Departments, this study investigates 95 nexus-creating activities as reported by states from 2002-2010 and their association with states' adoption of economic nexus. In other words, we seek to better understand which nexus-creating activities of businesses drive the corporate income tax economic nexus adoption by states. Through a unique use of both behavioral survey data and archival data, we provide a rich picture of how state policy adoptions of economic nexus align with state interpretations or perceptions. Results show that economic nexus adoptions are more common in states

that perceive investment in pass-through entities, licensing intangibles, engaging in financial activities, or inspecting installation as creating nexus within the state, and are less likely in states that view attending trade shows or checking customer inventories as creating nexus. These results contribute to the state taxation literature by providing evidence of the primary activities that contribute to the economic nexus standard, which have implications for state tax researchers and policymakers alike.

*Streamlined Sales and Use Tax U.S.*

*States Test Limits of Economic Nexus in Global Economy* This article analyses how the use of an economic presence standard for making state income tax nexus determinations impacts foreign corporations doing business in the United States. It is important for foreign corporations that make direct sales to U.S. customers to be aware of the possibility that they may be subject to state income taxes even though they do not have a PE in the United States and therefore their federal taxable income is zero. State income tax nexus determinations are based primarily on the restrictions imposed by the U.S. Constitution and P.L. 86-272. Although these federal restrictions provide important protections and a degree of uniformity in state tax laws, the details of state nexus standards vary significantly from state to state. Consequently, tax practitioners must carefully analyze the tax laws of each state to determine the requisite reporting requirements. Do States' Interpretations of Nexus Activities Align with States' Policy Adoptions of Economic Nexus? While the 1992 Supreme Court case *Quill vs. North Dakota*, 112 S.Ct. 1904 (1992), re-

affirmed a bright-line, physical presence nexus standard for sales and use tax purposes, the court case explicitly left open the question of whether the same nexus standard applied to state corporate income taxes. The state taxation literature has extensively examined state corporate income tax characteristics and revenue implications; however, little research has focused on which types of corporate activities result in a state asserting nexus. Using data from the BNA Survey of State Tax Departments, this study investigates 95 nexus-creating activities as reported by states from 2002-2010 and their association with states' adoption of economic nexus. In other words, we seek to better understand which nexus-creating activities of businesses drive the corporate income tax economic nexus adoption by states. Through a unique use of both behavioral survey data and archival data, we provide a rich picture of how state policy adoptions of economic nexus align with state interpretations or perceptions. Results show that economic nexus adoptions are more common in states that perceive investment in pass-through entities, licensing intangibles, engaging in financial activities, or inspecting installation as creating nexus within the state, and are less likely in states that view attending trade shows or checking customer inventories as creating nexus. These results contribute to the state taxation literature by providing evidence of the primary activities that contribute to the economic nexus standard, which have implications for state tax researchers and policymakers alike.

**Exploring the Nexus Doctrine In International Tax Law**

This book does not present a single philosophical approach to taxation and

ethics, but instead demonstrates the divergence in opinions and approaches using a framework consisting of three broad categories: tax policy and design of tax law; ethical standards for tax advisors and taxpayers; and tax law enforcement. In turn, the book addresses a number of moral questions in connection with taxes, concerning such topics as:

- the nature of government
- the relation between government (the state) and its subjects or citizens
- the moral justification of taxes
- the link between property and taxation
- tax planning, evasion and avoidance
- corporate social responsibility
- the use of coercive power in collecting taxes and enforcing tax laws
- ethical standards for tax advisors
- tax payer rights
- the balance between individual rights to liberty and privacy, and government compliance and information requirements
- the moral justification underlying the efforts of legislators and policymakers to restructure society and steer individual and corporate behavior.

**U.S. States Test Limits of Economic Nexus in Global Economy** CCH

In an age when cross-border business transactions are increasingly effected without the transference of physical products, revenue concerns of states have led to a multitude of tax disputes based on the concept of 'nexus'. This important and timely book is the most authoritative to date to discuss one of the major tax topics of our time - the question of how taxing rights on income generated from cross-border activities in the digital age should be allocated among jurisdictions. Demonstrating in prodigious depth that it is the economic nexus of the tax entity or activity with the state, and not the physical nexus, which meets the jurisdictional

