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2019 Individual and New York State Tax Update

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2019 Individual Tax Update

Refresher - The Tax Cuts and Jobs Act:

Most individuals felt the impact of last year's tax reform for the first time with the filing of their 2018 Federal income taxes. It was the most sweeping rewrite of the tax code in more than three decades.

One of the most touted changes in the 2018 tax reform bill was the update to income tax brackets and marginal tax rates. Tax brackets are income ranges within which a marginal tax rate is applied. The income tax brackets were expanded, and the top marginal tax rate was lowered from 39.6 percent to 37 percent.

***NOTE*:** A notable feature of the individual tax (and the estate tax) provisions is that all of them expire after 2025, except for the reduction of the ACA penalty tax.

2019 Individual Income Tax Rates

Single Filers (2019)

Under Previous Law		Tax Cuts and Jobs Act	
Rate	**Income Bracket (2017)**	**Rate**	**Income Bracket (2019)**
10%	$0-9,325	10%	$0-9,700
15%	$9,326-37,950	12%	$9,701-39,475
25%	$37,951-91,900	22%	$39,476-84,200
28%	$91,901-191,650	24%	$84,201-160,725
33%	$191,651-416,700	32%	$160,726-204,100
35%	$416,701-418,400	35%	$204,101-510,300
39.6%	$418,401 and over	37%	$510,301 and over

Married Filing Jointly - MFJ (2019)

Under Previous Law		Tax Cuts and Jobs Act	
Rate	**Income Bracket (2017)**	**Rate**	**Income Bracket (2019)**
10%	$0-18,650	10%	$0-19,400
15%	$18,651-75,900	12%	$19,401-78,950
25%	$75,901-153,100	22%	$78,951-168,400
28%	$153,101-233,350	24%	$168,401-321,450
33%	$233,351-416,700	32%	$321,451-408,200
35%	$416,701-470,700	35%	$408,201-612,350
39.6%	$470,701 and over	37%	$612,351 and over

2019 Individual Tax Update (con't.)

<u>Impact of expanded tax brackets and lower marginal rates</u>:

An individual (MFJ) with $175,000 of taxable income would pay the following:

2017	-	$35,884
2018	-	$30,579

A $5,305 tax reduction based on new rate structure. Approximately a 15 percent reduction.

Other Key Changes

- In addition to the reduction in tax rates, the TCJA made notable changes to Adjustments, Deductions, Credits and the Alternative Minimum Tax (AMT) which also impacted a taxpayer's tax liability.
- In many cases a taxpayer would end up with a higher taxable income but pay less tax due to the lower rates and expanded credits.

Adjustments

- **Moving Expenses:**
  - The deduction for job-related moving expenses was eliminated.
  - The exclusion for moving expense reimbursements has also been suspended making it taxable to the recipient with no offsetting deduction.
  - Still available for certain military personnel for moving expenses incurred as a result of a permanent change of station (PCS).

Adjustments

- **Alimony:**
  - For post-2018 divorce decrees and separation agreements, alimony will not be deductible by the paying spouse and will not be taxable to the receiving spouse.
    - Ex-spouses who modify their pre-2019 divorce decrees or separation agreements can elect to opt into the new tax treatment of alimony.
    - There may be situations where applying the TCJA rules voluntarily is beneficial for the taxpayers, such as a change in the income levels of the alimony payer or the alimony recipient. This also creates an opportunity for the paying spouse to reduce their payments by the tax savings of the receiving spouse.

Elimination of the Personal/Dependent Exemption

- Elimination of the personal exemption for taxpayers and their dependents ($4,050 per taxpayer and dependent in 2017).
  - High-income taxpayers received no benefit for personal exemptions under prior law due to AGI phase-outs.
  - Taxpayers subject to AMT also received no benefit for personal exemptions.
  - For a family of four, this results in a loss of a $20,250 deduction.

Changes to the Standard Deduction

- Significant Increase in the Standard Deduction.
  - Married Joint Filers - from $12,700 to $24,000. ***$24,400 in 2019.***
  - Single - from $6,350 to $12,000. ***$12,200 in 2019.***
  - Heads of Household - from $9,350 to $18,000. ***$18,350 in 2019.***
  - For 2019, the additional standard deduction for the elderly (age 65) and blind remains at $1,300 each for MFJ/MFS and increased from $1,600 to $1,650 each for Single.

Changes to the Standard Deduction (con't.)

- By increasing the standard deduction and limiting certain itemized deductions, the TCJA reduced the percentage of taxpayers that itemized and limited how much the tax code can award tax relief to taxpayers who spend in particular ways.
- It was estimated that 13.7 percent of taxpayers would itemize in 2018. This equates to more than a 17-percentage point reduction than it would have been in 2018 under pre-TCJA law.

Itemized Deductions - Medical Expenses

- Medical Expenses.
  - Still deductible if exceeds Adjusted Gross income (AGI) Threshold.
  - Beginning January 1, 2019, all taxpayers may deduct only the amount of the total unreimbursed allowable medical care expenses for the year that exceeds 10 percent of their adjusted gross income

Planning Point: If you or your spouse has a large amount of out-of-pocket medical expenses it can be difficult to claim most of your expenses if you and your spouse have a high AGI. Filing separate returns in such a situation may be beneficial if it allows you to claim more of your available medical deductions by applying the threshold to only one of your incomes.

Itemized Deductions - State and Local Taxes

- The deduction for state and local income tax, sales tax and property taxes ("*SALT deduction*") was capped at $10,000.
  - This impacted taxpayers with more expensive property, generally those who live in higher-income areas, or people in states with higher state tax rates (NY, NJ, CA, etc.).
  - Deductions for state, local and foreign property taxes, and sales taxes, that are deductible in computing income on an individual's Schedule C, Schedule E or Schedule F on the individual's tax return, are allowed in full.

Itemized Deductions - State and Local Taxes (con't.)

– In response to the CAP - *New York, Connecticut, Maryland* and *New Jersey* filed a complaint with the U.S. District Court for the Southern District of New York seeking declaratory and injunctive relief to invalidate the State and Local Tax (SALT) deduction cap. According to the complaint, the cap violates the U.S. Constitution by interfering with the states' sovereign authority to decide whether and how much to invest in their residents, businesses and infrastructure.
  - *Recently, the Court dismissed the case, finding that the states failed to present any constitutional principle that would bar Congress from exercising its otherwise plenary power to impose an income tax without a limitless SALT deduction.* In addition, the Court held that the cap is not unconstitutionally coercive because it does not meaningfully constrain the states' exercise of their own sovereign tax powers.

Itemized Deductions - Interest Expense

- The mortgage interest deduction for a taxpayer's principal residence and one second home was lowered from total loan balances of $1 million under current law to $750,000.
  - Applied to debt incurred after December 15, 2017.
  - The $1 million limitation remained in place for older debt (grandfathered).
- Taxpayers who exceed the debt thresholds must calculate the deductible amount by dividing the maximum debt limit by your mortgage balance, then multiply the result by the interest paid to figure your deduction.
  - For example, if your mortgage is $1.25 million and the applicable limit is $750,000, divide $750,000 by $1.25 million to get 0.6. 60 percent of the interest paid would be deductible on Schedule A.

Itemized Deductions - Interest Expense (con't.)

- Interest from home equity loans (aka second mortgages) is no longer deductible unless used for acquisition purposes. No grandfather provision.
  - Acquisition indebtedness is indebtedness that is incurred in *acquiring*, *constructing* or *substantially improving* a qualified residence of the taxpayer and which is secured by the residence.

Important Note: If claiming a deduction for Home Equity indebtedness it is very important to document the source and use of the funds to support the deduction. Failure to do so could result in a loss of the deduction.

Itemized Deductions - Interest Expense (con't.)

***Planning Point*:**

- Just because you may not itemize it does not mean that your interest expenses are not deductible on your return. It's very important to review the source and use of borrowed funds as the interest may fall into one of the following categories:
  - Business Interest Expense (Schedule C, Schedule F, Schedule E).
  - Investment Interest Expense (Schedule A/Form 4952).
    - The amount of interest that can be deducted in any particular year is limited to a taxpayer's net investment income for that same year. It can't exceed that amount.
    - Any amount disallowed is carried forward to the next tax year.

Itemized Deductions - Interest Expense (con't.)

- Even if you do not itemize, complete Form 4952 to calculate the allowable/disallowed portion of your investment interest. The disallowed portion will be added to any carryforward.
- If you have a sizeable investment interest carryforward, you can elect to treat net long-term capital gains or qualified dividends as investment income. If you do, that portion of the long-term capital gain or dividend will be taxed at ordinary-income rates.
- Consider recognizing LTCG's where you have a sizeable investment interest deduction carryforward.

Itemized Deductions - Contributions

- For contributions made in tax years beginning after December 31, 2017 and before January 1, 2026, the 50 percent AGI limitation under Code Section 170(b) for cash contributions to public charities and certain private foundations is <u>increased to 60 percent</u>.
- Beginning in 2018, no charitable deduction is allowed for any payment to an institution of higher education in exchange for which the payor receives the right to purchase tickets or seating at an athletic event.
  - Was prepaying for SU Football season tickets a smart move??

Itemized Deductions - Contributions (con't.)

***Planning Point*:**

To maximize the benefit of charitable contributions, consider bunching contributions together every other year to take advantage of the itemized deduction.

