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Certified Public Accountants and Consultants

The background is a collage. The top half shows a close-up of a US dollar bill, with the number '39949756' and the name 'Anna Escobedo Cabral' visible. The bottom half shows wooden blocks spelling out 'TAX' in a row, with the number '8' on the block for 'X'. The blocks are resting on a surface that appears to be a US dollar bill, with the text 'THIS NOTE IS LEGAL TENDER FOR ALL DEBTS, PUBLIC AND PRIVATE' visible.

2018 New York State Tax Update

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11.8.18

... Business Tax Climate

Tax Foundation Study

The 10 best states in this year's Index are:

- | | |
|-----------------|------------------|
| 1. Wyoming | 6. New Hampshire |
| 2. Alaska | 7. Oregon |
| 3. South Dakota | 8. Utah |
| 4. Florida | 9. Nevada |
| 5. Montana | 10. Indiana |

The 10 worst states in this year's Index are:

- | | |
|---------------|-----------------|
| 41. Vermont | 46. Arkansas |
| 42. Ohio | 47. Connecticut |
| 43. Minnesota | 48. New York |
| 44. Louisiana | 49. California |
| 45. Iowa | 50. New Jersey |

... Topics to be Covered Today

*2018 NYS
Income Tax
Update*

*Sales Tax
Update*

*Other State
Nexus Issues*

2018 NYS Income Tax Update

... Preliminary Report on Federal Tax Cuts and Jobs Act

- Charitable Contributions to Benefit New Yorkers.
- Options for a Statewide Employer Compensation Expense Tax.
- Options for an Unincorporated Business Tax.
- Federal Conformity Issues - Personal Income Tax.
- Other Impacts on New York State - Business Tax.

Charitable Contributions to Benefit New Yorkers

- 2019 Budget creates a new Charitable Gifts Trust Fund.
- Contributions directed to one of two accounts:
 - Health charitable account.
 - Elementary and secondary education account.
- Deduction for charitable donation; and
- Tax credit of 85 percent of the donation amount.

... Employer Compensation Expense Program

- Employer opt-in by December 1, 2018 for 2019 calendar year.
 - Election is made annually through the Business Online Services Account.
- Employer Compensation Expense Tax (ECET).
 - Employers elect to pay additional payroll tax for employees earning over \$40,000 annually.
 - 1.5 Percent of wages that exceeds \$40,000 (3 percent in 2020, 5 percent in 2021 and beyond).

... Employer Compensation Expense Program (con't.)

- Employers should communicate with employees:
 - That the election was made.
 - That employees earning over \$40,000 will be eligible for a tax credit on their individual income tax return.
 - They should review their IT-2104, Employee's Withholding Allowance Certificate.
 - Advise of the amount of wages subject to ECET.

... Employer Compensation Expense Program (con't.)

- ECET will be paid quarterly on the same day as withholding tax payments.
- A separate ECET return is required.
- Quarterly returns are required to be filed and paid electronically.

Options for an Unincorporated Business Tax

- Bill discussion draft issued over the summer.
 - Requested feedback on general concept of state-wide UBT.
 - Requested feedback on specific design and implementation.
- Provision would add new Article 24-A to NYS Tax Law.
- 5 Percent tax imposed on the Unincorporated Business Taxable Income (UBTI) of all affected partnerships.

... Federal Conformity Issues - Personal Income Tax

- Increase of standard deduction.
- Enhanced child tax credit.
- Limitation on itemized deductions.
- Mortgage interest deduction.
- SALT deduction at the state level.
- 529 Plan distributions.

... Other Impacts on New York State - Business Tax

- Bonus depreciation.
- Immediate expense (Section 179).
- Accounting method changes.
- Qualified business income deduction (QBIID).

Sales Tax Update

... The History

United States - Supreme Court Cases

- National Bellas Hess (1967) - Requirement for some physical contact with the state and that state violated U.S. Constitution's Commerce Clause, since the only connection to customers in Illinois was by common carrier or mail.
- Complete Auto Transit (1977) - Created four part test to determine if state taxes discriminate or unfairly burden interstate commerce.
 - Be related to an activity with substantial nexus within the taxing state;
 - Be fairly apportioned;

... The History (con't.)

- Not discriminate against interstate commerce; and
 - Be fairly related to the services provided by the state.
-
- Quill Corporation (1992) - Supreme Court ruled that attempts to impose use tax on goods purchased from an out-of-state mail order seller without outlets or sales representatives violated the Commerce Clause.

... Quill Corporation vs. North Dakota (1992)

- Quill Corp. was an office supplies retailer incorporated in Delaware with offices and warehouses in multiple states, but none in North Dakota.
 - No employees worked or lived in North Dakota.
 - Little to no tangible personal property within the state.
 - \$200,000,000 Global revenue.
 - North Dakota sales:
 - Approximately \$1,000,000 worth of sales to approximately 3,000 customers.
 - Sixth largest vendor of office supplies in the state.
 - Delivers all merchandise by mail or common carrier.

... Cyber Age

- For private consumers around the globe, the most well-known form of e-commerce falls into the business to consumer (B2C) category, which includes online retail or online shopping. It refers to online purchases from bricks-and-mortar retailers, such as Walmart, as well as from web-only online retailing corporations such as Amazon or Rakuten.
- In 2017, an estimated 1.66 billion people worldwide purchased goods online. During the same year, global e-retail sales amounted to \$2.3 trillion USD and projections show a growth of up to \$4.48 trillion USD by 2021.
- In South Dakota alone, the Department of Revenue estimates the revenue loss at \$48-58 million, annually.

... **Wayfair, Inc.**

- Wayfair, Inc. is a merchant with no employees or real estate in South Dakota.
- Wayfair, Inc. is a leading online retailer of home goods and furniture and had net revenues of over \$4.7 billion last year.
- Wayfair, Inc. does not have nexus in South Dakota, but ships its goods directly to purchasers there.

... South Dakota vs. Wayfair, Inc. (2018)

- In 2016, South Dakota passed an economic presence statute that required out-of-state sellers to collect and remit sales tax if the seller had a specified level of activity in the state. This new standard applied if the business delivered more than \$100,000 of goods or services in South Dakota or engaged in 200 or more separate transactions in South Dakota in the current calendar year.
- On June 21, 2018, the Supreme Court of the U.S. handed down a historic decision in the sales and use tax nexus case South Dakota vs. Wayfair, Inc. The 5-4 ruling overturns physical presence standards upheld in previous cases, such as Quill vs. North Dakota (1992) and National Bellas Hess Inc. vs. Department of Revenue of Illinois (1967), where a business had to have a physical presence in the state for the state to impose sales and use tax collection obligations on the business.

... South Dakota vs. Wayfair, Inc. (2018) (con't.)

- The court overturns Quill.
 - “Quill is flawed on its own terms.”
 - “The physical presence rule is not a necessary interpretation of the requirement that a state tax must be “applied to an activity with a substantial nexus” with the taxing state.”
 - “Quill creates rather than resolves market distortions.”

... South Dakota vs. Wayfair, Inc. (2018) (con't.)

- “It treats economically identical companies differently for arbitrary reasons.
- For example, a business that maintains a few items of inventory in a small warehouse in a state is required to collect and remit a tax on all of its sales in the state, while a seller with a pervasive internet presence is not subject to the same tax for the sales of the same items.”
- “Rejecting the physical presence rule is necessary to ensure that artificial competitive advantages are not created by this Court’s precedents.”

... New Law Under Wayfair

- The power to regulate sales tax collection with respect to interstate commerce remains with Congress (Interstate Commerce Clause).
- But Congress has not yet enacted controlling laws regarding sales tax with respect to interstate commerce.
 - Until Congress enacts controlling regulations, sales tax issues for out-of-state sellers will continue to vary by state. It is also possible that Congress may choose to codify Wayfair, or to not act at all.
- States will now be able to enforce legislation that establishes an economic nexus even if there is no physical presence in the state.
- Substantial nexus was established in *Wayfair* through “extensive virtual presence.”

