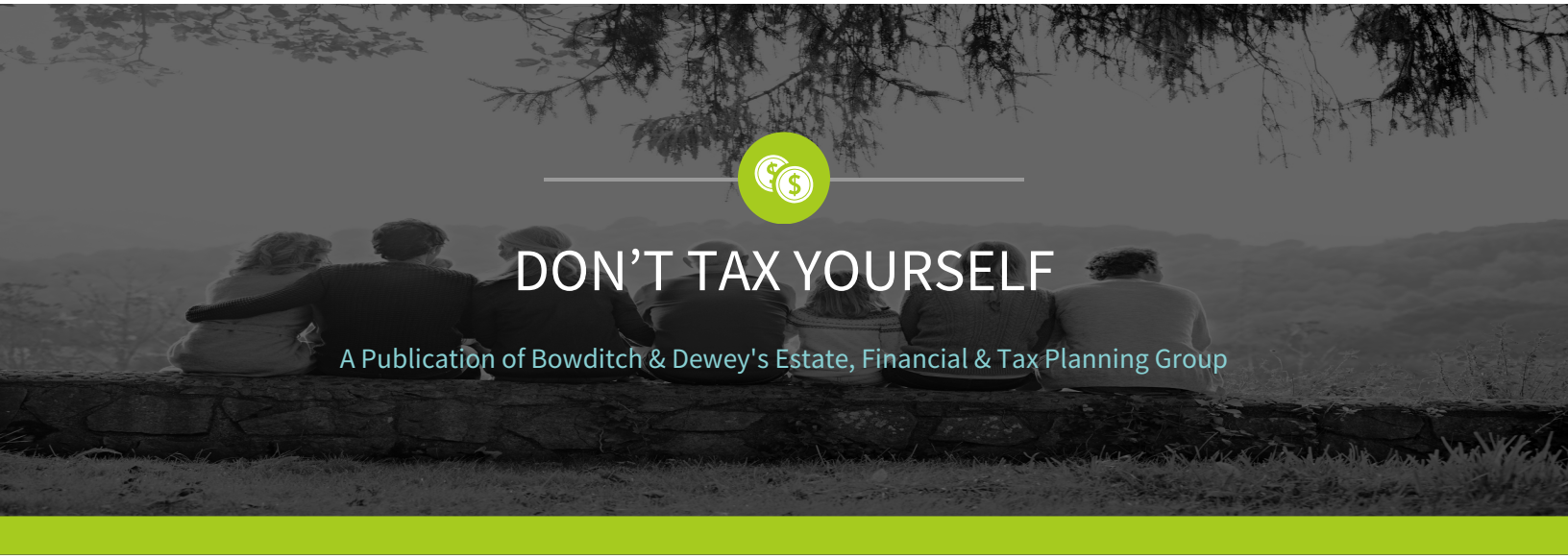

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State Tax Notes Publishes "Sales Tax and Corporate Income Tax Compliance After Wayfair"

BY MATTHEW A. MORRIS • OCTOBER 8, 2018

State Tax Notes has published, "Sales Tax and Corporate Income Tax Compliance After Wayfair" by Matt Morris. Below is an excerpt from the article:

"As many other practitioners have already noted, the U.S. Supreme Court in *South Dakota v. Wayfair Inc*. marked the end of the physical presence requirement for states to impose sales tax withholding and remittance obligations on out-of-state retailers. What is less clear, however, is what impact *Wayfair* will have on pre-*Wayfair* sales tax statutes and regulations that have not yet been amended to conform with South Dakota's pure economic nexus provisions and the imposition of state corporate income taxes on companies that might have new exposure to state sales taxes under a pure economic nexus standard.

The physical presence requirement — which was squarely addressed in *National Bellas Hess v. Department of Revenue* and then further elaborated in *Quill Corp. v. North Dakota* — basically provided that a state cannot impose a sales tax obligation on an out-of-state seller unless the seller maintains some form of physical presence in that state. The Court has traditionally interpreted the physical presence requirement broadly — for example, the Court in *Scripto Inc. v. Carson* upheld the imposition of Florida use tax on a Georgia company's sale of office supplies to Florida customers when the company had no employees in Florida and made all its sales through independent contractors. But before *Wayfair*, the Court consistently adhered to the general principle that the out-of-state seller had to maintain some physical presence in the taxing state — either directly in the form of stores or sales offices in the taxing state or indirectly in the form of independent contractors selling to customers in the taxing state."

Continue reading "Sales Tax and Corporate Income Tax Compliance After Wayfair" from *State Tax Notes*.

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