



SALES AND USE TAX BRIEFING ALERT

Supreme Court Decision Redefines Sales Tax Nexus

In June 2018, the Supreme Court ruled in favor of South Dakota in *South Dakota v. Wayfair, Inc.* The impact will be significant as it eliminated physical presence as the sole requirement that established sales tax nexus at the state level and the obligation to file, collect and pay sales tax to states.

Previously, physical presence was generally established by a business's employees, agents, property owned, leased, or stored in a state, which led to the requirement for businesses to collect and remit sales tax in that state. This previous concept of sales tax nexus has been completely revised as a result of the Supreme Court's decision in favor of South Dakota and has resulted in many states requiring sellers to register with a state to collect and remit a tax on sales based on economic nexus without establishing a physical presence in a state.

The new guidelines for determining your responsibility for collecting and remitting sales tax (economic nexus) will be based on the gross revenue of goods and the number of transactions delivered in each state. South Dakota determined these thresholds as \$100,000 in gross receipts or 200 separate transactions annually. Many states have taken note of the Wayfair decision and have amended their statutes to be in accordance with those established by South Dakota, while others have established different thresholds based upon these same two criteria.

While the focus of this case was on online retail operations, we expect that this new definition of nexus will have far reaching consequences to traditional brick and mortar establishments as well and potentially to your business at both a state and local level. We encourage you to take this opportunity to understand this newly defined concept of nexus and how this ruling may impact your tax exposure and reporting requirements.

We have enclosed a chart summarizing the states that have implemented these new filing requirements to date as well as the new threshold amounts and effective dates. We recommend that you take the following action steps regarding this chart:

- For the measurement periods listed on the enclosed chart, you should consider preparing a schedule indicating total gross sales and total number of transactions on a per state basis. Historical activity in each state as determined by this schedule will provide guidance as to future sales tax collection, reporting and filing obligations.
- If it is determined that you have economic nexus in a particular state, we recommend sales tax reporting via one of the following options:
 - Direct registration for each state with internal bookkeeping and reporting
 - Use of a 3rd party Certified Service Provider (CSP)
 - In certain cases, participation in the Streamlined Sales Tax Project (SSTP), when applicable
- Please advise all employees associated with the sales process - sales staff, registrar, shipping department, bookkeepers and internal accountants - of these new sales tax obligations. It will be imperative that they are familiar with the new rules and obligations so that your business will not be liable for uncollected and unpaid sales tax. Going forward, each sale will need to be reviewed for any sales tax implications prior to completing the transaction.
- Please contact our office and we can arrange to meet with your staff and advise accordingly.

Economic Sales Tax Nexus States (As of 11/1/18)

