



Insights: Publications

5 Key Takeaways | Sales Tax Case Law - Lessons from the Courts

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Kilpatrick's [Jordan Goodman](#) recently presented on the topic of “**Sales Tax Case Law – Lessons from the Court**” at the [Advanced Sales and Tax Workshop](#) in Dallas.

Key takeaways from the presentation include:

1. The Basics of Sales Tax Law and Who Decides What's Taxed

Sales tax rules come from state laws, but how those laws are applied is influenced by government agencies and court decisions. When businesses and tax authorities disagree about what should be taxed, the courts step in to decide, often shaping future tax policy for everyone—even across state lines. This means that one state's court case might affect how another state interprets similar laws in the future.

2. The "Nexus" Concept: When Does a Business Have to Collect Sales Tax?

A major theme in sales tax law is the idea of "nexus"—whether a business has enough connection to a state to be required to collect sales tax. Early cases required a physical presence (like an office or workers in the state), but newer cases, especially after *South Dakota v. Wayfair* in 2018, say that just having enough sales or economic activity in the state can be enough to trigger tax collection responsibilities—even for online businesses.

3. Digital Goods and New Technology Challenge Old Tax Laws

As more products and services become digital (like streaming movies or cloud software), states are struggling to fit these new things into old tax laws that were written before the internet existed. Courts look at definitions in the law to decide if something like a streaming subscription or software license is “tangible personal property” and therefore taxable. Sometimes, courts use old dictionary definitions to help decide these cases which can lead to some silly results.

4. Important Supreme Court Cases Shape Sales Tax Rules

Certain Supreme Court cases set the rules for when states can tax businesses. For example, *Complete Auto Transit v. Brady* created a four-part test for whether a tax on interstate commerce is allowed, and *South Dakota v. Wayfair* changed the rule so that states can tax online sellers without a physical presence. Other cases deal with whether tax laws are fair or discriminate against out-of-state businesses.

5. Risks and Considerations for Businesses Challenging Tax Laws

Businesses thinking about fighting a tax law in court need to consider risks like the cost and time of litigation, the possibility of negative publicity, and the chance that other taxes or penalties could be triggered. Sometimes,

even if a business wins a case, the state might change its laws to remove the benefit. Companies also need to worry about private lawsuits from consumers or competitors such as Qui Tam and Class Action, not just state tax agencies.

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