



WELCOME

State Sales Taxes: Understanding How Wayfair Impacts Your Company

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State Sales Taxes: Understanding How Wayfair Impacts Your Company

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What is nexus

Nexus is the minimum connection with a state needed before a state can require a person to register with it to collect and remit sales and use tax.

- **Physical presence – historically this was the sales and use tax nexus standard**
 - Employees or independent contractors in the state including tradeshow
 - Inventory, leases or other tangible personal property in the state
 - Office, warehouse
- **Economic nexus – new standard under Wayfair decision**
 - Physical presence is not necessary in the state
 - Directing sales to customers in a state/availing oneself of a state's market creates nexus

WAYFAIR – What was the result

U.S. Supreme Court Decision – June 21, 2018

- Established economic nexus - physical presence no longer a requirement
- South Dakota's threshold
 - \$100,000 gross receipts
 - 200 transactions
- Taxability of transaction is generally not a consideration
- Implementation by states is ongoing

WAYFAIR – What was the result

What States are doing

- **Safe harbor provided:**
 - Passed new laws or issued guidance implementing economic nexus
 - All states that impose a sales and use tax will have economic nexus standard by January 2020.
 - Set thresholds \$100,000 sales/200 transactions is common
- **Prospective only**
 - Economic nexus is not in effect until June 21, 2018
 - No retroactivity

WAYFAIR – What was the result

What States are doing

- **Cookie Nexus:**
 - Massachusetts & Ohio
 - Enacted prior to *Wayfair*
 - Websites & apps
- **Marketplace Facilitators**
 - Required to collect sales tax on behalf of the seller
 - ~ 35 states have this requirement

Deciding where to register

What to do first:

- Physical presence
- State thresholds & implementation dates
- Taxability of sales

Deciding where to register

Should I jump in and register?

- **Historical exposure**
 - Voluntary disclosure agreements
 - Amnesty programs
- **Exemptions**
 - Documentation
- **Other taxes**
 - Income taxes
 - Gross receipts taxes

Deciding where to register

Should I jump in and register?

- **Responsibilities**
 - Who do I register with
 - What tax rate applies
 - Local taxes
 - Invoicing/collecting tax
 - Filing returns

Registration

Methods & Resources

- **State website**
 - 46 States, including the District of Columbia impose a state level sales and use tax.
 - NOMAD – New Hampshire, Oregon, Montana, Alaska & Delaware do not impose a state level sales and use tax.
- **Streamline Sales Tax member**
 - Single application for up to 23 states

Registration

Methods & Resources

- **Software options**
 - Tax tables
 - Software available from state
 - Sales tax software solutions

Other issues

Differences by state

- **Taxability/terminology differs state to state**
 - Streamline Sales Tax (SST) states
 - Bundled transactions
- **Drop shipments**
 - Special rules in some states
- **Exemptions/documentation requirements**
 - Resale
 - Manufacturing

Online Marketplaces

Marketplace facilitator rules

- Marketplace facilitators are required to collect sales tax on all sales
- Marketplace seller is not responsible for sales tax
 - Verify that the marketplace facilitator is registered and collecting the sales tax
 - Provide accurate information to the marketplace facilitator
 - Coordinate with marketplace facilitator on exempt sales requiring exemption certificates

WAYFAIR – How does this affect you?

- Don't Panic!
- Determine states where you need to register
- Determine the taxability of the product/services
- Set-up processes and systems to collect and remit tax
- What if I don't meet the thresholds and do not register in a state?

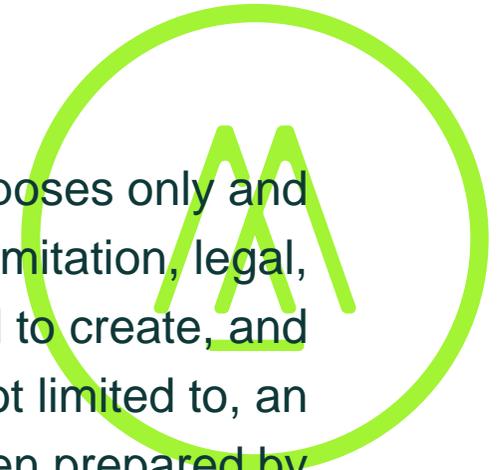
Sales Tax Resources

Streamlined Sales Tax (SST) - <https://www.streamlinedsalestax.org/>

- Registration in 23 states with a single application
- Multistate exemption certificate
- Uniform definition of some products & services
- Taxability matrix

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