- Also, if you or your spouse are 70 ½ or older, consider using a Qualified Charitable Distribution (QCD) to fund your contributions.
  - A QCD is a direct transfer of funds from your *IRA* custodian, payable to a qualified charity. The maximum annual amount that can qualify for a QCD is $100,000.
  - Know the rules. Your tax advisor can help you determine if both your IRA and charity qualify for QCDs.

Itemized Deductions - Miscellaneous Itemized

- Beginning in 2018, the TCJA suspended all miscellaneous itemized deductions that are subject to the 2 percent AGI floor under prior law.
  - Examples include employee business expenses, tax preparation fees, job search expenses, union dues, dues to professional societies, investment expenses, etc.

***Planning Point*:**

- Employees who incur considerable amount of unreimbursed business expenses or who are reimbursed under a non-accountable plan (i.e. auto allowance) you should consider speaking with your employer about instituting an accountable plan.

Child and Family Tax Credit

- The new law increased the credit for qualifying children (i.e., children under 17) to $2,000 from $1,000, and increases to $1,400 the refundable portion of the credit.
- Also introduced a new (nonrefundable) $500 credit for a taxpayer's dependents who are not qualifying children. The adjusted gross income level at which the credits begin to be phased out has been increased to $200,000 ($400,000 for joint filers).
- In many cases, this provision more than offsets the tax savings lost on the elimination of the personal/dependent exemptions.

Alternative Minimum Tax (AMT)

- When created in 1969, it was targeted at wealthy individuals who used a lot of tax breaks to avoid paying any income tax.
  - Congress didn't adjust the AMT as other parts of the tax code changed.
  - The result was that the AMT would snare many middle-class taxpayers, especially retirees, who already would have paid substantial taxes under the regular income tax.

- Prior to the TCJA, about 5 million taxpayers were subject to AMT each year, including middle class taxpayers.

Alternative Minimum Tax (con't.)

- Three key changes in the TCJA returned the AMT to being primarily a millionaire's tax.
  - First, the AMT exemption was increased substantially.
    - MFJ/QW - Currently $111,700 ($84,500 in 2017).
    - Single/HOH - Currently $71,700 ($54,300 in 2017).
  - Second, the income levels at which the exemptions phase-out are much higher.
    - MFJ/QW - Currently $1,020,600 ($160,900 in 2017).
    - Single/HOH - Currently $510,300 ($120,700 in 2017).

Alternative Minimum Tax (con't.)

- Third, many of the tax breaks that triggered the AMT for middle-class taxpayers have been changed.
  - Middle income taxpayers frequently were subject to the AMT when they had high levels of personal and dependent exemptions, miscellaneous itemized deductions and state and local taxes.
- For the year 2018 it was expected that only about 200,000 taxpayers were expected to pay AMT compared to 5,000,000 before.
- Changes to the AMT resulted in big tax benefits for middle-class taxpayers.

More Significant Provisions of the TCJA

- In addition to the changes highlighted above, the TCJA added some additional Codes Sections that greatly impact individual taxation:
  - Code Section 199A: Qualified Business Deduction.
  - Code Section 461(l): Excess Business Loss Limitation.
  - Code Section 163(j): Business Interest Expense Limitation.

Code Section 199A: Qualified Business Deduction

- One of the more beneficial provisions added by the TCJA, the QBI deduction provides a taxpayer up to a 20 percent deduction for net qualified business income.

  Example: A Taxpayer with $100,000 of net QBI and meets all the requirements can receive a $20,000 deduction. Assuming the Taxpayer is in a 25 percent tax bracket, that equates to a $5,000 savings.

Code Section 199A: Qualified Business Deduction (con't.)

- QBI can be generated from the following:
  - Sole-proprietorships (Schedule C).
  - Rental property trade or businesses (Schedule E).
  - Disregarded entities (SMLLCs' Schedule C, Schedule E).
  - Pass-through entities (Schedule K-1 reported on Schedule E).
  - Trusts and estates, REITs and qualified cooperatives.
- The QBI calculation is performed at the individual level, its not done at the entity level.
  - Entities, however, are required to provide taxpayers with all the information required by the taxpayer to calculate the deduction.

Code Section 199A: Qualified Business Deduction (con't.)

- The QBI deduction, while very taxpayer friendly, is wrought with complexities in its application and reporting.
- ***Important Note*:** With all the complexities involved and with additional guidance being issued throughout the year, this is an area where proper planning can result in significant tax savings for taxpayers. For 2018, we have received many pass-through K-1's from other accountants that did not properly identify or report QBI. Had we not gone back and contacted the accountants, our clients would have missed available deductions.

Code Section 199A: Qualified Business Deduction (con't.)

- Complexities include:
  - Application of the different taxable income limitations and phase-outs applicable to different types of business income:
    - Non-specified service business (NSSB) and specified service businesses (SSB).
    - Application of the Property (unadjusted basis immediately after acquisition) and Wage (W-2) limitations for high income taxpayers.
    - ***Planning Points***:
      - Through income deferrals and expense planning, reduce/balance annual income to remain under thresholds.
      - Consider MFS to benefit from thresholds.
      - Review sources of income to maximize QBI - convert non-QBI income into QBI income.
        - » Reduce/eliminate guaranteed payments.
        - » Reduce SH wages in an S corporation.

Code Section 199A: Qualified Business Deduction (con't.)

- Election to Aggregate various trades or businesses in order to maximize the Section 199A deduction.
  - Absent aggregation, each trade or business is a separate trade or business for purposes of applying the limitations described in Section 199A.
  - Aggregation is not required, and trades or businesses may be aggregated only to the extent they meet certain qualifications.
  - Understand aggregation rules and reporting requirements under Treasury Regulation Section 199A-4.
    - Aggregation permits a taxpayer to combine attributes (W-2 wage and unadjusted basis in property) from more than one trade or business to maximize QBI.
    - Once aggregated, both individuals and RPE's must consistently report the aggregated trades or businesses going forward.

Code Section 199A: Qualified Business Deduction (con't.)

- Determining what is or isn't a trade or business with regard to rental real estate.
  - Rental Real Estate (for purposes of Section 199A) is a trade or business if:
    - The activity rises to the level of a trade or business under Internal Revenue Code Section 162:
      - » Facts and circumstances.
      - » Case Law: ***Commissioner v. Groetzinger***, 480 U.S. 23 (1987).
    - Is a self-rental, property?
      - » If the property is rented or licensed to a trade or business conducted by the individual or an RPE which is commonly controlled under Section 1.199A-4(b)(1)(i).
      - » ***Note*****:** Self-rental to a C corporation is NOT automatically a Section 162 trade or business.

Code Section 199A: Qualified Business Deduction (con't.)

- » ***Planning Point***:
  - Consider converting the corporation to an S corporation to pull rental income - plus S corporation income - into QBI eligible for the deduction.
  - Lot of factors to consider.

– Meets the safe-harbor rule requirements under recently released (9-24-19) Revenue Procedure 2019-38.

- » Prior guidance was issued under Notice 2019-07.
- » While substantially similar to Notice 2019-07, the new Revenue Procedure does deviate in some notable areas.
- » Taxpayers and RPEs may rely on the safe-harbor set forth in Notice 2019-07, for the 2018 taxable year.

Code Section 199A: Qualified Business Deduction (con't.)

- Safe-harbor rule under Revenue Procedure 2019-38.
  - The safe-harbor rule is applied to each "Rental Real Estate Enterprise" (RRE) held by an individual or "Relevant Pass-Through Entity" (RPE).
  - A taxpayer must first identify its rental real estate enterprise(s).
  - A rental real estate enterprise is an interest in real property held for the production of rents.
  - A rental real estate enterprise may consist of an interest in a single property or interests in multiple properties (via a grouping election).
  - Each interest must be held directly or through a disregarded entity.

Code Section 199A: Qualified Business Deduction (con't.)

- In determining what constitutes an RRE, a Taxpayer (individual) or RPE can elect to group *all* "similar properties" into the RRE for purposes of applying the safe-harbor rule.
  - Similar properties are either "residential" properties or "commercial" properties.
  - If a taxpayer elects to group properties, **ALL** similar properties must be grouped.
  - ***Example***:
    - Taxpayer owns 3 residential and 2 commercial properties. Absent a grouping election the taxpayer would have 5 RRE's to which the safe-harbor rule would be applied to individually.
    - Taxpayer could elect to group the 3 residential properties into 1 RRE and the 2 commercial properties into 1 RRE and then would have 2 RRE's.
    - Taxpayer cannot elect to group 2 of the residential properties due to the all or nothing rule.

Code Section 199A: Qualified Business Deduction (con't.)

- Once multiple interests are grouped as a single rental real estate enterprise under the safe-harbor, they must continue to be treated as such if the taxpayer or RPE continues to rely on the safe-harbor.
  - If similar properties are treated as a single rental real estate enterprise, newly acquired similar properties *must* be added to the existing rental real estate enterprise.
- Special rules also exist for mixed used property (part residential and part commercial).
- ***Planning Point*:**
  - An election to group similar properties for application of the safe-harbor rule should be considered where a property would not otherwise meet the definition of a trade or business for the purpose of Section 199A and where the stand-alone properties would not meet the safe-harbor requirements (discussed below) on a stand-alone basis.

Code Section 199A: Qualified Business Deduction (con't.)

- Revenue Procedure 2019-38 requirements:
  - To meet the safe-harbor, each RRE must meet the following requirements.
    - **Performance of 250 or more hours of rental services.**
      - For a rental real estate enterprise in existence for at least four years, at least 250 hours of rental services must have been performed annually in any three of the five preceding tax years. For enterprises that have been in existence less than four years, the hour requirement must be satisfied in the tax year under consideration.