... New Law Under Wayfair (con't.)

- The decision does not officially make the South Dakota statute the new standard for taxing out-of-state vendors, but it is noteworthy that the following attributes of South Dakota's law were viewed favorably by the Court by not putting an unreasonable burden on the sellers:
 - It is not retroactive.
 - Only merchants who have considerable amount of business are required to collect (according to the South Dakota law in question, that mean \$100,000 in in-state sales or over 200 orders in the state).

... Increase Sales Tax Collection

- Establishing the nexus (connection) between a remote vendor and a taxing state allow the state to increase sales tax revenue by increasing collections by requiring sellers to do one or more of the following:
 - Collect sales tax from customers within the taxing state and pay it to the state.
 - Register with the taxing state.
 - Provide customer/sales data to the taxing state.

... House Introduces Online Sales Simplicity and Small Business Relief Act of 2018

- On September 13, 2018, U.S. House Members introduced a bill in response to the U.S. Supreme Court's June 21, 2018 decision in South Dakota vs. Wayfair.
 - Ban on retroactive sales taxation on a remote seller of any sale prior to June 21, 2018.
 - Orderly phase-in of compliance obligations for sales occurring after January 1, 2019.
 - Small business remote seller exemption for a remote seller with annual gross receipts in the U.S. during the preceding year that is not more than \$10,000,000.
- For a summary of current economic nexus and post-Wayfair guidance for each state, see attached Appendix A.

Other State Nexus Issues

... State Nexus

- If you register with a non-resident state for sales tax, they will send you a business questionnaire.
- If they find out you are doing any business in their state by-
 - Vendor listing of other companies;
 - Audit findings of other companies;
 - Other reporting you engage in,
 - They will send you a business questionnaire.
- The business questionnaire ranges from 2-17 pages long with up to 170, carefully worded questions.

... State Nexus (con't.)

If you answer yes to any one question, they will determine you should be filing company tax returns and paying some or all of the following:

- State corporate income taxes;
- State franchise taxes;
- State business taxes;
- State individual taxes;
- Minimum state taxes;
- State sales and use taxes;
- State/local personal property taxes;
- State excise taxes;
- State payroll taxes; and/or
- State gross receipts taxes.

... State Nexus (con't.)

- Answering the business questionnaire without answering yes for many of the questions is difficult and takes understanding of specific technical tax terms used.
- What you should NOT do:
 - ✓ Attempt to have your employees answer the questionnaire.
 - ✓ Lie on the questionnaire.
 - ✓ Sign a false questionnaire.
 - ✓ Ignore the questionnaire.

Corporate Income Tax Nexus

... Corporate Income Tax Nexus

- The state in which a business is incorporated has the jurisdiction to tax the corporation, regardless of the amount of business activity that is conducted within the state.
- Whether a state has the right to tax the income of a business that is incorporated in another state depends on the connection between the state and the corporation.
- “Nexus” is the term that is used to describe the degree of business activity that must be present before a taxing jurisdiction has the right to impose a tax on a corporation’s income.

... Corporate Income Tax Nexus (con't.)

- The amount of activity required to create nexus is defined by each state.
 - If an entity derives income from sources within the state;
 - If an entity owns or leases property within the states;
 - If an entity employs personnel in the state in activities that exceed mere solicitation; or
 - If an entity has physical or financial capital in the state.

... Corporate Income Tax Nexus (con't.)

- In 1959, Congress enacted Public Law 86-272, to limit the states' rights to impose an income tax on interstate activities (codified as 15 USC 381).
- This law prohibits a state from taxing a business whose only connection with the state is the solicitation of orders for sales of tangible personal property that are:
 - Sent outside the state for approval or rejection; and, if approved;
 - Filled and shipped from outside of the state.

... Corporate Income Tax Nexus (con't.)

- Applies only to “net income taxes” not based on something other than net income.
- Note, this immunity does not extend to:
 - Selling or providing services;
 - Leasing or renting personal property; or
 - Any activity in connection with:
 - Real property; or
 - Intangibles.

... Corporate Income Tax Nexus (con't.)

- In addition, an activity is immune from taxation if it consists merely of solicitation; since “solicitation” is not defined by P.L. 86-272, each state felt free to select its own interpretation.
- For example, the State of Connecticut declares that the following activities constitute carrying business:
 - Owning real property;
 - Leasing real property as lessee;
 - Maintaining an office;
 - Compensating an employee for use of his or her house as an office;

... Corporate Income Tax Nexus (con't.)

- Selling tangible personal property, as opposed to solicitation of orders;
- Performing or soliciting orders for services;
- Selling or soliciting orders for real property;
- Maintaining inventory in a public warehouse;
- Delivering merchandise inventory on consignment to distributors or dealers;
- Owning or leasing (as lessee) personal property not related to solicitation of orders; and
- Participating in the approval of distributors or dealers who will service and repair products for customers and users.

... Corporate Income Tax Nexus (con't.)

- In addition to the activities above, a corporation will be treated as carrying on business in Connecticut if its employees does any of the following actions in the State, even if the employee is based elsewhere:
 - Engages in managerial or research activities;
 - Collects on regular or delinquent accounts;
 - Offers technical assistance or training to customers or users after the sale;
 - Repairs or replaces faulty products;

... Corporate Income Tax Nexus (con't.)

- Installs or assembles products;
- Visits customers or users to determine product satisfaction;
- Picks up returned merchandise from customers or users;
- Solves or attempts to solve product, credit, shipping or similar complaints;
- Verifies destruction of damaged merchandise;
- Coordinates deliveries, whether or not there are any special promotions;
- Distributes replacement parts;
- Inspects product installations made by customers or users; or
- Conducts credit investigations or arranges for financing.

... The Wrigley Decision

- The term “solicitation” was finally defined, more than 30 years after the enactment of P.L. 86-272.
- On June 19, 1992, the U.S. Supreme Court reversed the decision of the Wisconsin Supreme Court in Wisconsin Department of Revenue vs. William Wrigley, Jr., Co.

... The Wrigley Decision (con't.)

- Wrigley conducted its worldwide chewing gum business from its Chicago offices and sold its products in Wisconsin through a sales force, consisting of a regional manager and several field representatives who resided in Wisconsin.
- As mandated by P.L. 86-272, all orders were sent to Chicago for acceptance or rejection, and were filled by common carrier shipments from outside of Wisconsin. In addition, no property was owned or leased by Wrigley in Wisconsin and all credit and collection activities (with a few exceptions) were handled from Chicago. Furthermore, all Wisconsin advertising was placed from out-of-state locations by a Chicago advertising agency.

... The Wrigley Decision (con't.)

- The regional manager had no office, and spent the majority of his time working with the field representatives (reps) and contacting key accounts. The reps were provided with company cars and were supplied with a stock of gum, company literature and display racks, which were supposed to be stored at their own homes. Typically, a rep would visit retail accounts, and would:
 - Distribute literature;
 - Provide free samples;
 - Replace stale gum with fresh gum (at no cost); and
 - Supply gum to accounts that had insufficient amounts on hand to fill display cases.

... Independent Contractors

- Public Law 86-272 limited immunity to certain in-state activities conducted by independent contractors that would not be permitted if performed directly by the business through its employees or manufacturer's representatives.
- P.L. 86-272 exempts certain activities of "independent contractors."
 - Typically, an independent contractor may engage in limited activities on behalf of a corporation without creating nexus for the business, such as:
 - Soliciting sales; and
 - Making sales (accepts on behalf of).

... Independent Contractors (con't.)

