



This Week in State Tax (TWIST)

August 5, 2024



Colorado: Case involving Wayfair and Home Rule Cities Settled

Wayfair, a Massachusetts-based internet retailer, recently reached a settlement in a local sales tax dispute with the City of Lakewood, Colorado, one of about 70 home rule jurisdictions in the state. The retailer had challenged a City sales tax assessment for periods in 2018 to 2021, claiming that the City sales tax unduly burdened and discriminated against interstate commerce. The case drew widespread interest because it may have addressed the Commerce Clause limits of home rule jurisdictions to impose sales tax collection requirements on out-of-state retailers, in light of the 2018 U.S. Supreme Court in *Wayfair* that overturned the longstanding physical presence nexus standard for sales and use tax collection.

In its complaint, Wayfair alleged the City sales tax imposed an undue burden on the taxpayer because neither Lakewood nor the state provided a statewide sales tax filing system or other simplifications, a matter compounded for interstate sellers by other home rule jurisdictions imposing similar requirements. It also contended the City system discriminated against interstate commerce by imposing different sourcing requirements than on in-state sellers and allowing retailers physically located in a special district in the City to charge a lower rate of tax than retailers located outside of the district. Wayfair also raised arguments that it lacked substantial nexus with the City during the period at issue. For questions regarding the case, please contact [Steve Metz](#).

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