The question of the presence of a substantial nexus often arises when a state imposes on out-of-state vendors an obligation to collect use taxes on goods sold in the taxing state, and a determinative factor is whether the vendor is physically present in the state. The Court has sustained such an imposition on mail order sellers with retail outlets, solicitors, or property within the taxing state,[1105] but it has denied the power to a state to tax a seller whose "only connection with customers in the State is by common carrier or the United States mail." [1106]

The validity of general business taxes on interstate enterprises may also be determined by the nexus standard. However, again, only a minimal contact is necessary.[1107] Thus, maintenance of one full-time employee within the state (plus occasional visits by nonresident engineers) to make possible the realization and continuance of contractual relations seemed to the Court to make almost frivolous a claim of lack of sufficient nexus.[1108] The application of a state business-and-occupation tax on the gross receipts from a large wholesale volume of pipe and drainage products in the state was sustained, even though the company maintained no office, owned no property, and had no employees in the state, its marketing activities being carried out by an in-state independent contractor.[1109] The Court also upheld a state's application of a use tax to aviation

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Compare Quill at 325–28 (Justice White concurring in part and dissenting in part). However, the requirement for "some definite link, some minimum connection, between a state and the person, property or transaction it seeks to tax" probably survives the bifurcation of the tests in *Quill*. National Bellas Hess, Inc. v. Dept. of Revenue of Illinois, 386 U.S. 753, 756 (1967) (Commerce Clause), quoting Miller Bros. Co. v. Maryland, 347 U.S. 340, 344–45 (1954) (Due Process Clause).

[1105] Scripto v. Carson, 362 U.S. 207 (1960); National Geographic Soc'y v. California Bd. of Equalization, 430 U.S. 551 (1977). In *Scripto*, the vendor's agents that were in the state imposing the tax were independent contractors, rather than employees, but this distinction was irrelevant. *See also* Tyler Pipe Indus. v. Washington State Dept. of Revenue, 483 U.S. 232, 249–50 (1987) (reaffirming *Scripto* on this point). *See also* D. H. Holmes Co. v. McNamara, 486 U.S. 24 (1988) (upholding imposition of use tax on catalogs, printed outside state at direction of an in-state corporation and shipped to prospective customers within the state).

[1106] National Bellas Hess, Inc. v. Dept. of Revenue of Illinois, 386 U.S. 753, 758 (1967), reaffirmed with respect to the Commerce Clause in Quill Corp. v. North Dakota ex rel. Heitkamp, 504 U.S. 298 (1992).

[1107] Reacting to *Northwestern States*, Congress enacted Pub. L. 86–272, 15 U.S.C. § 381, providing that mere solicitation by a company acting outside the state did not support imposition of a state income tax on a company's proceeds. *See* Heublein, Inc. v. South Carolina Tax Comm'n, 409 U.S. 275 (1972).

[1108] Standard Pressed Steel Co. v. Department of Revenue, 419 U.S. 560 (1975). *See also* General Motors Corp. v. Washington, 377 U.S. 436 (1964).

[1109] Tyler Pipe Industries v. Dept. of Revenue, 483 U.S. 232, 249–51 (1987). The Court agreed with the state court's holding that "the crucial factor governing nexus is whether the activities performed in this state on behalf of the taxpayer are significantly associated with the taxpayer's ability to establish and maintain a market in this state for the sales." Id. at 250.