- The maintenance of inventory by an independent contractor will result in loss of immunity, whether on a consignment basis or other type of arrangement.
- For purposes of applying independent contractor provisions, a sales or manufacturer's representative who exclusively works for one corporation is NOT considered to be an independent contractor.
- For the special rules to apply, the contractor must:
 - Hold him or herself out to the public as soliciting orders for more than one principal; and
 - Actually solicit orders for more than one business.

... Examples of “Nexus” Pitfalls

Shipping products on consignments to customers

A manufacturer shipped its product on consignment to its largest customers location in multiple states. A state determined that this activity in their state created income tax and sales tax nexus. The manufacturer was assessed tax, penalty, and interest for a 5 year period. This information was shared by the assessing state with the other states that also assessed the manufacturer.

... Examples of “Nexus” Pitfalls (con’t.)

Selling to customers in several states

A manufacturer of specialized equipment sold products to customers in several states. These sales generally included a factory representative who would install and help set-up the equipment. An audit conducted on the out-of-state customer led to an audit of the manufacturer. It determined that the manufacturer had sales tax and income tax nexus with its state. The audit resulted in tax assessment, penalty, and interest. The state also shared the information with several other states that also assessed tax.

Questions



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Circular 230

Any tax advice contained herein was not intended or written to be used, and cannot be used, for the purpose of avoiding penalties that may be imposed under the Internal Revenue Code or applicable state or local tax law provisions.

Appendix A

Economic Nexus (Updated for Wayfair)

Wayfair Guidance

State	Economic Nexus	Post-Wayfair Guidance
AK	N/A	N/A
AL	Yes. Threshold: Over \$250,000 in retail sales. Alabama imposes a use tax collection obligation on out-of-state sellers who: engage in one or more of the activities listed in Ala. Code §40-23-68 and have more than \$250,000 in retail sales sold into Alabama in the previous year. Remote sellers who engage in one or more of the activities listed in Ala. Code §40-23-68 and have annual Alabama sales in excess of \$250,000 should register for the Alabama Simplified Sellers Use Tax Program (SSUT) and begin collecting tax on their sales no later than October 1, 2018. In addition to the collection requirements for remote sellers, Alabama law also requires marketplace facilitators with Alabama marketplace sales in excess of \$250,000 to collect tax on sales made by or on behalf of its third-party sellers or to comply with reporting and customer notification requirements. The law mandates compliance with reporting or remitting requirements on or before January 1, 2019.	Yes. The Alabama Department of Revenue announced that its existing economic nexus rule, originally effective in 2016, applies "prospectively for sales made on or after October 1, 2018." The Department also noted a law that takes effect in 2019 requiring large marketplace facilitators to comply with notice and reporting requirements or collect tax on sales made by or on behalf of third-party sellers.
AR	No. Arkansas has not adopted an economic nexus provision.	No. The Arkansas Department of Finance and Administration indicated that it had no comment, however, Revenue Legal Counsel has issued an opinion stating that the effect of Wayfair on sellers with no physical presence in Arkansas remains uncertain.
AZ	No. Arizona has not adopted an economic nexus provision.	No. The Arizona Department of Revenue has updated its nexus publication to emphasize the state's voluntary disclosure program. In a statement, the Department noted that it is "committed to the fair treatment of online retailers and bricks and mortar establishments and continues to review the U.S. Supreme Court's decision." The Department also indicated that the state's transaction privilege (sales) tax "remains unchanged." A timeline for anticipated guidance was not available.

CA	<p>No. California has not adopted an economic nexus provision. Draft legislation purportedly under consideration by the administration of the California governor would impose but not retroactively sales tax collection responsibilities on remote sellers with more than \$500,000 of sales into California and on certain marketplace facilitators that meet that threshold.</p>	<p>No. The California Department of Tax and Fee Administration has indicated that it is reviewing the Supreme Court's opinion to determine the next steps to support taxpayers. The state has not established an official timeline for issuing guidance. Draft legislation purportedly under consideration by the administration of the California governor would impose but not retroactively sales tax collection responsibilities on remote sellers with more than \$500,000 of sales into California and on certain marketplace facilitators that meet that threshold.</p>
CO	<p>Yes. Threshold: Over \$100,000 in sales or 200 or more separate transactions effective December 1, 2018. Update: 09/14/2018 Effective December 1, 2018, retailers are considered to have substantial nexus with Colorado if in the previous or current calendar year, the retailers' gross revenue from sale of tangible personal property or services in-state is over \$100,000 or engaged in 200 or more separate transactions in the state.</p> <p>Colorado requires all out-of-state retailers that have substantial nexus with Colorado and are doing business in Colorado to start collecting sales tax on December 1, 2018. Retailers are considered to have substantial nexus if they meet annual thresholds of over \$100,000 in sales of tangible personal property or services in the state or engage in over 200 separate transactions in state in the previous or current calendar year. Such retailers must also obtain a state sales tax license no later than November 30, 2018. Beginning November 1, 2018, out-of-state retailers can register for a Colorado sales tax license by visiting www.Colorado.gov/Tax/Sales-Tax-Changes. If out-of-state retailers are not required to collect sales tax under state or federal law, they must collect retailer's use tax on any sale of tangible personal property for storage, use, or consumption in Colorado.</p> <p>Effective July 1, 2017, remote "non-collecting retailers" must give a notice to their "Colorado purchasers" with respect to all Colorado destination sales that the Colorado tax is due on all non-exempt purchases. This transactional notice must be given with each purchase and must appear on the invoice. An Annual Purchase Summary must also be given to all Colorado purchasers by January 31 of each year. Each retailer that does not collect Colorado sales tax also is required to file by March 1 of each year an Annual Customer Information Report for each purchaser with the Department of Revenue showing the total amount paid for Colorado purchases during the preceding calendar year. A de minimis rule exempts from the notice requirement those non-collecting retailers that made total gross sales in the prior year of less than \$100,000 and reasonably expects sales in the current year will be less than \$100,000.</p>	<p>Yes. Update: 09/14/2018 The Colorado Department of Revenue issued emergency regulations requiring out-of-state retailers that have substantial nexus with Colorado and doing business in Colorado to start collecting sales tax on December 1, 2018. Effective December 1, 2018, retailers are considered to have substantial nexus with Colorado if in the previous or current calendar year, the retailers' gross revenue from sale of tangible personal property or services in-state is over \$100,000 or engaged in 200 or more separate transactions in the state.</p> <p>Colorado requires all out-of-state retailers that have substantial nexus with Colorado and are doing business in Colorado to start collecting sales tax on December 1, 2018. Retailers are considered to have substantial nexus if they meet annual thresholds of over \$100,000 in sales of tangible personal property or services in the state or engage in over 200 separate transactions in state in the previous or current calendar year. Such retailers must also obtain a state sales tax license no later than November 30, 2018. Beginning November 1, 2018, out-of-state retailers can register for a Colorado sales tax license by visiting www.Colorado.gov/Tax/Sales-Tax-Changes. If out-of-state retailers are not required to collect sales tax under state or federal law, they must collect retailer's use tax on any sale of tangible personal property for storage, use, or consumption in Colorado.</p>