Code Section 199A: Qualified Business Deduction (con't.)

- Rental services for purpose of this Revenue Procedure 2019-38 include, but are not limited to:
  - (i) Advertising to rent or lease the real estate;
  - (ii) Negotiating and executing leases;
  - (iii) Verifying information contained in prospective tenant applications;
  - (iv) Collection of rent;
  - (v) Daily operation, maintenance, and repair of the property, including the purchase of materials and supplies;
  - (vi) Management of the real estate; and
  - (vii) Supervision of employees and independent contractors.
- Rental services may be performed by owners, including owners of an RPE, or by employees, agents, and/or independent contractors of the owners.
- The term rental services does not include financial or investment management activities, such as arranging financing; procuring property; studying and reviewing financial statements or reports on operations; improving property under Section 1.263(a)-3(d); or hours spent traveling to and from the real estate.

Code Section 199A: Qualified Business Deduction (con't.)

- **Triple net leases:**
  - The safe-harbor is <u>not available</u> to triple net lease arrangements.
    - » Under the new guidance, a triple net lease is defined to include a lease that requires the tenant to pay taxes, fees and insurance and to pay for maintenance activities, in addition to rent and utilities.
    - » Previous guidance defined triple net leases in a similar manner but referenced lease agreements where the tenant was responsible for maintenance activities. The revised guidance clarifies that the key factor is who pays for those activities.

Code Section 199A: Qualified Business Deduction (con't.)

» The existence of a triple net lease therefore could be:

- Detrimental to a taxpayer on property that throws off substantial income.
- Beneficial to a taxpayer on a property that throws off substantial losses.
- Somewhat controllable to the taxpayer under the 2019-38 safe-harbor definition.

Code Section 199A: Qualified Business Deduction (con't.)

» ***Planning Point***:

- Structure leases of rental property on an income generating property to avoid triple-net lease designation under the safe-harbor rule.
  - Make the landlord responsible for the payment of the maintenance cost of the property.
- Structure leases of rental property on a loss generating property to meet the triple-net lease designation under the safe-harbor rule.
  - Make the tenant responsible for the payment of the maintenance cost of the property.

Code Section 199A: Qualified Business Deduction (con't.)

- **Maintenance of separate books and records.**
  - For each rental real estate enterprise, the enterprise must maintain separate books and records.
  - If an enterprise consists of more than one property, this requirement may be satisfied if books and records are maintained for each property and are subsequently consolidated.

Code Section 199A: Qualified Business Deduction (con't.)

- **Maintenance of contemporaneous records of rental activities.**
  - The enterprise must maintain contemporaneous records documenting the hours, description and dates of all services performed, as well as who performed the services.
  - This requirement is now delayed and applicable to tax years beginning after December 31, 2019.

Code Section 199A: Qualified Business Deduction (con't.)

- **Required attachment to the taxpayer's timely filed tax return.**
  - A taxpayer relying on Revenue Procedure 2019-38 must attach a statement to the return that describes all rental real estate properties included in each rental real estate enterprise for each taxable year in which the taxpayer relies on the safe-harbor.
- **Taxpayer signature.**
  - The Revenue Procedure eliminates the previous requirement that the taxpayer sign, under penalty of perjury, a statement confirming that all requirements of the safe-harbor have been satisfied.

Excess Business Loss Limitation

- Code Section 461(l): Excess Business Loss Limitation.
  - The TCJA modified existing tax law on excess business losses by limiting losses from all types of business for noncorporate taxpayers.
  - Disallows excess business losses of noncorporate taxpayers if the amount of the loss is in excess of $250,000 ($500,000 in the case of a joint return).
  - These two thresholds are adjusted for inflation for taxable years beginning after December 31, 2018. For **2019**, inflation adjusted amounts are $255,000 and $510,000, respectively.
  - Excess business losses that are disallowed are treated as a net operating loss carryover to the following taxable year.

Excess Business Loss Limitation (con't.)

- **Example:**
  - In 2019, T, a single taxpayer, has deductions of $500,000 and gross income of $200,000 from a business or a net loss of $300,000. T's excess business loss is $45,000 ($500,000 – ($200,000 + $255,000)). The $45,000 excess business loss is treated as part of the taxpayer's NOL carryforward in later years.
- A Taxpayer's excess business loss is calculated on IRS Form 461.
  - A noncorporate taxpayer must file Form 461 if their net losses from all their trades or businesses are more than $255,000 ($510,000 for married taxpayers filing a joint return).

Excess Business Loss Limitation (con't.)

- A number of other loss deferral provisions are applied before the excess business loss limitation under Section 461(l):
  - The basis rules under Section 1366 for S corporations and Section 704(b) for partnerships;
  - The at-risk rules under Section 465; and
  - The passive loss limitations under Section 469.
  - Accordingly, the limitation is calculated on what would only be a taxpayer's utilizable loss in the tax year.
- Still some questions/confusion as to its application.
  - Do W-2 wages count as business income?
  - Does the gain on the sale of S Corporation stock count as business income?
- There does not appear to be a date on the horizon for even proposed regulations under Section 461(l).

Business Interest Expense Limitation

- Internal Revenue Code Section 163(j):
  - The business interest deduction limitation disallows all net business interest expense in excess of 30 percent of the adjusted taxable income of a business. Any amount subject to this limitation may be carried forward to a future tax year indefinitely until it is able to be applied.
  - The new business interest deduction limitation rules are complex, especially as they relate to tiered ownership. The complexities reach a whole new level for flow-through entities, due to aggregation rules, the carryforwards and tracking that take place at an owner's level.
  - Over 400 pages of Regulations issued.

Business Interest Expense Limitation (con't.)

- Partners and shareholders:
  - Partnership's disallowed business interest expense deduction ("excess business interest") is passed through to the partners and from that point on, is <u>tracked at the partner level</u>.
    - Any disallowed interest carried forward is treated as business interest paid or accrued by the partner in the next succeeding year in which the same partnership has "excess taxable income."
    - Partners may not include other sources of income in an attempt to deduct excess business interest from a partnership.
  - S Corporation's disallowed business interest is tracked at the corporation level and therefore no tracking is required at the individual level.

Business Interest Expense Limitation (con't.)

- Individuals are exempt from the limitation if they are involved in the trade or business of being an employee, certain regulated utilities and taxpayers operating a real property or farming businesses.
  - This provision was included based on the understanding that real estate and farming businesses will ordinarily require a greater amount of leverage for the purpose of asset acquisition than other business types.
  - This exemption is not automatically granted to these taxpayers and they must elect to be exempt from the business interest limitation; although once the election is made, the choice cannot be revoked.

Business Interest Expense Limitation (con't.)

- Additionally, taxpayers are automatically exempt from the business interest deduction limitation if they qualify as a small business.
  - A taxpayer qualifies as a small business if their average annual gross receipts for the three prior tax years are less than $25 million
  - The calculation of a business's receipts must include all receipts from related parties. The $25 million small business designation will be adjusted annually for inflation beginning in tax year 2019.
    - $26 million for years beginning after December 31, 2018.

Opportunity Zones

- The Opportunity Zone Program is a new economic development tool created by the Tax Cuts and Jobs Act of 2017.
  - Opportunity zones are designed to spur economic development by providing tax benefits to investors who invest in a Qualified Opportunity Fund (QOF).
    - First, investors can defer tax on any prior gains invested in a QOF until the earlier of the date on which the investment in a QOF is sold or exchanged, or December 31, 2026.
      - If the QOF investment is held for longer than 5 years, there is a 10 percent exclusion of the deferred gain. If held for more than 7 years, the 10 percent becomes 15 percent.
    - Second, if the investor holds the investment in the Opportunity Fund for at least 10 years, the investor is eligible for an increase in basis of the QOF investment equal to its fair market value on the date that the QOF investment is sold or exchanged.

Opportunity Zones (con't.)

- A Qualified Opportunity Fund is an investment vehicle that files either a partnership or corporation Federal income tax return and is organized for the purpose of investing in Qualified Opportunity Zone property.
  - Eligible capital gains for investment into the Opportunity Zone Fund include gains recognizable from taxable exchanges such as: the sale of stocks or bonds, the sale of a property or the sale of an interest in a partnership.
  - Both long-term and short-term capital gains can be invested into an Opportunity Zone Fund. Deferred recognition of the gain will retain the same character.
  - Each investor generally must invest capital gains into Opportunity Zone Fund within 180 days of realizing capital gains.
    - The investor may invest the return of principal as well as the recognized capital gain, but only the portion of the investment attributable to the capital gain will be eligible for the exemption from tax on further appreciation of the Opportunity Zone Investment.

Opportunity Zones (con't.)

- Qualified Opportunity Zone Property is used to refer to property that is Qualified Opportunity Zone stock, a Qualified Opportunity Zone partnership interest or a Qualified Opportunity Zone business property acquired after December 31, 2017, used in a trade or business conducted in a Qualified Opportunity Zone or ownership interest in an entity (stock and partnership interests) operating with such tangible property.
- Conceptually, the Opportunity Zone Fund must bring property new to the entity to be used in the Opportunity Zone. A fund that simply acquires property already being used in the Zone will not qualify without substantial improvement. Substantial improvement requires improvements equal to the Opportunity Zone Fund's initial investment into the existing property over a 30-month period.

Opportunity Zones (con't.)

