NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Lumber Co.,* 200 U. S. 321, 337.

# SUPREME COURT OF THE UNITED STATES

Syllabus

## QUILL CORP. *v.* NORTH DAKOTA, BY AND THROUGH ITS TAX COMMISSIONER, HEITKAMP

CERTIORARI TO THE SUPREME COURT OF NORTH DAKOTA

No. 91–194. Argued January 22, 1992—Decided May 26, 1992

Respondent North Dakota filed an action in state court to require petitioner Quill Corporation—an out-of-state mail-order house with neither outlets nor sales representatives in the State—to collect and pay a use tax on goods purchased for use in the State. The trial court ruled in Quill's favor. It found the case indistinguishable from *National Bellas Hess, Inc.* v. *Department of Revenue of Ill.,* 386 U.S. 753, which, in holding that a similar Illinois statute violated the Fourteenth Amendment's Due Process Clause and created an unconstitutional burden on interstate commerce, concluded that a ``seller whose only connection with customers in the State is by common carrier or the . . . mail'' lacked the requisite minimum contacts with the State. *Id.*, at 758. The State Supreme Court reversed, concluding, *inter alia,* that, pursuant to *Complete Auto Transit, Inc.* v. *Brady,* 430 U.S. 274, and its progeny, the Commerce Clause no longer mandated the sort of physical-presence nexus suggested in *Bellas Hess;* and that, with respect to the Due Process Clause, cases following *Bellas Hess* had not construed minimum contacts to require physical presence within a State as a prerequisite to the legitimate exercise of state power.

*Held:*

1.The Due Process Clause does not bar enforcement of the State's use tax against Quill. This Court's due process jurisprudence has evolved substantially since *Bellas Hess,* abandoning formalistic tests focused on a defendant's presence within a State in favor of a more flexible inquiry into whether a defendant's contacts with the forum made it reasonable, in the context of the federal system of government, to require it to defend the suit in that State. See, *Shaffer* v. *Heitner,* 433 U.S. 186, 212. Thus, to the extent that this Court's decisions have indicated that the clause requires a physical presence in a

State, they are overruled. In this case, Quill has purposefully directed its activities at North Dakota residents, the magnitude of those contacts are more than sufficient for due process purposes, and the tax is related to the benefits Quill receives from access to the State. Pp.5–8.

## Syllabus

2. The State's enforcement of the use tax against Quill places an unconstitutional burden on interstate commerce. Pp. 9–19.

(a) *Bellas Hess* was not rendered obsolete by this Court's subsequent decision in *Complete Auto, supra,* which set forth the four-part test that continues to govern the validity of state taxes under the Commerce Clause. Although *Complete Auto* renounced an analytical approach that looked to a statute's formal language rather than its practical effect in determining a state tax statute's validity, the *Bellas Hess* decision did not rely on such formalism. Nor is *Bellas Hess* inconsistent with *Complete Auto.* It concerns the first part of the *Complete Auto* test and stands for the proposition that a vendor whose only contacts with the taxing State are by mail or common carrier lacks the ``substantial nexus'' required by the Commerce Clause. Pp. 9–12.

(b) Contrary to the State's argument, a mail-order house may have the ``minimum contacts'' with a taxing State as required by the Due Process Clause, and yet lack the ``substantial nexus'' with the State required by the Commerce Clause. These requirements are not identical and are animated by different constitutional concerns and policies. Due process concerns the fundamental fairness of governmental activity, and the touchstone of due process nexus analysis is often identified as ``notice'' or ``fair warning.'' In contrast, the Commerce Clause and its nexus requirement are informed by structural concerns about the effects of state regulation on the national economy. Pp. 12–13.

(c) The evolution of this Court's Commerce Clause jurisprudence does not indicate repudiation of the *Bellas Hess* rule. While cases subsequent to *Bellas Hess* and concerning other types of taxes have not adopted a bright-line, physical presence requirement similar to that in *Bellas Hess,* see, *e. g., Standard Pressed Steel Co.* v. *Department of Revenue of Wash.,* 419 U.S. 560, their reasoning does not compel rejection of the *Bellas Hess* rule regarding sales and use taxes. To the contrary, the continuing value of a bright-line rule in this area and the doctrine and principles of *stare decisis* indicate that the rule remains good law. Pp. 14–18.

(d) The underlying issue here is one that Congress may be better qualified to resolve and one that it has the ultimate power to resolve. Pp. 18–19.

470 N.W. 2d 203, reversed and remanded.

STEVENS, J., delivered the opinion for a unanimous Court with respect to Parts I, II, and III, and the opinion of the Court with respect to Part IV, in which REHNQUIST, C. J., and BLACKMUN,

O'CONNOR, and SOUTER, JJ., joined. SCALIA, J., filed an opinion concurring in part and concurring in the judgment, in which KENNEDY and THOMAS, JJ., joined. WHITE, J., filed an opinion concurring in part and dissenting in part.