CT	<p>Yes.Threshold: 200 or more retail sales and gross receipts of at least \$250,000 effective 12/01/2018 (100 retail sales prior to 12/01/2018)Connecticut has adopted economic nexus provisions.An out-of-state seller is a Connecticut retailer liable for tax if the seller engages in regular or systematic solicitation of sales of tangible personal property in Connecticut by the display of advertisements on billboards or other outdoor advertising, by the distribution of catalogs, periodicals, advertising flyers or other advertising by means of print, radio or television media, or by mail, telegraphy, telephone, computer data base, cable, optic, microwave, Internet effective December 1, 2018 or other communication system, for the purpose of effecting retail sales, provided the seller has made, effective December 1, 2018, 200 or more retail sales and has gross receipts of at least \$250,000 (prior to December 1, 2018, 100 or more retail sales) in the state during the 12-month period ended on September 30 immediately preceding the monthly or quarterly period with respect to which the seller's tax liability was determined.Effective December 1, 2018, marketplace facilitators are also retailers.</p>	<p>No.The Connecticut Department of Revenue Services has not issued a formal guidance document but is currently registering businesses prior to implementation of the state's economic nexus law, effective December 1, 2018.An out-of-state seller is a Connecticut retailer liable for tax, if the seller has made, effective December 1, 2018, 200 or more retail sales and has gross receipts of at least \$250,000 (prior to December 1, 2018, 100 or more retail sales) in the state during the 12-month period ended on September 30 immediately preceding the monthly or quarterly period with respect to which the seller's tax liability was determined.</p>
DC	<p>No.The District of Columbia has not adopted an economic nexus provision.</p>	<p>No. The District Office of Tax and Revenue has not issued guidance related to the recent U.S. Supreme Court decision South Dakota v. Wayfair.</p>
DE	<p>N/A</p>	<p>N/A</p>
FL	<p>No.No. Florida has not adopted an economic nexus provision.</p>	<p>No.The Florida Department of Revenue indicated that it is "reviewing the ruling and its impact on Florida sales tax."</p>
GA	<p>Yes, beginning January 1, 2019, but only as an alternative to detailed notice and reporting requirements.Threshold: \$100,000 in retail sales or 200 or more separate transactions, in the previous or current calendar yearBefore 2019, Georgia does not have an economic nexus provision.Beginning January 1, 2019, out-of-state retailers making sales outside Georgia for delivery into Georgia who, in the previous or current calendar year, either have over \$250,000 in gross revenue from retail sales of tangible personal property to be delivered electronically or physically to a location in Georgia, or have conducted 200 or more separate retail sales of tangible personal property to be delivered electronically or physically to a location in Georgia must either collect and remit tax on those sales, or comply with detailed notice and reporting requirements. <u>Update:</u> 05/03/2018 Economic nexus is applicable to all sales made on or after January 1, 2019.</p>	<p>No. The Georgia Department of Revenue indicated that it is reviewing the Wayfair decision.</p>
HI	<p>Yes, beginning July 1, 2018.Threshold: \$100,000 or more of gross income or gross proceeds from sales of tangible personal property delivered in Hawaii, services used or consumed in Hawaii, or intangible property used in Hawaii, or sales that occurred in 200 or more separate</p>	<p>Yes.The Hawaii Department of Taxation issued an announcement amending and superseding its prior announcement and establishing that, "to avoid any constitutional concerns," its economic nexus provisions will apply only on and after July 1, 2018.</p>

	<p>transactions, in the current or immediately preceding calendar year. Beginning July 1, 2018, Hawaii asserts economic nexus against out-of-state sellers lacking physical presence in the state and making sales into Hawaii. The law asserts nexus against sellers, whether or not they have a physical presence in the state, if in the current or immediately preceding calendar year their gross income or gross proceeds from sales of tangible personal property delivered in the state, services used or consumed in the state, or intangible property used in the state is \$100,000 or more or if the sales occurred in 200 or more separate transactions. Although the law asserts economic nexus upon activity for tax years beginning after December 31, 2017, the Department has advised that it will not retroactively administer the law, and taxpayers who lacked physical presence in Hawaii prior to July 1, 2018, but who met the threshold in 2017 or 2018, will not be required to remit general excise tax for the period from January 1, 2018 to June 30, 2018.</p> <p><u>Update:</u> 07/16/2018 Hawaii has enacted an economic nexus law effective 7/1/2018.</p>	
IA	<p>Yes, beginning January 1, 2019. Threshold: \$100,000 in retail sales or 200 or more separate transactions, in the immediately preceding or current calendar year. Beginning January 1, 2019, Iowa asserts economic nexus against the following out of state retailers: (1) a retailer with gross revenue from Iowa sales equal to or exceeding \$100,000 for the immediately preceding or current calendar year; (2) a retailer that makes Iowa sales in 200 or more separate transactions for the immediately preceding or current calendar year; (3) a retailer that owns, licenses, or uses software or data files that are installed or stored on property used in Iowa (not applicable to a retailer that has gross revenue from Iowa sales of less than \$100,000 for the immediately preceding or current calendar year), or a retailer that uses in-state software to make Iowa sales (not applicable to a retailer that has gross revenue from Iowa sales of less than \$100,000 for the immediately preceding or current calendar year), or a retailer that provides, or enters into an agreement with another person to provide, a content distribution network in Iowa to facilitate, accelerate, or enhance the delivery of the retailer's internet site to purchasers (not applicable to a retailer that has gross revenue from Iowa sales of less than \$100,000 for the immediately preceding or current calendar year); and (4) a marketplace facilitator that makes or facilitates Iowa sales on its own behalf or for one or more marketplace sellers equal to or exceeding \$100,000 or in 200 or more separate transactions, for the immediately preceding or current calendar year.</p> <p><u>Update:</u> 05/30/2018 Effective January 1, 2019, Iowa adopts an economic nexus standard.</p>	<p>Yes. The Iowa Department of Revenue issued guidance highlighting the law's compliance with considerations outlined in Wayfair (sales threshold, not retroactive, SSUTA member).</p>

ID	<p>No.Idaho has not adopted an economic nexus provision.The State Tax Commission is studying how the South Dakota v. Wayfair, Inc. et al., U.S. S. Ct., Dkt. No. 17-494, 06/21/2018Dkt. No. 17-494, 06/21/2018 decision affects out-of-state retailers, such as online sellers, that make sales to Idaho citizens, and is closely watching any actions by the U.S. Congress on this issue as well as any developing legal issues arising from the decision.</p>	<p>No.The Idaho State Tax Commission (STC) issued a statement that it is still studying the Wayfair decision. The STC also indicated that it is implementing the state's new referral agreement nexus law that goes into effect on July 1, 2018.</p>
IL	<p>Yes.Threshold: \$100,000 per year gross revenue or 200 separate transactions, in the preceding 12 months.Beginning October 1, 2018, Illinois law requires a remote seller lacking a physical presence in Illinois to collect and remit sales taxes if the seller's gross revenue from sales into the state in the previous calendar year or current calendar year exceeds \$100,000, or the seller made at least 200 separate transactions into the state in the preceding 12-month period.</p> <p>Update: 06/20/2018 Illinois has enacted an economic nexus law effective 10/1/2018</p>	<p>Yes.The Illinois Department of Revenue has issued a bulletin providing use tax guidance for remote sellers. Until October 1, 2018, only remote sellers that have a physical presence in Illinois must register to collect and remit tax on their sales to Illinois purchasers. For sales made to Illinois purchasers on or after October 1, 2018, remote sellers with no physical presence in Illinois that meet either of the following thresholds must register with the Department to begin collecting and remitting Illinois use tax: (1) the retailer's cumulative gross receipts from sales of tangible personal property to purchasers in Illinois are \$100,000 or more; or (2) the retailer enters into 200 or more separate transactions for the sale of tangible personal property to purchasers in Illinois. If a remote seller meets either of the thresholds through its selling activities for the period from September 1, 2017, through August 31, 2018, the remote seller must register with the Department to collect Illinois use tax beginning October 1, 2018. If a remote seller does not meet either of the thresholds requiring collection and remittance beginning October 1, the remote seller must determine, on a quarterly basis, whether it is obligated to begin collecting Illinois use tax. Thus, for each quarter ending on the last day of March, June, September, and December, the remote seller must examine its sales to Illinois purchasers for the immediately preceding 12-month period and, if the remote seller meets either threshold for the immediately preceding 12-month period, the remote seller must register to collect and remit use tax for a 1-year period.</p>
IN	<p>Yes. Threshold: \$100,000 or more gross revenue from sales or 200 separate transactions, in the previous or current calendar year.Indiana law requires a remote seller lacking a physical presence in Indiana to collect and remit sales taxes if the seller's gross revenue from sales into the state in the previous calendar year or current calendar year exceeds \$100,000, or the seller made at least 200 separate transactions into the state in the previous calendar year or the current calendar year.Indiana's Department of Revenue will begin enforcing the state's economic nexus law beginning October 1, 2018 on a prospective basis, pending the resolution of a declaratory judgment action filed in 2017. Remote sellers are not obligated to register or collect Indiana sales tax until the declaratory judgment is resolved.</p>	<p>Yes. The Indiana Department of Revenue issued a statement that it will begin enforcing the state's economic nexus law on October 1, 2018, on a prospective basis. The Department noted that the law remains subject to pending litigation. Indiana has instituted a voluntary disclosure initiative tailored to retailers with inventory in third-party warehouses in the state who sell to Indiana customers. The program is in effect until December 31, 2018.</p>