- There are approximately 8,700 Opportunity Zones nationwide. A list can be found at:
  - https://www.cdfifund.gov/pages/opportunity-zones.aspx.
  - 14 In Onondaga County.
- An Opportunity Zone Fund investment provides potential tax savings in three ways:
  - **Tax deferral through 2026.**
    - A taxpayer may elect to defer the tax on some or all of a capital gain if, during the 180-day period beginning at the date of sale/exchange, they invest in a Qualified Opportunity Fund.
    - Any taxable gain invested in an Opportunity Zone Fund is not recognized until December 31, 2026, (due with the filing of the 2026 return in 2027) or until the interest in the fund is sold or exchanged, whichever occurs first. In addition, the deferred gain can be further reduced.

Opportunity Zones (con't.)

- **No tax on 10 percent or up to 15 percent of deferred gains.**
  - A taxpayer who defers gains through an Opportunity Zone Fund investment receives a 10 percent step-up in tax basis after 5-years and an additional 5 percent step-up after 7-years.
    - Note: To take full advantage of the 15 percent step-up in tax basis, the taxpayer must invest by December 31, 2019. When the tax is triggered at the end of 2026, the taxpayer will have held the investment in the fund for 7-years, thereby qualifying for the 15 percent increase in tax basis.
- **No tax on appreciation** - Remaining in the qualified opportunity fund for at least 10-years results in the cost basis of the property being equal to the fair market value on the date of sale/exchange (potential to lower cost basis but does not eliminate the gain recognition event on December 31, 2026).

Opportunity Zones (con't.)

- ***Example***:
  - In 2018, a taxpayer realizes a $1 million capital gain and invests the $1 million into a Qualified Opportunity Zone Fund.
    - For the year ended December 31, 2026, the taxpayer will have phantom income (taxable income without corresponding sale) on $850,000. The original deferred investment, less the 15 percent basis increase (10 percent for 5-year folding and additional 5 percent for 7-year holding) when the deferred gain on the original investment must be recognized.
    - In 2029, the taxpayer sells the investment for $2.5 million. The $1.5 million in appreciation is not taxable. At current Federal capital gains rates, that's a savings of approximately $300,000.

Opportunity Zones (con't.)

- Summary of available benefits:
  - *Initial benefit* is the time value of money related to the gain deferral up to the earlier of the date of sale or December 31, 2026.
    - Any deferral of short-term capital gains will result in tax at ordinary income rates at the end of the deferral period.
  - *Second potential benefit* is the permanent exclusion of gain on up to 15 percent of the original basis once the 5-year and 7-year holding period is met.
    - ***Note*:** Time is running out - In order to meet the 7-year holding period, an investment must be made on or before December 31, 2019.
  - *Third potential benefit* is the 100 percent exclusion on the appreciation in the investment if held for 10-years.
- Important Note: Taxpayer's should plan for the cash flow needed to fund the taxes on the deferral. Absent a sale before the December 31, 2026 recognition date, the taxpayer will have phantom income up to at least 85 percent of the deferred gain portion of the initial investment.

Additional Planning Ideas for 2019

- **Take advantage of 0 percent capital gains rate.**
  - It is important to always try and maximize the 0 percent capital gains rate.
    - For 2019, singles can take advantage of the 0 percent income tax rate on long-term capital gains and qualified dividends from securities held in taxable brokerage firm accounts if their taxable income is $39,375 or less. For heads of household and joint filers, that limit is increased to $52,750 and $78,750, respectively.
  - A couple (MFJ) with only net long-term capital gain income and utilizing the standard deduction would pay $0 tax on the first $103,150 of net LTCG income.
  - A single taxpayer with only net long-term capital gain income and utilizing the standard deduction would pay $0 tax on the first $51,575 of net LTCG income.

Additional Planning Ideas for 2019 (con't.)

- While your income may be too high to benefit from the 0 percent rate, you may have children, grandchildren or other loved ones who will be in the 0 percent bracket. If so, consider giving them appreciated stock or mutual fund shares that they can sell and pay 0 percent tax on the resulting long-term gains. Gains will be long-term, as long as your ownership period plus the gift recipient's ownership period (before the sale) equals at least a year and a day.
  - If the recipient is subject to the Kiddie Tax rules, they are subject to the highly compressed trust tax rates on unearned income. Under the trust tax rate structure, the 0 percent capital gain tax brackets ends at $2,600.
  - The maximum capital gains a person subject to Kiddie Tax can shelter is $4,850 while earning up to $10,900 of ordinary income and assuming no other unearned income.

Additional Planning Ideas for 2019 (con't.)

- The Kiddie Tax can potentially apply until the year during which a child (or young adult) turns age 24 and has unearned income in excess of $2,200.
    - For someone who is age 19-23 at year-end, the Kiddie Tax can only apply if he or she is a student.
    - A child who is age 18 or under at year-end is almost always exposed to the Kiddie Tax.
- With proper planning you can utilize the annual "tax-free" proceeds to fund future tuition costs through a 529 plan.
- The ability to generate tax-free income is always worth looking into.

Additional Planning Ideas for 2019 (con't.)

- **Find ways to defer income.**
  - If you expect to be in the same or lower tax bracket in 2020, it might be beneficial to defer some taxable income until next year.
  - Maximize deferral opportunities.
    - 401k Plan contributions.
    - SEP's and IRA's.
      - Roth IRA vs. Traditional IRA - what makes sense for you?
    - Section 529 plans.
      - NYS benefit only but will generate "tax-free" income if used for qualifying education expenses.

Additional Planning Ideas for 2019 (con't.)

- **Employing family members.**
  - ***One spouse employed by another.*** The wages for the services of an individual who works for their spouse are subject to income tax withholding, Social Security and Medicare taxes, but not to the Federal Unemployment Tax Act (FUTA).
  - ***Child employed by parents.*** Payments for the services of a child under age 18 aren't subject to Social Security and Medicare taxes, if the business is a sole proprietorship or a partnership in which each partner is a parent of the child.
    - Payments to a child under age 21 aren't subject to FUTA.
    - Payments are subject to income tax withholding, regardless of the child's age.

Additional Planning Ideas for 2019 (con't.)

– ***Parent employed by child.*** The wages for the services of a parent employed by their child are subject to income tax withholding, Social Security and Medicare taxes. They are not subject to FUTA tax.

Other Notable Tax Tidbits

- **New tax legislation in 2019 (did we really expect much??)**
  - As part of the TCJA the individual mandate was repealed; accordingly, there is no Federal tax penalty for forgoing coverage from 2019 on.
    - Be mindful however that some states have penalties of their own (Massachusetts).
  - Taxpayer First Act (TFA) of 2019 (July 1, 2019).
    - Key provisions:
      - Creation of an Independent Office of Appeals.
      - Improvement of IRS.
      - Limits on Structuring Seizures.
      - Expansion of Electronic Filing and Payments.
      - Require E-filing by Tax-Exempt Organizations.
      - Increased Focus on Cybersecurity and Taxpayer Identity Protection.
      - Clarifications for Equitable Innocent Spouse Relief.

Other Notable Tax Tidbits (con't.)

- **Virtual currency guidance.**
  - In 2014, the IRS issued Notice 2014-21, explaining that virtual currency is treated as property for Federal income tax purposes and providing examples of how longstanding tax principles applicable to transactions involving property apply to virtual currency.
    - The Notice set forth the IRS's official position that virtual currency is treated as property for Federal tax purposes. This means that taxpayers will recognize gain or loss under IRC Section 1001 every time virtual currency is exchanged for goods or services.
  - Since then, virtual currency has become more widespread, giving rise to increased IRS scrutiny and many unanswered tax questions.
  - Bitcoin has been around for 10 years. It was released in 2009 by a computer programmer with the alias "Satoshi Nakamoto." Since then, certain key events have propelled virtual currency to the top of the IRS's list of compliance concerns.

Other Notable Tax Tidbits (con't.)

- In late 2013, Bitcoin was valued at roughly $650. In the summer of 2018, Bitcoin was trading at over $8,000.
  - It was at that time that the IRS's Large Business and International (LB&I) division launched a virtual currency compliance campaign.
- In May 2019, AT&T became the first major wireless carrier in the U.S. to accept virtual currency payments.
- In July 2019, the IRS started sending letters (Letters 6173, 6174, and 6174-A) to taxpayers who potentially failed to report income and pay the resulting tax from virtual currency transactions or didn't properly report such transactions.
  - Letters 6174 and 6174-A were educational in nature.
  - Letter 6173 required a signed statement (under penalty of perjury) that returns complied with Federal tax law.

Other Notable Tax Tidbits (con't.)

- On October 9, 2019, as part of a wider effort to assist taxpayers and to enforce the tax laws in a rapidly changing area, the Internal Revenue Service issued 2 new pieces of guidance for taxpayers who engage in transactions involving virtual currency.
  - This included:
    - Revenue Ruling 2019-24; and
    - Frequently asked questions (FAQs).
      - » https://www.irs.gov/individuals/international-taxpayers/frequently-asked-questions-on-virtual-currency-transactions.
- If you do "dabble" in virtual currency, you should be aware of the tax consequences associated with the different types and types of transactions.

Other Notable Tax Tidbits (con't.)