State	SSTP Member	Effective Date	Enforce Date	Sales Threshold	Transaction Threshold	General Measurement Period	Detail Measurement Period	
Alabama	AL	1/1/2016	10/1/2018	\$250,000	none	Previous Calendar Year	collect ASAP if threshold was met in 2017 calendar year. If threshold is met in 2018 or later, begin collecting in beginning of subsequent year.	
Colorado	CO	10/1/2018	12/1/2018	\$100,000	200	Previous or Current Calendar Year	collect beginning 12/1/18 if threshold was met in 2017 or 2018 calendar year. If threshold is met after 12/1/18, begin collecting immediately after threshold is met.	
Connecticut	CT	12/1/2018	12/1/2018	\$250,000	AND 200	Prior 12 Months	collect beginning 12/1/18 if threshold was met in year ending 9/30/18. If threshold is met in subsequent 12 month period, begin collecting in beginning of next sales tax reporting period.	
Georgia	GA	X	1/1/2019	1/1/2019	\$250,000	200	Previous or Current Calendar Year	collect beginning 1/1/19 if threshold was met in 2018 calendar year. If threshold is met after 1/1/19, begin collecting immediately after threshold is met.
Hawaii	HI	7/1/2018	7/1/2018	\$100,000	200	Previous or Current Calendar Year	collect ASAP if threshold was met in 2017 or 2018 calendar year. If threshold is met after 12/1/18, begin collecting in beginning of next sales tax reporting period.	
Illinois	IL	10/1/2018	10/1/2018	\$100,000	200	Prior 12 Months on a quarterly basis	collect ASAP if threshold was met in the 12 month period ending 8/31/18. If threshold is met in subsequent 12 month period, begin collecting in beginning of next sales tax reporting period.	
Indiana	IN	X	7/1/2017	10/1/2018	\$100,000	200	Previous or Current Calendar Year	collect ASAP if threshold was met in 2017 or 2018 calendar year. If threshold is met after 10/1/18, begin collecting immediately after threshold is met.
Iowa	IA	X	1/1/2019	1/1/2019	\$100,000	200	Previous or Current Calendar Year	collect beginning 1/1/19 if threshold was met in 2018 calendar year. If threshold is met after 1/1/19, begin collecting immediately after threshold is met.
Kentucky	KY	X	7/1/2018	10/1/2018	\$100,000	200	Previous or Current Calendar Year	collect ASAP if threshold was met in 2017 or 2018 calendar year. If threshold is met after 10/1/18, begin collecting immediately after threshold is met.
Louisiana	LA	6/21/2018	1/1/2019	\$100,000	200	Previous or Current Calendar Year	collect beginning 1/1/19 if threshold was met in 2018 calendar year. If threshold is met after 1/1/19, begin collecting immediately after threshold is met.	
Maine	ME	10/1/2017	7/1/2018	\$100,000	200	Previous or Current Calendar Year	collect ASAP if threshold was met in 2017 or 2018 calendar year. If threshold is met after 7/1/18, begin collecting in beginning of next sales tax reporting period.	
Maryland	MD	10/1/2018	10/1/2018	\$100,000	200	Previous or Current Calendar Year	no tracking for sales prior to 10/1/18. If threshold is met after 10/1/18, begin collecting in beginning of next sales tax reporting period.	
Massachusetts	MA	9/22/2017	10/1/2017	\$500,000	AND 100	Previous Calendar Year	collect ASAP if threshold was met in 2017 calendar year. If threshold is met in 2018 or later, begin collecting in beginning of next subsequent year.	
Michigan	MI	X	8/1/2018	10/1/2018	\$100,000	200	Previous Calendar Year	collect ASAP if threshold was met in 2017 calendar year. If threshold is met in 2018 or later, begin collecting in beginning of next subsequent year.
Minnesota	MN	X	10/1/2018	10/1/2018	10 or more sales totaling \$100,000	100	Prior 12 Months	collect ASAP if threshold was met in 12 month period ending 7/31/18. If threshold is met in subsequent 12 month period, begin collecting 60 days after the end of the 12 month period in which the threshold is met.
Mississippi	MS	12/1/2017	9/1/2018	\$250,000	none	Prior 12 Months	collect ASAP if threshold was met in 12 month period ending 8/31/18. If threshold is met in subsequent 12 month period, begin collecting 60 days after the end of the 12 month period in which the threshold is met.	
Nebraska	NE	X	7/27/2018	1/1/2019	\$100,000	200	Previous or Current Calendar Year	collect beginning 1/1/19 if threshold was met in 2018 calendar year. If threshold is met after 1/1/19, begin collecting immediately after threshold is met.
Nevada	NV	X	10/1/2018	11/1/2018	\$100,000	200	Previous or Current Calendar Year	collect ASAP if threshold was met in 2017 or 2018 calendar year. If threshold is met after 10/1/18, begin collecting the 1st of the month that begins 30 days after the threshold is met.
New Jersey	NJ	X	8/14/2018	11/1/2018	\$100,000	200	Previous or Current Calendar Year	collect ASAP if threshold was met in 2017 or 2018 calendar year. If threshold is met after 11/1/18, begin collecting immediately after threshold is met.
North Carolina	NC	X	11/1/2018	11/1/2018	\$100,000	200	Previous or Current Calendar Year	collect ASAP if threshold was met in 2017 or 2018 calendar year. If threshold is met after 11/1/18, begin collecting 60 days after threshold is met.
North Dakota	ND	X	10/1/2018	10/1/2018	\$100,000	200	Previous or Current Calendar Year	collect ASAP if threshold was met in 2017 or 2018 calendar year. If threshold is met after 10/1/18, begin collecting 60 days after threshold is met.
Ohio	OH	X	1/1/2018	delayed	\$500,000	none	Previous or Current Calendar Year	delayed
Oklahoma	OK	X	7/1/2018	7/1/2018	\$10,000	none	Prior 12 Months	collect ASAP if threshold is met for prior 12 month period.
Pennsylvania	PA	4/1/2018	4/1/2018	\$10,000	none	Prior 12 Months	collect ASAP if threshold is met for prior 12 month period.	
Rhode Island	RI	X	8/17/2017	8/17/2017	\$100,000	200	Previous Calendar Year	collect ASAP if threshold was met in 2017 calendar year. If threshold is met in 2018 or later, begin collecting in beginning of subsequent year.

Economic Sales Tax Nexus States (As of 11/1/18)

State	SSTP Member	Effective Date	Enforce Date	Sales Threshold	Transaction Threshold	General Measurement Period	Detail Measurement Period	
South Carolina	SC		10/1/2018	11/1/2018	\$100,000	none	Previous or Current Calendar Year	collect ASAP if threshold was met in 2017 or 2018 calendar year. If threshold is met after 10/1/18, begin collecting the 1st day of the 2nd month after the threshold is met.
South Dakota	SD	X	5/1/2016	11/1/2018	\$100,000	200	Previous or Current Calendar Year	collect ASAP if threshold was met in 2017 or 2018 calendar year. If threshold is met after 11/1/18, begin collecting immediately after threshold is met.
Tennessee	TN	X	1/1/2017	delayed	\$500,000	none	Prior 12 Months	delayed
Utah	UT	X	7/21/2018	1/1/2019	\$100,000	200	Previous or Current Calendar Year	collect beginning 1/1/19 if threshold was met in 2018 calendar year. If threshold is met after 1/1/19, begin collecting immediately after threshold is met.
Vermont	VT	X	6/21/2018	7/1/2018	\$100,000	200	Prior 12 Months	collect ASAP if threshold is met for prior 12 month period.
Washington	WA	X	10/1/2018	10/1/2018	\$100,000	200	Previous or Current Calendar Year	collect ASAP if threshold was met in 2017 or 2018 calendar year. If threshold is met after 10/1/18, begin collecting immediately after threshold is met.
West Virginia	WV	X	7/1/2018	1/1/2019	\$100,000	200	Previous Calendar Year	collect beginning 1/1/19 if threshold was met in 2018 calendar year. If threshold is met in 2019 or later, begin collecting in beginning of subsequent year.
Wisconsin	WI	X	10/1/2018	10/1/2018	\$100,000	200	Previous or Current Calendar Year	collect ASAP if threshold was met in 2017 or 2018 calendar year. If threshold is met after 10/1/18, begin collecting immediately after threshold is met.
Wyoming	WY	X	7/1/2017	2/1/2019	\$100,000	200	Previous or Current Calendar Year	collect beginning 2/1/19 if threshold was met in 2018 calendar year. If threshold is met after 2/1/19, begin collecting immediately after threshold is met.

The information contained in this schedule is for illustrative and informational purposes only and not for the purpose of providing legal advice or tax advice. You should consult with our office to discuss the details specific to your business before relying on this information.