	Remote sellers are not obligated to register or collect Indiana sales tax until the declaratory judgment is resolved.	
KS	No. Kansas has not adopted an economic nexus provision.	No. The Kansas Department of Revenue issued a statement that it is analyzing the Supreme Court's opinion "in the context of how it fits with current state tax law and other regulations."
KY	Yes. Threshold: 200 transactions or gross receipts exceed \$100,000 Effective July 1, 2018, Kentucky has adopted an economic nexus provision. Effective July 1, 2018, remote sellers selling tangible personal property or digital property delivered or transferred electronically to a purchaser in Kentucky must collect sales tax, if the remote seller had 200 or more separate transactions in the state or their gross receipts exceeded \$100,000 in the previous or current calendar years.	Yes. The Kentucky Department of Revenue issued guidance providing that remote sellers must register and begin sales and use tax collections under the new economic nexus requirements by October 1, 2018. Effective July 1, 2018, the nexus standards adopted by Kentucky are the same thresholds at issue in the Wayfair case: sales threshold of 200 transactions or gross receipts in excess of \$100,000 in the previous or current calendar years and SSUTA membership.
LA	Yes (contingent). Threshold: \$100,000 in gross revenue or 200 separate transactions, during the previous or current calendar year. Louisiana has adopted a contingent economic nexus provision that applies to all tax periods beginning on or after the date of a final ruling by the U.S. Supreme Court in South Dakota v. Wayfair Inc, finding South Dakota's economic nexus law constitutional. For those tax periods, the law would define "dealer" to include an out-of-state seller who sells for delivery into Louisiana tangible personal property, products transferred electronically, or services, and who does not have a physical presence in Louisiana, if during the previous or current calendar year either the seller's gross revenue for those sales delivered to Louisiana exceeded \$100,000 or occurred in 200 or more separate transactions. The law allows sellers without a physical presence in Louisiana to voluntarily register for and collect state and local sales taxes as a dealer, even if their sales do not meet these criteria. The state will not enforce the legislation for tax periods before January 1, 2019. <u>Update:</u> 08/24/2018 Louisiana adopts economic nexus contingent on Wayfair decision; however, the state will not enforce the legislation for tax periods before January 1, 2019.	Yes. The Louisiana Sales and Use Tax Commission for Remote Sellers issued guidance establishing its position that the state's economic nexus law meets the substantial nexus requirements of the Commerce Clause. The Commission acknowledged that Louisiana is not a member of SSUTA, but said it will implement procedures that meet Commerce Clause standards and do not unduly burden remote sellers. The state will not enforce the legislation for tax periods before January 1, 2019.
MA	Yes. Threshold: More than \$500,000 in sales and 100 or more separate transactions, within the preceding calendar year. By regulation, the Massachusetts Department of Revenue asserts jurisdiction to impose sales and use tax collection duties on an out-of-state "internet vendor" that, within the preceding calendar year, made more than \$500,000 in Massachusetts sales and made sales for delivery into the state in 100 or more transactions. The Department does not characterize its approach as economic nexus, instead taking the position that cookies	Yes. The Massachusetts Department of Revenue issued a statement that its cookie and app nexus policy regulation "continues to apply and is not impacted by the Supreme Court's decision." The Department is enforcing the regulation for all tax periods after its effective date of October 1, 2017 both prior to and subsequent to the Wayfair decision date.

	and apps in the state establish physical presence for an out-of-state seller.	
MD	<p>Yes. A person engages in the business of an out-of-state vendor if the person sells tangible personal property or taxable services for delivery in Maryland, if, during the previous calendar year or the current calendar year, the person satisfies either of the following criteria: (1) the person's gross revenue from the sale of tangible personal property or taxable services delivered in Maryland exceeds \$100,000; or (2) the person sold tangible personal property or taxable services for delivery into Maryland in 200 or more separate transactions. The Maryland Comptroller's Office has stated that it does not want a delayed response to the South Dakota v. Wayfair, Inc. et al., U.S. S. Ct., Dkt. No. 17-494, 06/21/2018 Dkt. No. 17-494, 06/21/2018 decision to have a negative impact on Maryland's sales and use tax receipts and, therefore, emergency regulations were adopted to begin the collection of sales tax from out-of-state sellers. If vendors have not been collecting and remitting Maryland sales tax, vendors are reminded that Maryland imposes sales tax collection requirements as broadly as is permitted under the U.S. Constitution. Therefore, vendors must review and analyze the Wayfair decision to identify as to how it affects them.</p>	<p>Yes. The Maryland General Assembly's Joint Committee on Administrative, Executive, and Legislative Review approved and the Maryland Comptroller's Office adopted emergency regulations (effective 10/01/2018 and expiring 03/30/2019) concerning sales and use tax collection requirements applicable to remote sellers. A person engages in the business of an out-of-state vendor if the person sells tangible personal property or taxable services for delivery in Maryland, if, during the previous calendar year or the current calendar year, the person satisfies either of the following criteria: (1) the person's gross revenue from the sale of tangible personal property or taxable services delivered in Maryland exceeds \$100,000; or (2) the person sold tangible personal property or taxable services for delivery into Maryland in 200 or more separate transactions. The Comptroller's Office has stated that it does not want a delayed response to the Wayfair decision to have a negative impact on Maryland's sales and use tax receipts and, therefore, the emergency regulations are adopted to begin the collection of sales tax from out-of-state sellers. Also, the Comptroller's Office issued alerts advising vendors who are already collecting and remitting sales tax to Maryland, either directly or through third parties, to continue collecting and remitting sales tax. If vendors have not been collecting and remitting Maryland sales tax, vendors are reminded that Maryland imposes sales tax collection requirements as broadly as is permitted under the U.S. Constitution. Therefore, vendors must review and analyze the Wayfair decision to identify as to how it affects them. Vendors who want to begin collecting and remitting now must register for and obtain a sales and use tax license by completing a Combined Registration Application. The Comptroller's Office will provide additional guidance as further developments occur in the Wayfair proceedings.</p>
ME	<p>Yes. Threshold: \$100,000 or more gross revenue from sales or 200 separate transactions, in the previous or current calendar year. Maine requires a remote seller to collect and remit Maine sales and use tax on sales into the state if the seller's gross revenue from the sales in the previous calendar year or current calendar year exceeds \$100,000, or the seller made at least 200 separate transactions in the previous calendar year or the current calendar year. This requirement will be enforced for sales occurring on or after July 1, 2018.</p>	<p>Yes. Maine Revenue Services issued a statement that it will begin enforcing the requirement that a remote seller collect and remit Maine sales and use tax on sales into the state if the seller's gross revenue from the sales in the previous calendar year or current calendar year exceeds \$100,000, or the seller made at least 200 separate transactions in the previous calendar year or the current calendar year. This requirement will be enforced for sales occurring on or after July 1, 2018.</p>
MI	<p>Yes. Michigan has adopted an economic nexus provision. Threshold: Over \$100,000 in retail sales. Effective October 1, 2018, Michigan requires remote sellers with</p>	<p>Yes. Effective October 1, 2018, Michigan requires remote sellers with sales exceeding \$100,000 to, or 200 or more transactions with, Michigan purchasers in the previous</p>