- ***TIGTA finds potentially erroneous electric vehicle credit claims:***
  - IRC Section 30D authorizes a credit of up to $7,500 per vehicle for qualifying plug-in electric drive motor vehicles. In a recent report, the Treasury Inspector General for Tax Administration (TIGTA) found that the IRS does not have effective processes to identify and prevent erroneous claims for the electric vehicle credit.
  - As a result, taxpayers have received millions of dollars in potentially erroneous credits. TIGTA made 4 recommendations to improve the detection and prevention of erroneous claims, all of which the IRS agreed to. They include:
    - (1) Using data analytics to determine noncompliance;
    - (2) Initiating appropriate compliance activities;
    - (3) Developing a new audit lead sheet to assist IRS examiners; and
    - (4) Introducing a recovery program for potentially erroneous credits.

Other Notable Tax Tidbits (con't.)

- ***Income tax - credit for plug-in electric vehicles phased out for Tesla models:***
  - Under IRC Section 30D(e)(2), the credit for new qualified plug-in electric drive motor vehicles is phased out over a period of 4 calendar quarters once the total number of qualifying vehicles sold by a manufacturer after 2009 reaches 200,000.
  - In Notice No. 2018-96, the IRS announced that Tesla, Inc. reached this limit during the calendar quarter ended September 30, 2018.
    - Therefore, qualifying Tesla vehicles were eligible for the full $7,500 credit if they were purchased before January 1, 2019.
    - A reduced credit of $3,750 applies to vehicles purchased from January 1, 2019 through June 30, 2019.
    - A reduced credit of $1,875 applies to vehicles purchased from July 1, 2019 through December 31, 2019.
    - After December 31, 2019, no credit will be available.

Other Notable Tax Tidbits (con't.)

- ***Foreign reporting - taxpayer didn't have reasonable cause for failing to file FBARs:***
  - During the years at issue, the taxpayer and her spouse jointly owned two financial accounts with a Canadian entity. The accounts annual high balances ranged from approximately $400,000 to over $1 million.
    - Because the taxpayer failed to file Reports of Foreign Bank and Financial Account (FBARs) for the two accounts, the IRS assessed failure-to-file penalties, plus late payment penalties and interest.
    - The taxpayer argued she had reasonable cause for failing to file the FBARs because she relied on an advisor to complete her tax returns.
    - The District Court for the Eastern District of Michigan disagreed, finding that the taxpayer didn't take any steps to learn whether she was required to report her foreign accounts. In fact, there was no evidence that she informed her tax advisor about the accounts. Therefore, the Court upheld all penalties and interest.

Other Notable Tax Tidbits (con't.)

- **Income tax - portion of genetic testing is medical care:**
  - The taxpayer wanted to use a health care Flexible Spending Account (FSA) to purchase genetic testing services and resultant reports.
    - The reports would include information on the taxpayer's ancestry and health.
    - In addition to giving the taxpayer a deeper understanding of health risks, the reports could be delivered to a health care provider for additional testing, diagnosis or treatment.
  - The IRS privately ruled that the health portion of the testing service, such as the genotyping, qualified as medical care under IRC Section 213(d). However, the ancestry portion didn't qualify.
  - The taxpayer would be required to allocate the price of the DNA collection kit between ancestry and health services using a percentage and could use a reasonable method to value and allocate the cost of the health services between medical care and nonmedical services or items. Ltr. Rul. 201933005

Other Notable Tax Tidbits (con't.)

- ***IRS releases 2019 draft - Form 1040 and accompanying schedules:***
  - The form is slightly longer than last year's version because Schedules 1-6 have been condensed into 3 schedules.
  - In addition, the draft form:
    - (1) Asks for additional information for heads-of-household, qualifying widows/widowers, and those using a married filing separately status;
    - (2) Removes the checkbox for health care coverage; and
    - (3) Moves several common tax credits to page 2 of the return.
  - The draft Schedule A has been updated to reflect that medical expenses are deductible only if they exceed 10 percent of AGI (as opposed to 7.5 percent for 2018). There are no substantive changes to the draft Schedule B or its instructions.

Other Notable Tax Tidbits (con't.)

- ***IRS releases draft - 2019 tax return for seniors:***
  - The Bipartisan Budget Act of 2018 directed the IRS to issue a *simplified income tax return for senior citizens* (age 65 or older) starting with the 2019 tax year.
  - Recently, the IRS released a draft of the new two-page Form 1040-SR. The form is like the old Form 1040-EZ but use of the form is not restricted based on taxable income or the fact that income includes Social Security benefits, qualified retirement plan distributions or investment income.
  - In addition, the form may be used by seniors with dependents.
    - Displayed at the bottom of page 1 of the form is a chart that lists standard deduction amounts by filing status.

Other Notable Tax Tidbits (con't.)

- ***IRS to end tax transcript faxing and third-party service:***
  - Beginning June 28, 2019, the IRS stopped faxing tax transcripts to taxpayers and third parties, including tax professionals.
    - This change affected both individual and business transcripts.
    - Individual taxpayers still have several options to obtain a transcript, including the "Get Transcript Online" and "Get Transcript by Mail" applications.
    - Practitioners can obtain masked transcripts through the e-Services' Transcript Delivery System or request that the IRS mail a transcript to the taxpayer's address.
  - ***Note*****:** We generally ask our clients to complete a Power of Attorney so we can obtain these transcripts online on their behalf. We find the ability to secure a transcript of what sources of income was paid to the taxpayer so we can assure a complete and accurate filing.

Other Notable Tax Tidbits (con't.)

- ***Final regulations allow truncated social security numbers on Form W-2:***
  - The IRS has issued final regulations that now permit employers to voluntarily truncate Social Security Numbers (SSNs) on copies of Form W-2 (Wage and Tax Statement) furnished to employees.
  - An SSN may appear in the form of a Truncated Taxpayer Identification Number (TTIN), which replaces the first five digits of the SSN with Xs or asterisks.
  - The final rules do not allow truncation on any return, statement or other document that is required to be filed with the Social Security Administration (SSA).
  - The final regulations, which adopt without substantive changes regulations proposed in 2017, apply to returns, statements and other documents required to be filed or furnished after December 31, 2020.

Other Notable Tax Tidbits (con't.)

- **Payments for emotional distress were nondeductible:**
  - In general, the amount of any damages (other than punitive) received as a result of a physical injury or sickness is excludable from gross income (IRC Section 104(a)(2)).
    - This exclusion can apply whether the damages are received as the result of a lawsuit or a settlement agreement.
    - Also, it doesn't matter if the damages are received in a lump sum or through periodic payments.
  - Recently, the Tax Court held that payments received by a taxpayer for alleged emotional distress caused by his former employer were fully taxable [Doyle, TC Memo 2019-8 (Tax Ct.)].
    - Worried that his employer was engaging in anticompetitive schemes, the taxpayer expressed his concerns to the company's CEO and vice president. A week later, he was fired. Shortly thereafter, the taxpayer began experiencing chronic headaches, back pain, sleepless nights, and poor digestion.
    - In this Case, the taxpayer argued that the emotional distress payments were excludable from income under IRC Section 104(a)(2). He claimed the emotional distress he experienced resulted from stress, which should be characterized as a physical injury or sickness.
    - The Tax Court disagreed with the taxpayer, finding that his symptoms were attributable to emotional distress, not an actual physical ailment.

Inflation Adjusted Amounts for 2020

- Miscellaneous:
  - **Social Security Wage Base**.
    - The Social Security Administration (SSA) announced that the maximum earnings subject to the Social Security component of the FICA tax will increase from $132,900 to $137,700 for 2020.
    - This means that for 2020, the maximum Social Security tax that employers and employees will each pay is $8,537.40 ($137,700 x 6.2 percent).
  - **Minimum Essential Health Coverage**. For calendar year 2019, the dollar amount used to determine the penalty for not maintaining minimum essential health coverage is $0, per the Tax Cuts and Jobs act; for 2018 the amount was $695.
  - **Health Flexible Spending Arrangement**. The FSA contribution limit will go up by $50 from $2,700 in 2019 to $2,750 in 2020.

Inflation Adjusted Amounts for 2020 (con't.)

- **Health Savings Accounts**. Contribution limit increased from $7,000 to $7,100 for family coverage and from $3,500 to $3,550 for single coverage.
  - Age 55+ catch up contribution fixed at $1,000.
  - Taxpayer's have until April 15th of the following year to maximize contributions.
  - Ability to maximize in initial short year.
- **Lifetime Learning Credit**. 2020 modified adjusted gross income phase-outs:
  - Single - between $56,000 and $66,000.
  - Married filing joint - between $112,000 and $132,000.

Inflation Adjusted Amounts 2020 (con't.)

- 2019/2020 Qualified retirement plan amounts.
  - Elective deferral limit. For employees participating in 401(k), 403(b) and most 457 plans, the limit will be increased from $19,000 to $19,500.
    - Age 50+ catch-up contributions increased from $6,000 to $6,500 in 2020.
  - Annual additions limit. The total employer plus employee contributions to all defined contribution plans by the same employer will increase by $1,000 from $56,000 in 2019 to $57,000 in 2020. The age-50-or-over catch-up contribution is on top of this limit.
  - Annual compensation limit. Maximum amount that can be considered for making contributions to a retirement plan is always 5X the annual additions limit. Therefore the annual compensation limit will increase by $5,000 from $280,000 in 2019 to $285,000 in 2020.

Inflation Adjusted Amounts for 2020 (con't.)

