

SALES TAX NEXUS ISSUES

- Quill v. South Dakota - United States Supreme Court (1992)
 - State cannot force seller to collect and remit sales tax unless the seller has a physical presence in the state
 - Since most people do not pay use tax, result is out of state purchases are not taxed
- Affiliate legislation
 - In 2008, New York adopted language that said the seller had a physical presence if they had affiliate relationships with state residents
 - Litigation in New York State courts upheld the legislation
 - Some large retailers ended their affiliate programs
 - Vermont adopted similar language in 2011. Amazon terminated its Vermont affiliates in January of 2015
- Alabama regulation
 - Alabama Department of Revenue adopted a regulation directly challenging Quill v. South Dakota, effective January 1, 2016
 - Imposed a responsibility to collect and remit based on economic presence, rather than physical presence
 - NCSL has model language and is encouraging other states to adopt
- Vermont law
 - Vermont has language in its statutes that currently violates Quill v. South Dakota - 32 V.S.A. § 9701(9)(F)
 - Not enforced by Tax Department
- Approaches in other state
 - Pass a law to trigger a lawsuit
 - Pass language preparing for Quill to be overturned
 - Pass a policy resolution