requirement, the author – a leading authority on this area who is a Senior Commissioner of Income Tax and a Member of the Dispute Resolution Panel of the Government of India – addresses such dimensions of the subject as the following: whether a strict territorial nexus as a normative principle is ingrained in source rule jurisprudence; detailed scrutiny of such classical doctrines as benefit theory, neutrality theory, and international equity; comparative critique of the Organisation for Economic Co-operation and Development (OECD) and United Nation (UN) model tax treaties; whether international law and customary principles mandate a strict territorial link with the source state for the assumption of tax jurisdiction; whether the economic nexus-based tax jurisdiction and absence of a physical presence breach the constitutional doctrine of extraterritoriality or due process; and whether retrospective tax legislation breaches the principle of constitutional fairness. The book offers a politically informed analysis of the nexus principle and balances the dynamics of physical presence and economic nexus standards, based on an in-depth survey of the historical evolution of judicial pronouncements and international practices in this regard. Dr Singh's book exposes an urgently needed missing link in the international source rule literature and takes a giant step towards solving the thorny question of appropriate tax apportionment. It sheds brilliant light on the policies states may adopt when signing new tax treaties, so that unintended results may be foreseen and avoided. Tax practitioners, taxation authorities, and academic researchers in the field of international tax law and policy will greatly appreciate the book's

forthright enhancement of the ability to defend challenges based on the nexus doctrine.

*How Does Wayfair's Concept of Economic Presence Affect Nexus In One Or All Jurisdictions With the Increase of Telework?. Springer*

Understanding the sales tax implications of selling products online can be complicated at times, especially as states are trying to catch up on taxing e-commerce as a way to make up for revenue lost from declining sales at traditional brick and mortar stores. This book will provide an overview of how sales tax laws generally work, how to determine when sales tax is owed, and how recent changes to the law impact online merchants. In this book, you'll learn:-What could happen if you get caught not paying sales tax as an eCommerce seller-What to do when you receive a sales tax compliance letter from a state-The new economic nexus thresholds set forth by each state-How to determine if you owe franchise and state income taxes-The true cost of compliance-How to avoid a full out sales tax audit from a state

### **California Income Tax Manual (2008)**

Ria

This book explains the theoretical and policy issues associated with the taxation of financial services and includes a jurisdictional overview that illustrates alternative policy choices and the legal consequences of those choices . The book addresses the question: how can financial services in an increasingly globalized market best be taxed through VAT while avoiding economic distortions? It supports the discussion of the key practical problems that have arisen from the particular complexity of the application of VAT to financial services, and allows for the evaluation of



best practice by comparing the major current reform models now being implemented.

**Ethics and Taxation** LAP Lambert Academic Publishing

This article analyses how the use of an economic presence standard for making state income tax nexus determinations impacts foreign corporations doing business in the United States. It is important for foreign corporations that make direct sales to U.S. customers to be aware of the possibility that they may be subject to state income taxes even though they do not have a PE in the United States and therefore their federal taxable income is zero. State income tax nexus determinations are based primarily on the restrictions imposed by the U.S. Constitution and P.L. 86-272.

Although these federal restrictions provide important protections and a degree of uniformity in state tax laws, the details of state nexus standards vary significantly from state to state. Consequently, tax practitioners must carefully analyze the tax laws of each state to determine the requisite reporting requirements.

**Streamlined Sales and Use Tax Agreement** Ditions Slatkine

Providing another key contribution to the immensely popular field of law and economics, this book, written by the doyen of the history of economic thought in the US, explores the dynamic relationship between economics, law and polity. Combining a selection of old and new essays by Warren J. Samuels that chart a number of key themes, it provides an important commentary on the development of an academic field and demonstrates how policy is structured and manipulated by human social construction. The areas covered include: the role of manufactured belief

power the nature and sources of rights the construction of markets by firms and governments and the problem of continuity and change in the form of the question of the selectively defined status quo and its status the absolutist character of government, rights, markets and legal principles and the accepted ideational structure of law. The Legal-Economic Nexus is an essential read both economists and legal professionals as well as those researching the history of economic thought and the social construction of law.

**Sales Tax for Amazon Sellers** Kluwer Law International B.V.

For more than two decades, the Supreme Court's jurisprudence prevented states from requiring out-of-state sellers to collect and remit sales and use taxes when making sales to in-state purchasers unless those actors had a physical presence within the taxing state. This constraint was abrogated by the decision *South Dakota v. Wayfair* (hereinafter referred to as "Wayfair") in 2018. How were states impacted by this jurisprudence before *Wayfair*, and what are the effects (if any) of *Wayfair* on economic actors and states? Last, what recommendations should be made to states when crafting legislation that impacts out-of-state sellers, such as sales tax collection and remittance?