- **SIMPLE 401k and SIMPLE IRA**. These plans have a lower limit than 401(k) plans. The limit will increase by $500 from $13,000 in 2019 to $13,500 in 2020.
  - If you are age 50 or over, the catch-up contribution limit will stay the same at $3,000 in 2020 as in 2019. Employer contributions aren't included in these limits.
- **Traditional and Roth IRA**. Contribution limit will stay the same at $6,000 in both 2019 and 2020.
  - The age 50 catch up limit is fixed by law at $1,000 in all years.
- **Important Reminder**. IRA phase-outs (AGI) for active participants in a workplace retirement plan can limit your ability to contribute to a traditional IRA or ROTH IRA. Consider alternative options such as maximize employer plan contributions, contribute to Spousal IRA, contribute to nondeductible IRA followed by Roth Conversion, maximize HSA contributions or contribute to 529 plan.

Inflation Adjusted Amounts for 2020 (con't.)

- Estate and gift taxes.
  - **Basic Exclusion**. Estates of decedents who die during 2020 have a basic exclusion amount of $11,580,000, up from a total of $11,400,000, for estates of decedents who died in 2019.
    - GST exemption also increased to $11,580,000.
  - **Annual Exclusion**. The annual exclusion for gifts is $15,000 for calendar year 2020, as it was for calendar year 2019 and 2018.

NYS Reaction to TCJA

How has the TCJA Impacted NYS Taxpayers?

Fiscal Year	Total State Collections	Personal Income	Corporation and Business	Sales, Excise and User	Property Transfers	Other Taxes and Fees
2019	$73,679,612,447	$48,087,336,735	$6,828,134,224	$16,384,972,255	$2,203,598,367	$175,570,865
2018	75,995,291,042	51,501,337,750	6,140,512,850	15,748,063,844	2,432,907,540	172,469,058
2017	71,215,174,435	47,565,944,451	6,027,811,511	15,239,780,631	2,217,320,539	164,317,303
2016	71,627,564,571	47,055,282,776	6,913,034,483	14,820,694,938	2,683,861,375	154,690,999
2015	68,103,753,273	43,709,833,323	7,554,188,561	14,532,706,851	2,146,449,681	160,574,856

NYS "Fights Back Against Washington's Assault on the Middle-Class"

- Continuing to fight to repeal the SALT limitations.
- Fiscal Year 2020 Budget Proposals:
  - Decoupling from taxability of state incentives.
  - Decoupling from Federal basis for New York State manufacturing test.
  - Continued phase in of middle-class tax cuts.
  - Permanent property tax cap.

Tax Law Extenders

- Extend higher personal income tax rates for five years.
    - Top rate of 8.82 percent extended through 2024.
    - MFJ - $2,155,350
    - HoH - $1,616,450
    - Single - $1,077,550
- Extend personal income tax limitation on charitable contributions for five years.

School Tax Relief (STAR) Program

- Cap STAR exemption and increase STAR credit by 2 percent.
- Lower Basic STAR exemption income eligibility.
    - Exemption threshold lowered to $250,000.
    - STAR credit threshold will remain at $500,000.
- Taxpayers currently receiving STAR exemption could voluntarily switch to STAR credit.
    - Deadline varies by location/county.
    - Register for the STAR Credit (Click link to register).

Enhanced STAR Exemption

- Eligibility for primary residence.
  - 65 or older by December 31st.
  - Income of $86,300 or less for 2019 benefits.
  - Income of $88,050 or less for 2020 benefits.
- Enroll for Enhanced STAR.
  - NEW - Income Verification Program (Form RP-425-IVP).
  - Application for Enhanced STAR exemption (Form RP-425-E).

What the New Overtime Rules and Salary Thresholds Mean to New York State Employers

New Federal Overtime Regulations Effective January 1, 2020

- On September 29, 2019, the U.S. Department of Labor ("DOL") announced a final rule to make approximately 1.3 million American workers newly eligible for overtime pay. In the final rule, the DOL is:
  - Raising the "standard salary level" from the currently enforced level of $455 per week to $684 per week, which is equivalent to an annual increase from $23,660 to $35,568 per year for a full-year worker;
  - Raising the total annual compensation requirement for "highly compensated employees" from the currently enforced level of $100,000 per year to $107,432 per year;
  - Allowing employers to use nondiscretionary bonuses and incentive payments (including commissions) paid at least annually to satisfy up to 10 percent of the standard salary level, in recognition of evolving practices; and
  - Raising the special salary levels for workers in U.S. territories and the motion picture industry.
- The new thresholds account for growth in earnings since the thresholds were last updated in 2004.

New Federal Overtime Regulations Effective January 1, 2020 (con't.)

- Unless specifically exempted, employees covered by the Federal Fair Labor Standards Act ("FLSA") must receive pay for hours worked in excess of 40 in a work week at a rate not less than one and one-half of their regular rate of pay. This rate is referred to as "overtime pay."
- To qualify for an exemption in this Federal rule, an employee generally must:
  - Be salaried, meaning that they are paid a predetermined and fixed salary that is not subject to reduction because of variations in the quantity or quality of the work performed (the "salary basis test");
  - Be paid at least a specified weekly salary level, which is $684 per week (the equivalent of $35,568 annually for a full-year worker) under this final rule (the "salary level test"); and
  - Primarily perform executive, administrative or professional duties, as defined in the Department's regulations (the "duties test").

New Federal Overtime Regulations Effective January 1, 2020 (con't.)

- The Department's regulations also provide an exemption for certain highly compensated employees (HCEs) who earn above a higher total annual compensation level ($107,432 under the final rule) and satisfy a minimal duties test.

Questions

- What if a state has its own overtime laws? The FLSA provides minimum wage and hour standards and does not prevent a state from establishing its own protective standards. If a state establishes a more protective standard than the provisions of the FLSA, the higher standard applies in that state.
- May employers use bonuses to satisfy part of the new standard salary level test? Yes, the Department is permitting employers to use nondiscretionary bonuses and incentive payments (including commissions) to satisfy up to 10 percent of the salary test requirement. Such bonuses include, for example, nondiscretionary incentive bonuses tied to productivity and profitability.

Questions (con't.)

- May employers make a catch-up payment if an employee doesn't receive enough in the nondiscretionary bonuses and incentive payments in a given year to remain exempt? Yes, the Department permits a "catch-up" payment at the end of the 52-week period. The employer has one pay period to make up the shortfall (up to 10 percent of the standard salary level for the preceding 52-week period). Also, any such catch-up payment will only count toward the prior 52-week period's salary amount and not toward the salary amount in the 52-week period in which it was paid.

The projected annualized transfer of income from employers to employees in the form of wages is estimated by the Department to be approximately $298.8 million. The majority of this amount is attributable to the FLSA's overtime rule; however, a smaller share will be attributed to the FLSA's minimum wage requirement.

New York State Changes to Overtime Rules

- New York State generally follows the Federal overtime rules. However, the New York State standard salary levels have long been higher than the Federal level. New York State also has several different rates for New York State employees which are based upon employer size and location. For employers outside of New York City and the metro areas (Nassau, Suffolk and Westchester Counties), the rate will increase from $832 per week to $885 per week on and after December 31, 2019, and to $937.50 per week on or after December 31, 2020.

Example

- Karl is an employee working in Syracuse. His salary is $44,000 per year, which calculates to $846.16 per week. Since Karl is a salaried employee, meets the "duties test" and is paid over the $832 per week, he is exempt from overtime.
- However, on December 31, 2019, the overtime salary threshold will increase to 885 per week - $38.84 per week more than Karl's current weekly wages. So, according to the New York State Department of Labor, because his wages fall below the threshold, Karl's employer is required to pay him overtime (1.5 times his hourly rate) for any hours over 40 in a given week. Karl usually works between 45 and 50 hours per week and for this example we will assume he works an average of 47.5 hours per week.

What are the Employer's Options? (Example con't.)

1) A simple fix is to limit Karl's hours to 40, but this may cause a delay or disruption to client service.
2) Another option would be to transition Karl to hourly and pay him overtime. At Karl's current wage of $846.16 per week and $21.16 per hour, his overtime rate would be $31.74 per hour. So, based upon an average work week of 47.5 hours per week, Karl's weekly income would be $846.16 plus $238.05 (7.5 hours x $31.74) for a total of $1,084.21 per week or $56,378.92 per year. Which is significantly more than Karl's annual salary of $44,000 per year.
3) Another option would be to increase Karl's salary above the new overtime salary threshold. Since the new overtime threshold increases to $885 per week, Karl's employer could increase his weekly salary to $886 or $46,072 per year (5 percent raise).

What are the Employer's Options? (Example con't.)

4) Based upon the factors in this example, it makes the most sense to raise Karl's weekly salary to $886 per week. This way Karl could still work an average of 47.5 hours per week and be exempt from the overtime rules. This would save the employer $10,306.92 per year ($56,378.92 - $46,072).

- For additional information, please see the following websites:
  - https://www.dol.gov.
  - https://www.labor.ny.gov.

NYS Tax Credits Enacted in 2019

New Credits Added to the Tax Law

- Central business district toll credit.
  - Effective in 2021 - Refundable credit for tolls paid by NYC residents with gross income of $60,000 or less.
- Employer-provided childcare credit.
  - Effective in 2020 - Credit is equal to the NYS portion of the Federal credit limited to $150,000.
- Recovery tax credit.
  - Effective in 2020 - Available to businesses hiring eligible individuals in recovery from a substance use disorder.

Credits Amended during 2019

- Empire State commercial production credit.
  - $7 Million allocated annually through 2023 - amended provisions changed the allocation beginning in 2019.
- Employee Training Incentive Program (ETIP) tax credit.
  - Employers can now conduct their own training.
  - Eligible training now includes an internship program in software development or clean energy.
- Farm workforce retention credit.
  - Farming now includes maple syrup, Christmas trees, commercial boarding of horses, wineries and cideries.