	sales exceeding \$100,000 to, or 200 or more transactions with, Michigan purchasers in the previous calendar year to collect and remit sales tax. The first payments will be due on November 20, 2018.	calendar year to collect and remit sales tax. The first payments will be due on November 20, 2018. The Michigan Department of Treasury will waive failure to file and deficiency penalties for returns and payments due prior to December 31, 2018, so long as the taxpayer incurring those penalties has nexus solely due to Michigan Revenue Administrative Bulletin No. 2018-16, 08/01/2018 and Wayfair; interest will not be waived.
MN	Yes. Minnesota has adopted an economic nexus provision but has adopted a marketplace sales tax law. Effective October 1, 2018, making sales through an internet marketplace provider, or through any other third party "maintaining a place of business" in the state, will create Minnesota nexus for an out-of-state retailer. Threshold: \$10,000 in sales. Marketplace providers must register and begin collecting Minnesota sales tax on behalf of remote sellers using their marketplace no later than October 1, 2018. A "retailer maintaining a place of business in the state" includes having a marketplace provider or other third party operating in Minnesota under the retailer's authority to facilitate or process sales in the state. The law also extends sales tax collection duties to marketplace providers maintaining a place of business in the state. The law defines a "marketplace provider" to mean any person: facilitating a sale of taxable tangible personal property, services, or digital goods by a retailer through a listing or advertisement for sale; and collecting payment from the customer and transmitting that payment to the retailer, regardless of whether the marketplace provider receives compensation or other consideration in exchange for its services. An exception applies for a retailer making less than \$10,000 in sales during the 12 months ending on the last day of the most recent calendar quarter, if the retailer is maintaining a place of business in the state solely because it made sales through one or more marketplace providers.	Yes. The Minnesota Department of Revenue has issued guidance indicating that, effective October 1, 2018, the Department relies on the broad language of the state's nexus law to assert economic nexus against remote sellers. Also effective October 1, 2018, the Department will enforce a law requiring marketplace providers to register and begin collecting sales tax on behalf of remote sellers using their marketplace, subject to certain exceptions.
MO	No. Missouri has not adopted an economic nexus provision.	No. The Missouri Department of Revenue has not issued guidance related to the recent U.S. Supreme Court decision <i>South Dakota v. Wayfair</i> .
MS	Yes. Threshold: Sales exceeding \$250,000 in the prior 12 months. By regulation, the Mississippi Department of Revenue asserts "substantial economic presence" against sellers that lack physical presence nexus in Mississippi but are purposefully or systematically exploiting the Mississippi market, if their sales into the state exceed \$250,000 in the prior 12 months. The total measure of sales includes all sales into Mississippi, both wholesale sales and those that are taxable under Mississippi sales and use tax statutes, as well as any sales that are subject to a Mississippi statutory exemption. Online sellers may begin collection of Mississippi use tax for sales made on or after September 1,	Yes. The Mississippi Department of Revenue has issued sales and use tax guidance for online sellers. By regulation effective December 1, 2017, the Mississippi asserts "substantial economic presence" against sellers that lack physical presence nexus in Mississippi but are purposefully or systematically exploiting the Mississippi market, if their sales into the state exceed \$250,000 in the prior 12 months. The Department was not actively enforcing this rule prior to the Wayfair decision. However, the Department will now allow online sellers to begin collection of Mississippi use tax for sales made on or after September 1, 2018 when such sellers register to collect Mississippi tax by

	2018 when such sellers register to collect Mississippi tax by August 31, 2018. Remote sellers with annual Mississippi sales in excess of the \$250,000 small seller exception should register for a Mississippi Use Tax Account and begin collecting tax no later than September 1, 2018.	August 31, 2018. Remote sellers with annual Mississippi sales in excess of the \$250,000 small seller exception should register for a Mississippi Use Tax Account and begin collecting tax no later than September 1, 2018. The total measure of sales should include all sales into Mississippi, meaning wholesale sales and those that are taxable under Mississippi sales and use tax statutes, as well as any sales that are subject to a Mississippi statutory exemption.
MT	Montana does not impose general sales-use taxes.	Yes.The Montana Department of Revenue has stated that the Wayfair decision does not affect Montanans purchasing goods or services online because Montana does not have a general sales tax. The Department also stated that Montana businesses selling online products to buyers in a state that requires online retailers to collect sales tax will need to collect and pay those sales taxes. The Department advises online retailers to seek competent legal advice on how to proceed with collecting and remitting sales tax for sales to other states.
NC	Yes.Threshold: 200 transactions or gross receipts exceed \$100,000 North Carolina has adopted an economic nexus provision.Effective November 1, 2018 or 60 days after a remote seller meets the threshold, whichever is later, the North Carolina Department requires all remote sellers having gross sales in excess of \$100,000 sourced to North Carolina or 200 or more separate transactions sourced to North Carolina in the previous or current calendar year to register, collect, and remit sales and use tax to North Carolina. Remote sellers may voluntarily begin collecting and remitting sales and use tax any time prior to November 1, 2018.	Yes.The North Carolina Department of Revenue issued guidance that it will apply the Supreme Court's ruling in the Wayfair decision on a prospective basis for remote sellers that do not have a physical presence in North Carolina if the remote sellers are not registered to collect and remit North Carolina sales and use tax. The Department requires all remote sellers having gross sales in excess of \$100,000 sourced to North Carolina or 200 or more separate transactions sourced to North Carolina in the previous or current calendar year ("Threshold") to register, collect, and remit sales and use tax to North Carolina, effective November 1, 2018 or 60 days after a remote seller meets the Threshold, whichever is later. Remote sellers may voluntarily begin collecting and remitting sales and use tax any time prior to November 1, 2018.
ND	Yes.Threshold: \$100,000 or 200 separate transactionsEffective Date: October 1, 2018	No.North Dakota does not impose a sales and use tax reporting requirements on marketplace facilitators.North Dakota's Tax Commissioner issued guidance indicating its contingent economic nexus law will take effect on October 1, 2018, and providing links to resources, including answers to frequently asked questions.
NE	Yes. Nebraska has adopted an economic nexus policy.	Yes.The Nebraska Department of Revenue issued a statement informing remote sellers affected by the Wayfair decision that they must obtain a sales tax permit on or before January 1, 2019, and to begin collecting and remitting sales tax on sales made to in-state customers by that date. The Department stated it will not, however, assert economic nexus retroactively. "Depending on the final outcome of the Wayfair litigation—which remains pending in South Dakota—the Department may seek legislation in the 2019 legislative session." The Department

