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Target Practice: When Does Virtual Presence Satisfy Substantial Nexus?

Tax Notes

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In the first article of this two-part series, we examined the importance of virtual presence in establishing substantial nexus under the commerce clause. Our position is that the Wayfair Court referenced virtual presence as a proxy for the bright-line physical presence rule articulated in its decision in Quill. Before the internet age, it was assumed that the only way an out-of-state retailer could effectively compete with in-state businesses was to be physically present in the taxing state. E-commerce — spurred by the growth of the internet — changed all that.

Related People

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