Credits Amended during 2019 (con't.)

- Historic homeownership rehabilitation credit.
  - Beginning in 2019, credit now includes a residence located in a city with a population of less than one million and poverty rate of greater than 15 percent.
- Rehabilitation of historic properties credit.
  - Expanded to include state parks, state historic sites or other land owned by the state under the jurisdiction of the Office of Parks, Recreation and Historic Preservation.

Credits Extended

- Clean heating fuel credit.
  - Extended to purchases of bio heating fuel made before January 1, 2023.
- Empire State film production and post-production credits.
  - Authorized to continue allocating funds through 2024.
- Workers with disabilities tax credit.
  - Extended through tax year 2022 for authorized employers approved to participate in the Workers with Disabilities Tax Credit Program.

Sales Tax Update

Wayfair, Inc. - Elimination of Internet Tax Advantage

- 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.)
Old Law Pre-Wayfair

- Economically identical companies are treated 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 only an internet presence is not subject to the same tax for the sales of the same items.

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 <u>economic nexus</u> even if there is no <u>physical presence in the state</u>.
- 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 meant $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 allows 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.

Current Sales Tax Nexus Rules by State

- For a summary of current economic nexus and post-Wayfair guidance for each state, see attached Appendix A.

NYS Infrastructure Investments

Investing in Infrastructure

- $100 billion, 3-year plan underway (new proposed $150 billion plan.
- Major projects across the state:
  - Airport reconstruction;
  - Upstate roads;
  - State parks;
  - Statewide broadband;
  - Housing;
  - Subway; and
  - Water infrastructure.

Clean Water Infrastructure Act

- A clean water project may be eligible for a WIIA grant of up to the lesser of 25 percent of total eligible project costs after deducting other grant funds awarded for the project, or:
  - A project less than $50 million: $5 million;
  - A project equal to or greater than $50 million, but less than $100 million: $12.5 million; or
  - A project equal to or greater than $100 million: $25 million.
- A drinking water project may be eligible for a WIIA grant of up to the lesser of $3 million or 60 percent of the total net project costs.

Economic Development

- Budget proposes $905 million in economic development grants.
- Regional Economic Development Council (Round IX).
- Downtown Revitalization Initiative (Round 4).
- High technology, infrastructure, and manufacturing.
- Incentivize local private sector investments.

Economic Development (con't.)

- Evaluation criteria.
  - 10 regional councils present annual reports evaluated based on following criteria:
    - Performance;
    - Projects;
    - Progress;
    - Planning; and
    - Participation.

Website and Mobile App Accessibilty under the Americans with Disabilities Act (ADA)

Website and Mobile App Accessibility Under the Americans with Disabilities Act (ADA)

- Within the past few years, courts in New York and across the country have experienced a sharp influx in cases concerning alleged violations of Title III of the Americans with Disability Act, which prohibits disability-based discrimination in public accommodations. Plaintiffs who file these cases claim that a company's website is not accessible to an individual with disabilities, particularly those individuals who are blind or visually impaired. However, there are no current laws or regulations defining what is required.
- The ADA requires that "places of public accommodation" be accessible to the disabled and generally fall into one of 12 categories listed in the ADA, such as retail stores, restaurants, hotels, theaters, doctor's offices, pharmacies, museums, libraries, parks, private schools and day care centers.

Website and Mobile App Accessibility Under the Americans with Disabilities Act (ADA) (con't.)

- However, since the ADA does not specifically mention websites or mobile apps, it also does not outline standards for how organizations can make their website or mobile app accessible. However, the U.S. Department of Justice (DOJ) has frequently cited recommendations such as the Web Content Accessibility Guidelines (WCAG) 2.0 and 2.1 as acceptable metrics for accessibility.

Website and Mobile App Accessibility Under the Americans with Disabilities Act (ADA) (con't.)

- The following are some compatible technologies to consider:
  - Screen readers;
  - Screen magnifiers;
  - Speech to text software;
  - Keyboard only navigation;
  - Automated scanning software; and
  - Color contrast analyzers, etc.
- For additional information, please see the following website:
  - https://www.w3.org/tr/wcag20/.

NYS Proposed Cannabis Regulation and Taxation Act

2019 Legislative Activity

- On January 15, 2019, the NYS Senate proposed a bill to legalize the cultivation and use of marijuana.
- The bill fell short of passing by 2 votes.
- Legislators could not agree on how it should be taxed, and the use of the revenues generated.
- Legislators also disagreed on the processing and selling of marijuana.
- A law was passed to "decriminalize" recreational marijuana use.

2020 Proposal from Executive Budget

- Under the proposal, the state would regulate the manufacture, wholesale and retail production, distribution, transportation and sale.
- 3 Taxes have been proposed:
  - Cultivation tax at a rate of $1.00/gram of flower and $0.25/gram of trim.
  - Wholesale tax of 20 percent to retail dispensaries.
  - Additional wholesale tax of 2 percent paid to the respective county.
- Funds would be used to administer the regulated cannabis program.

Vapor Products - Dealer Registration and Filing Requirements

- Effective December 1, 2019, a 20 percent supplemental sales tax is imposed on all vapor products sold at retail in New York State. Also, any person who intends to sell vapor products at retail on or after December 1, 2019, must obtain a Vapor Products Dealer Certificate of Registration from the NYS Tax Department for each retail location, online location and vending machine in which vapor products are sold.
- The 20 percent supplemental sales tax is in addition to the usual sales tax due of approximately 8 percent. Also, Vapor products dealers must separately state on the purchaser's receipt the 20 percent supplemental sales tax.

Vapor Products - Dealer Registration and Filing Requirements - Exemptions

- The supplemental sales tax on the retail sale of vapor products does not apply to purchases made by:
  - The State of New York and its agencies and instrumentalities;
  - The United States of America and its agencies and instrumentalities;
  - The United Nations; and
  - Indian nations or tribes.
- How are vapor products taxed by other states?
- Before 2019, nine states and the District of Columbia taxed vaping products. That number more than doubled in the first seven months of 2019.

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Conclusion

Appendix A

Economic Nexus
Wayfair Guidance
Nexus--Internet Sales

State	Economic Nexus	Post-Wayfair Guidance	Internet Sales
AK	N/A	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	YesThe 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.	Alabama may require certain out-of-state sellers to collect tax on Internet sales to Alabama residents. The retail sale of goods made over the Internet that are delivered into Alabama from an out-of-state seller are treated the same as the retail sale of tangible personal property made through more traditional channels, with the same "nexus" rules applying to both. A retail vendor has "nexus" in Alabama if they have a physical presence in Alabama or if it has established remote entity nexus. Effective October 1, 2018, out-of-state sellers who lack an Alabama physical presence but who are making retail sales of tangible personal property into the state have a substantial economic presence in Alabama for sales and use tax

	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.		purposes and are required to register for a license with the Department and to collect and remit tax if: (1) the seller's retail sales of tangible personal property sold into the state exceed $250,000 per year based on the previous calendar year's sales; and (2) conducts one or more of the activities described in Ala. Code §40-23-68 .
AR	Yes. Effective July 1, 2019, economic nexus applies to remote sellers and marketplace facilitators with aggregate taxable Arkansas sales exceeding $100,000 (or 200 transactions) during the current or previous calendar year.	YesEffective July 1, 2019, Arkansas adopts an economic nexus standard which requires remote sellers and marketplace facilitators with aggregate taxable Arkansas sales exceeding $100,000 (or 200 transactions) during the current or previous calendar year to collect and remit Arkansas sales tax.	Before July 1, 2019, Arkansas does not require out-of-state sellers to collect tax on Internet sales to Arkansas residents. However, effective July 1, 2019, Arkansas adopts an economic nexus standard which requires remote sellers and marketplace facilitators with aggregate taxable Arkansas sales exceeding $100,000 (or 200 transactions) during the current or previous calendar year to collect and remit Arkansas sales tax.
AZ	Yes. Effective September 30, 2019, remote sellers are required to pay transaction privilege tax on sales of tangible personal property if, in the previous or current calendar year, they cross the following thresholds of gross proceeds of sales or gross income derived from the remote seller's business with customers in Arizona: $200,000 in calendar year 2019; $150,000 in calendar year 2020; and, $100,000 in	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	Arizona may require an out-of-state sellers to collect tax on Internet sales to Arizona residents. An out-of-state business may be liable for collecting the tax on Arizona's behalf. A business is generally subject to the duty to collect use tax if transaction privilege tax does not apply and a sufficient nexus for use tax purposes exists. On June 21, 2018, the U.S. Supreme Court in South Dakota v. Wayfair U.S. S.