		also added a "South Dakota v. Wayfair, Inc. Collection of Sales Tax by Remote Sellers" FAQs page to its website.
NH	N/A	N/A
NJ	Yes. Effective on and after November 1, 2018, a remote seller that makes taxable retail sales for delivery to a location in New Jersey must register, collect, and remit New Jersey sales tax if the remote seller meets either of the following criteria: (1) the remote seller's gross revenue from delivery of tangible personal property, specified digital products, or services into New Jersey during the current or prior calendar year, exceeds \$100,000; or (2) the remote seller sold tangible personal property, specified digital products, or services for delivery into New Jersey in 200 or more separate transactions during the current or prior calendar year.	Yes. Effective on and after November 1, 2018, a remote seller that makes taxable retail sales for delivery to a location in New Jersey must register, collect, and remit New Jersey sales tax if the remote seller meets either of the following criteria: (1) the remote seller's gross revenue from delivery of tangible personal property, specified digital products, or services into New Jersey during the current or prior calendar year, exceeds \$100,000; or (2) the remote seller sold tangible personal property, specified digital products, or services for delivery into New Jersey in 200 or more separate transactions during the current or prior calendar year.
NM	No. New Mexico has not adopted an economic nexus provision.	No. The New Mexico Taxation and Revenue Department issued a statement that "Our team of economists, attorneys, and tax experts are reviewing the ruling to determine the potential implications for New Mexico."
NV	No. Nevada has not adopted an economic nexus provision.	Yes. The Nevada Department of Taxation has issued a regulation establishing thresholds for when a remote seller is required to collect and remit sales tax. Under the thresholds, effective October 1, 2018, businesses will be required to register to collect and remit sales tax if the gross revenue of retail sales into Nevada in the prior or current year is greater than \$100,000 or the business conducts 200 or more retail sales into the state. The Department will assert economic nexus only prospectively.
NY	No. New York has not adopted an economic nexus provision.	No. The New York State Department of Taxation and Finance indicated shortly after the Wayfair holding that it was reviewing the decision. In response to our more recent inquiry concerning the historical sales and volume thresholds (more than \$300,000 and more than 100 sales) set forth in a longstanding provision of the New York Tax Law that asserts nexus based on regular and systematic solicitation, the Deputy Counsel stated that the Department is "still studying the Wayfair decision."
OH	Yes. Ohio law asserts that nexus arises for a remote seller that uses in-state software to sell or lease taxable tangible personal property or services to customers if the seller has gross receipts exceeding \$500,000 in the current or preceding calendar year from sales of taxable tangible personal property or sales of services the benefit of which is realized in-state. The state also asserts nexus against a seller meeting the gross receipts threshold that provides or enters into an agreement with another person to provide a content distribution network in Ohio to accelerate or enhance delivery of the seller's web site to consumers.	No. Communications Director Gary Gudmundson of the Ohio Department of Taxation made the following statement: "Today's decision does not have an immediate, direct impact on Ohio. The Court ruled on the laws in another state; not on Ohio's tax laws."

	However, the Department frames these contacts as physical presence.	
OK	Yes, but only as an alternative to detailed notice and reporting requirements.	Yes. The Oklahoma Tax Commission issued a statement noting that Oklahoma law "offers out-of-state retailers the option of collecting and remitting sales tax in Oklahoma or providing the state with a list of its Oklahoma customers' names and sales totals." Notice and reporting policy have been enacted by law, for remote sellers, marketplace facilitators, and referrers, with an alternative collection election.
OR	N/A	N/A
PA	Yes, but only as alternative to detailed notice and reporting requirements. Pennsylvania law requires remote sellers, marketplace facilitators, and referrers with aggregate retail sales of at least \$10,000 of tangible personal property delivered in Pennsylvania in the prior calendar year to file an election, before March 1, 2018, either to collect and remit sales tax or to comply with detailed notice and reporting requirements.	No. The Pennsylvania Department of Revenue issued a statement that it is reviewing the Supreme Court's decision and anticipates "providing further comment at a later date." The Department noted its existing marketplace sales law scheme.
RI	Yes, but only as alternative to detailed notice and reporting requirements. Threshold: \$100,000 or 200 separate transactions. Rhode Island law requires a non-collecting retailer either to register and collect and remit sales tax or comply with the detailed notice and reporting requirements if, in the preceding calendar year, it had: \$100,000 in gross revenue from the sale of taxable goods/services delivered in Rhode Island; or 200 or more transactions of taxable goods/services delivered in Rhode Island. Rhode Island's notice and reporting requirements also apply to referrers and retail sale facilitators.	Yes. The Rhode Island Division of Taxation issued statements that the obligations of non-collecting retailers (including remote sellers) under Rhode Island's 2017 law are not affected by Wayfair. If the Rhode Island legislature entertains any amendments in response to Wayfair to make collection and remittance of sales tax mandatory, the process will be transparent and provide stakeholders an opportunity to participate. Meanwhile, noncollecting retailers must comply with current law.
SC	Yes. Threshold: Over \$100,000 in sales of tangible personal property, products transferred electronically, and services delivered into the state. A remote seller whose gross revenue from sales of tangible personal property, products transferred electronically, and services delivered into South Carolina exceeds \$100,000 in the previous calendar year or the current calendar year has economic nexus with South Carolina and is responsible for obtaining a retail license and remitting South Carolina sales and use tax beginning November 1, 2018.	Yes. The Department of Revenue has issued Revenue Ruling 18-14, 09/18/2018, which provides that a remote seller whose gross revenue from sales of tangible personal property, products transferred electronically, and services delivered into South Carolina exceeds \$100,000 in the previous calendar year or the current calendar year has economic nexus with South Carolina and is responsible for obtaining a retail license and remitting South Carolina sales and use tax beginning November 1, 2018.
SD	Yes. South Dakota law requires an out-of-state seller to collect sales tax from South Dakota customers if the seller's gross revenue from taxable sales (of tangible personal property, products transferred electronically, or services) delivered in South Dakota exceeds \$100,000, or if the seller makes more than 200 deliveries of these sales in South Dakota annually. On June 21, 2018, the U.S. Supreme Court issued a decision in South Dakota v. Wayfair, overturning the physical presence standard.	No. South Dakota legislation removed the imposition of an injunction against the collection of sales tax on remote sales. Sellers who meet the required thresholds must obtain a South Dakota sales tax license and pay applicable sales tax. Beginning November 1, 2018, the law allows South Dakota to enforce sales tax collections from remote sellers that have \$100,000 in sales or services for delivery into South Dakota in 200 or more separate transactions.

	<p>espoused in Quill v. North Dakota and National Bellas Hess v. Department of Revenue of Ill. The United States Supreme Court decision permits South Dakota to collect sales tax from remote sellers.</p>	
TN	<p>Yes. By regulation (Rule 129), the Tennessee Department of Revenue asserts economic nexus against out-of-state dealers that engage in regular or systematic solicitation of consumers in Tennessee through any means and make sales exceeding \$500,000 to consumers in the state during the previous 12-month period. However, the Department has announced that Rule 129 will not be enforced until its legality is determined and the rule is also subject to legislative approval.</p>	<p>No. The Tennessee Department of Revenue issued a statement applauding the U.S. Supreme Court's decision and saying that it is "currently reviewing the Court's decision and are considering next steps and what this means for Tennessee." (Email on file with Thomson Reuters Tax and Accounting.) The Department had previously imposed a regulation requiring collection by remote sellers but the legislature responded with a requirement that the regulation could not be implemented until it was approved by the legislature.</p>
TX	<p>No. Texas has not adopted an economic nexus provision. The comptroller intends to implement the principles from the South Dakota v. Wayfair, Inc. et al., U.S. S. Ct., Dkt. No. 17-494, 06/21/2018 Dkt. No. 17-494, 06/21/2018 decision with ample input from the public, the Texas Legislature, and the business community. There will be no retroactive application of the new law to remote sellers that have no physical presence in Texas. In order to avoid imposing an undue burden on interstate commerce, the state will likely relieve some out-of-state sellers from collection responsibilities.</p>	<p>Yes. The Texas Comptroller issued suggestions to the Texas Legislature that would enable assertions of economic nexus while ensuring Texas does not place "undue burdens on remote sellers." In a prior release, the comptroller indicated that early 2019 is the target effective date for rule amendments, but that the date could change.</p>
UT	<p>Yes. Threshold: \$100,000 in sales or 200 transactions into the state per year. Effective January 1, 2019, Utah has adopted an economic nexus provision that requires remote sellers with more than \$100,000 in sales or 200 transactions into the state per year to collect and remit sales taxes.</p>	<p>No. Utah enacted legislation during a second special session (L. 2018, S2001), effective 01/01/2019, that is consistent with the thresholds for economic nexus set forth in Wayfair. Guidance from the State Tax Commission is expected in the near future. The Commission noted that it has voluntary compliance agreements with many out-of-state companies lacking a physical presence in Utah.</p>
VA	<p>No. Virginia has not adopted an economic nexus provision.</p>	<p>No. The Virginia Department of Taxation indicated that it "is currently analyzing the opinion" and "will assess what it means for Virginia and our taxpayers, and will determine our next steps."</p>
VT	<p>Yes. Threshold: At least \$100,000 in sales or at least 200 individual sales transactions during any 12-month period preceding the monthly tax period for determining sales and use tax liability. Vermont imposes tax collection duties on vendors of taxable tangible personal property, services, or specified digital products. Effective July 1, 2018, vendor includes a person making sales of tangible personal property from out-of-state to a destination in Vermont and not maintaining a place of business or other physical presence in Vermont that: (1) engages in regular, systematic, or seasonal solicitation of sales of tangible personal property in Vermont through (a) displaying advertisements in Vermont, (b) distributing catalogues,</p>	<p>Yes. The Vermont Department of Taxes indicated that the Supreme Court's decision allowed the state's contingent economic nexus law to take effect and that "out-of-state vendors are now required to register with the State of Vermont and collect and remit sales tax beginning July 1, 2018, if have made either made sales from outside Vermont to destinations within Vermont of at least \$100,000, or totaling at least 200 individual sales transactions, during any 12-month period preceding the monthly period.</p>