**VAT and Financial Services** The Urban Institute

This volume offers a snapshot of the resurgent historiography of political economy in the wake of the ongoing global financial crisis, and suggests fruitful new agendas for research on the political-economic nexus as it has developed in the Western world since the end of the Middle Ages. *New Perspectives on the History of Political Economy* brings together a select group

of young and established scholars from a wide variety of disciplinary backgrounds—history, economics, law, and political science—in an effort to begin a re-conceptualization of the origins and history of political economy through a variety of still largely distinct but complementary historical approaches—legal and intellectual, literary and philosophical, political and economic—and from a variety of related perspectives: debt and state finance, tariffs and tax policy, the encouragement and discouragement of trade, merchant communities and companies, smuggling and illicit trades, mercantile and colonial systems, economic cultures, and the history of economic doctrines more narrowly construed. The first decade of the twenty-first century, bookended by 9/11 and a global financial crisis, witnessed the clamorous and urgent return of both 'the political' and 'the economic' to historiographical debates. It is becoming more important than ever to rethink the historical role of politics (and, indeed, of government) in business, economic production, distribution, and exchange. The artefacts of pre-modern and modern political economy, from the fourteenth through the twentieth centuries, remain monuments of perennial importance for understanding how human beings grappled with and overcame material hardship, organized their political and economic communities, won great wealth and lost it, conquered and were conquered. The present volume, assembling some of the brightest lights in the field, eloquently testifies to the rich and powerful lessons to be had from such a historical understanding of political economy and of power in an economic age.

**Taxpayer's Comprehensive Guide to**

**LLCs and S Corps** Edward Elgar Publishing

In this study, the authors contend that in our globalised world the stability of any individual state (irrespective of its size and importance) plays a critical role in the stability of the entire international system. There are multiple ways to achieve state stability, whether through western-style democracies or through other forms of good and effective governance that are in keeping with local cultures and histories. Regardless of whichever system is used, it is critical that there are certain minimal criteria of governance that are adhered to and must include human dignity, equality, and prosperity. The book contributes a timely analysis of ways to achieve and the methods required to maintain global stability and provides a valuable tool to anyone who is interested in true and lasting transnational security.

**Wayfair**

How can I avoid self-employment taxes? This simple question was the inspiration for creating an article describing the benefits of an S Corporation. That original article, which was about four pages long, quickly became a series of KnowledgeBase articles on the Watson CPA Group website. The articles touched on basic topics such as how to elect S Corp status, payroll, reasonable salary determination, retirement planning, health care, fringe benefits and liability protection. Those broad topics demanded much more information, both horizontally by spanning into more related issues, and vertically by digging deeper into the granular yet riveting levels of the tax code. The articles were grouped and relabeled as the Taxpayer's Comprehensive Guide to LLCs and S Corps which grew to 39 pages in its first edition. Time marched on, and more



information was added to the first edition such as expanded retirement planning concerns, health care options after the Affordable Care Act and business valuations including exit strategies. Boom, we now had our second edition at over 100 pages. At that point it was suggested by some clients and colleagues to convert the PDF into an eBook as well as paperback. So here we are.. Each week we receive several phone calls and emails from small business owners across the country who have read our Taxpayer's Comprehensive Guide to LLCs and S Corps and praised the wealth of information. Regardless of your current situation, whether you are considering starting your own business or entertaining a contracting gig, or you are an experienced business owner, the contents of this book are for you. This book will show you how to reduce your self-employment taxes through an S Corporation election and how to use your corporation to your retirement and fringe benefit advantage. You will also learn the operational considerations of an S Corp plus the 185 reasons you should NOT elect S Corp status. Want to buy or sell a business? That's in here too. This book is written with the general taxpayer in mind. Too many resources simply regurgitate complex tax code without explanation. While in some cases tax code and court opinions are duplicated verbatim because of the precise words, this book strives to explain many technical concepts in layperson terms with some added humor and opinions. We believe you will find this book educational as well as amusing.

[Do States' Interpretations of Nexus Activities Align with States' Policy Adoptions of Economic Nexus?](#)

US Internet and E-Commerce Investment

and Business Guide - Strategic and Practical Information: Regulations and Opportunities

### **New Perspectives on the History of Political Economy**

Offers an accessible, nontechnical evaluation of the most recent economic thinking on the nexus between local land use and tax policies. In Part I, the author summarizes the literature on the subject and explores theoretical controversies surrounding issues such as land use regulation as a fiscal tool, the effect of taxes on economic activity, and the success of tax policies to promote economic development. In Parts II and III, a group of experts presents new research on areas including the impact of growth on tax burdens and the shift to land value taxation in urban areas. For students, economists, planners, and policy makers. Annotation copyrighted by Book News, Inc., Portland, OR

*United States Internet, E-Commerce Investment and Business Guide Volume 1 Strategic, Practical Information, Regulations*

The 2011 co-called e-commerce volume at approx. \$3.5 trillion. The volume of e-commerce is expected to increase and state and local governments are concerned because collection of sales tax on these transactions is difficult to enforce. Under current law, states cannot reach beyond their borders and compel out-of-state Internet vendors (those without nexus in the buyer's state) to collect the use tax owed by state residents and businesses. The Supreme Court ruled that requiring remote vendors to collect the use tax would pose an undue burden on interstate commerce. Estimates put this lost tax revenue at approx. \$8.6 billion. This report discusses the Streamlined Sales and use Tax Agree. and related

economic issues. Illus. This is a print on demand report.

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