	periodicals, advertising flyers, or other advertising by means of print, radio, or television media, or (c) mail, internet, telephone, computer database, cable, optic, cellular, or other communication systems, for the purpose of effecting sales of tangible personal property; and (2) has made sales from outside Vermont to destinations within Vermont of at least \$100,000, or totaling at least 200 individual sales transactions, during any 12-month period preceding the monthly tax period for determining sales and use tax liability.	
WA	Yes, but only as alternative to detailed notice and reporting requirements. Threshold: For remote sellers and marketplace facilitator, at least \$10,000 in gross receipts from sales in the current or immediately preceding calendar year; referrers, \$267,000 in gross income in the current or immediately preceding calendar year. Washington law requires remote sellers, referrers, and marketplace facilitators meeting gross receipts thresholds either to elect to collect and remit sales and use tax or to comply with the detailed notice and reporting requirements. The requirements apply to remote sellers and marketplace facilitators having at least \$10,000 in gross receipts from sales sourced to Washington in the current or immediately preceding calendar year, and to referrers having at least \$267,000 in gross income received from the referral services in the current or immediately preceding calendar year. Through January 1, 2020, exceptions apply for gross receipts from retail sales of certain digital products and digital codes. In addition, pursuant to the decision in Wayfair, the Department of Revenue has announced that, effective October 1, 2018, remote businesses that make \$100,000 in retail sales to or 200 annual transactions with Washington consumers in the current or immediately preceding tax year are required to register with the Department of Revenue and to collect and remit sales and use tax.	No. The Washington Department of Revenue indicated that it is reviewing the Supreme Court's ruling and "its impact on our current marketplace fairness laws. We do not believe that legislative action is needed based on RCW 82.32.733 and RCW 82.08.0254, but are still determining our options. As soon as a decision is made on any changes, we will post information about those changes on our Marketplace Fairness web pages." Pursuant to the decision in Wayfair, the Department of Revenue has announced that, effective October 1, 2018, remote businesses that make \$100,000 in retail sales to or 200 annual transactions with Washington consumers in the current or immediately preceding tax year are required to register with the Department of Revenue and to collect and remit sales and use tax.
WI	Yes. Threshold: Over \$100,000 in sales or over 200 separate transactions. Beginning October 1, 2018, all out-of-state sellers that have no physical presence in Wisconsin (remote sellers) are required to be registered to collect and remit Wisconsin sales or use tax on taxable sales in Wisconsin if they meet an annual threshold of over \$100,000 in sales or engage in over 200 separate transactions. <u>Update:</u> 07/18/2018 Before the Wayfair decision, Wisconsin did not have an economic nexus provision.	Yes. The Wisconsin Department of Revenue announced that it will assert economic nexus beginning October 1, 2018, "consistent with existing Wisconsin statutes, which require all sellers to collect sales or use tax unless limited by federal law." The Department will adopt an administrative rule establishing the economic nexus standards, which will be consistent with collection thresholds set forth in Wayfair.
WV	Yes. Threshold: more than \$100,000 of sales or 200 or more separate transactions during the preceding calendar year. Pursuant to Administrative Notice 2018-18, beginning January 1, 2019, any out-of-state vendor who as of July 1, 2019, any out-of-state vendor who as of July 1,	Yes. Pursuant to Administrative Notice 2018-18, beginning January 1, 2019, any out-of-state vendor who as of July 1, 2018, is not required to collect and remit West Virginia state and municipal sales and use taxes, either because it

	<p>2018, is not required to collect and remit West Virginia state and municipal sales and use taxes, either because it does not have physical presence in West Virginia or it has not voluntarily agreed to collect and remit the tax, who either (i) delivers more than \$100,000 of goods or services into West Virginia or (ii) engages in 200 or more separate transactions for the delivery of goods and services into West Virginia, during calendar year 2018, will be required to collect and remit West Virginia state and municipal sales and use taxes on all sales made on and after January 1, 2019, that are delivered into West Virginia. This new collection requirement applies to out-of-state vendors that currently do not collect West Virginia state and municipal sales and use taxes but meet either the \$100,000 threshold or the 200 transactions threshold, during calendar year 2018. Vendor responsibility for collection and remittance of these taxes will be determined annually each year thereafter. This new collection requirement will be imposed for a given calendar year based on the vendor's attainment of either of the stated thresholds in the immediately preceding calendar year.</p> <p><u>Update:</u> 10/11/2018 Previously, West Virginia had not adopted an economic nexus provision.</p>	<p>does not have physical presence in West Virginia or it has not voluntarily agreed to collect and remit the tax, who either (i) delivers more than \$100,000 of goods or services into West Virginia or (ii) engages in 200 or more separate transactions for the delivery of goods and services into West Virginia, during calendar year 2018, will be required to collect and remit West Virginia state and municipal sales and use taxes on all sales made on and after January 1, 2019, that are delivered into West Virginia. This new collection requirement applies to out-of-state vendors that currently do not collect West Virginia state and municipal sales and use taxes but meet either the \$100,000 threshold or the 200 transactions threshold, during calendar year 2018. Vendor responsibility for collection and remittance of these taxes will be determined annually each year thereafter. This new collection requirement will be imposed for a given calendar year based on the vendor's attainment of either of the stated thresholds in the immediately preceding calendar year. In connection with economic nexus rules set forth in Administrative Notice 2018-18, the West Virginia State Tax Department also has issued guidance that discusses those rules and asks and answers 21 questions about them.</p> <p><u>Update:</u> 10/11/2018 Previously, West Virginia had not issued any guidance relating to Wayfair.</p>
WY	<p>Yes. Threshold: Over \$100,000 in sales or over 200 sales transactions in the current or preceding calendar year. Wyoming asserts economic nexus against an out-of-state seller that, in the current or preceding calendar year: makes more than \$100,000 in sales of tangible personal property, admissions, or services; or engages in more than 200 sales transactions of this nature.</p>	<p>No. The Wyoming Department of Revenue issued a statement that it is "currently reviewing the Supreme Court's decision to determine how this will apply to our Statutes and our ability to require collection." The Department highlighted the law's compliance with considerations outlined in Wayfair (sales threshold, not retroactive, SSUTA member).</p>