	2021 and subsequent years.	"remains unchanged." A timeline for anticipated guidance was not available.	17-494, 06/21/201817-494, 06/21/2018, overturned the physical presence standard for substantial nexus and paved the way for states to assert sales and use tax nexus against sellers who have an economic presence in a state and meet a dollar or transaction threshold for sales delivered into the state. The opinion suggested that an internet seller's apps and cookies on electronic devices in the state might also create the requisite presence to establish nexus.Effective September 30, 2019, remote sellers are required to pay transaction privilege tax on sales of tangible personal property if, in the previous or current calendar year, they cross the following thresholds of gross proceeds of sales or gross income derived from the remote seller's business with customers in Arizona: $200,000 in calendar year 2019; $150,000 in calendar year 2020; and, $100,000 in 2021 and subsequent years. Marketplace facilitators with gross proceeds of sales or gross income derived from the marketplace facilitator's business on their own behalf or on behalf of at least one marketplace seller with customers in Arizona of more than $100,000 are required to pay TPT.
CA	Yes.Effective April 1, 2019, California requires	Yes. California imposes economic nexus	California requires out-of-state sellers to collect tax

	an out-of-state retailer to collect use tax, if during the preceding or current calendar year, the retailer has total combined sales of tangible personal property for delivery into California by the retailer and all persons related to the retailer that exceed $500,000. Update: 05/01/2019 Economic nexus legislation enacted effective 04/01/2019	beginning April 1, 2019.Effective April 1, 2019, California requires an out-of-state retailer to collect use tax, if during the preceding or current calendar year, the retailer has total combined sales of tangible personal property for delivery into California by the retailer and all persons related to the retailer that exceed $500,000.Before California legislatively enacted the foregoing economic nexus threshold, it had administratively required, effective April 1, 2019, a retailer located outside of California to collect use tax if, during the preceding or current calendar year, the retailer's sales into California exceed $100,000 or the retailer made sales into California in 200 or more separate transactions. The legislative economic threshold superseded the administrative economic threshold. Update: 05/01/2019 Economic nexus legislation enacted effective 04/01/2019	on Internet sales to California residents. Effective April 1, 2019, California requires an out-of-state retailer to collect use tax, if during the preceding or current calendar year, the retailer has total combined sales of tangible personal property for delivery into California by the retailer and all persons related to the retailer that exceed $500,000. Update: 05/01/2019 Economic nexus legislation effective 04/01/2019
CO	Yes.Effective June 1, 2019, Colorado establishes economic nexus for out-of-state retailers if in the previous calendar year the retailer has made retail sales of tangible personal property, commodities, or services in Colorado exceeding $100,000; or (2) on and after the first day of the month after the	Yes.Effective June 1, 2019, Colorado establishes economic nexus for out-of-state retailers if in the previous calendar year the retailer has made retail sales of tangible personal property, commodities, or services in Colorado exceeding $100,000; or (2) on and after the first day of the month after the	Yes.Effective June 1, 2019, Colorado establishes economic nexus for out-of-state retailers if in the previous calendar year the retailer has made retail sales of tangible personal property, commodities, or services in Colorado exceeding $100,000; or (2) on and after the first day of the month after the

	90th day after the retailer has made retail sales of tangible personal property, commodities, or services in Colorado in the current calendar year that exceed $100,000. Beginning October 1, 2019, for purposes of determining whether these thresholds are met, marketplace facilitators will be required to collect and remit sales tax for sales to Colorado customers which were facilitated for marketplace sellers. Update: 06/21/2019 Economic nexus legislation enacted effective 06/01/2019	90th day after the retailer has made retail sales of tangible personal property, commodities, or services in Colorado in the current calendar year that exceed $100,000. Update: 06/21/2019 Economic nexus legislation enacted effective 06/01/2019	90th day after the retailer has made retail sales of tangible personal property, commodities, or services in Colorado in the current calendar year that exceed $100,000. Beginning October 1, 2019, for purposes of determining whether these thresholds are met, marketplace facilitators will be required to collect and remit sales tax for sales to Colorado customers which were facilitated for marketplace sellers. Update: 06/21/2019 Economic nexus legislation enacted effective 06/01/2019
CT	Yes.Threshold: 200 or more retail sales of tangible personal property or services and gross receipts of at least $100,000 (previously $250,000) effective 07/01/2019Connecticut has adopted economic nexus provisions.Effective July 1, 2019, an out-of-state seller is a Connecticut retailer liable for tax, if the seller makes retail sales of tangible personal property or services from outside Connecticut to a destination within Connecticut and the seller has made, 200 or more retail sales and has gross receipts of at least $100,000 (previously $250,000) in the state during the 12–month period ended on September 30 immediately preceding the monthly or quarterly	No.The Connecticut Department of Revenue Services has not issued a formal guidance document.Effective July 1, 2019, an out-of-state seller is a Connecticut retailer liable for tax, if the seller makes retail sales of tangible personal property or services from outside Connecticut to a destination within Connecticut and the seller has made, 200 or more retail sales and has gross receipts of at least $100,000 (previously $250,000) 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 July 1, 2019, an out-of-state seller is a Connecticut retailer liable for tax, if the seller makes retail sales of tangible personal property or services from outside Connecticut to a destination within Connecticut and the seller has made, 200 or more retail sales and has gross receipts of at least $100,000 (previously $250,000) 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, retailers include marketplace facilitators who are any persons who facilitate retail sales of at least $250,000 during the

	period with respect to which the seller's tax liability was determined.Effective December 1, 2018, marketplace facilitators are also retailers.		prior 12-month period by marketplace sellers by providing a forum such as an Internet website that lists or advertises tangible personal property subject to sales and use tax or taxable services, including digital goods, for sale by such marketplace sellers; collect receipts from the customer and remits payments to the marketplace sellers directly or indirectly through agreements or arrangements with third parties; and receive compensation or other consideration for such services.Connecticut has adopted click-through nexus, inventory nexus and affiliate nexus.
DC	Yes.Effective 01/01/2019, the District of Columbia requires sellers without a physical presence in the District to collect and remit sales tax if they had, in the previous calendar year, or will have, in the current calendar year, more than $100,000 of gross receipts from retail sales delivered into the District or more than 200 separate retail sales delivered in the DistrictBefore 01/01/2019, the District of Columbia had not adopted an economic nexus provision.	Yes. Effective 01/01/2019, the District of Columbia requires sellers without a physical presence in the District to collect and remit sales tax if they had, in the previous calendar year, or will have, in the current calendar year, more than $100,000 of gross receipts from retail sales delivered into the District or more than 200 separate retail sales delivered in the District.Additionally, effective April 1, 2019, the District will require marketplace facilitators to collect and remit sales tax on sales made on their marketplaces.	Effective 01/01/2019, the District of Columbia requires sellers without a physical presence in the District to collect and remit sales tax if they had, in the previous calendar year, or will have, in the current calendar year, more than $100,000 of gross receipts from retail sales delivered into the District or more than 200 separate retail sales delivered in the District.On June 21, 2018, the U.S. Supreme Court in South Dakota v. Wayfair U.S. S. Ct. 17-494, 06/21/2018, overturned the physical presence standard for substantial nexus and paved the way for states to assert sales and use tax nexus against sellers who have an economic presence in a state and meet a dollar or

			transaction threshold for sales delivered into the state. The opinion suggested that an internet seller's apps and cookies on electronic devices in the state might also create the requisite presence to establish nexus.
DE	N/A	N/A	N/A
FL	No.No. Florida has not adopted an economic nexus provision.	No.The Florida Department of Revenue indicated that it is "reviewing the ruling and its impact on Florida sales tax."	Florida may require out-of-state sellers to collect tax on Internet sales to Florida residents. A dealer is subject to the power of this state to collect the tax by purposely or systematically exploiting the market provided by Florida through any media, creates nexus with Florida.
GA	Yes, beginning January 1, 2019. 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. Effective January 1, 2020, the threshold is reduced to $100,000 in retail sales;	Yes. Beginning January 1, 2019, Georgia legislation requires 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. Effective January 1, 2020, the threshold is reduced to $100,000 in retail sales;	Georgia requires out-of-state sellers to collect tax on Internet sales to Georgia residents.For sales made on or after January 1, 2019, out-of-state sellers must collect tax on Internet sales to Georgia residents: if gross revenue from delivery of tangible personal property, or products delivered electronically or physically to a location in Georgia in the previous or current calendar year exceeds $250,000; or if there are at least 200 or more separate retail sales of tangible personal property delivered electronically or physically to a location in Georgia. Effective January 1, 2020, the threshold is reduced to $100,000 in retail sales; the 200-transaction threshold is unchanged.

	the 200-transaction threshold is unchanged. Delivery retailers must collect tax on Internet sales if they meet the threshold and no longer have the option to comply with notice and reporting requirements instead of collecting and remitting the tax. A "delivery retailer" is a non-collecting retailer who satisfies the $100,000 gross revenue or 200-transaction threshold in the previous or current calendar year.Before 2019, Georgia did not have an economic nexus provision.	the 200-transaction threshold is unchanged. Delivery retailers must collect tax on Internet sales if they meet the threshold and no longer have the option to comply with notice and reporting requirements instead of collecting and remitting the tax. A "delivery retailer" is a non-collecting retailer who satisfies the $100,000 gross revenue or 200-transaction threshold in the previous or current calendar year.Before 2019, Georgia did not have an economic nexus provision.Prior to the implementation of legislation imposing a collection responsibility on certain out-of-state retailers, the Georgia Department of Revenue indicated that it was reviewing the Wayfair decision.	Effective January 1, 2020, delivery retailers must collect tax on Internet sales if they meet the threshold and would no longer have the option between collection or compliance with notice and reporting requirements. A "delivery retailer" is a non-collecting retailer who satisfies the $100,000 gross revenue or 200-transaction threshold in the previous or current calendar year.For sales before 2019, Georgia requires out-of-state sellers to collect tax on Internet sales to Georgia residents, unless the out-of-state retailer's only activity in Georgia is advertising or solicitation through the Internet. For sales before 2019, Georgia required out-of-state sellers to collect tax on Internet sales to Georgia residents, unless the out-of-state retailer's only activity in Georgia was advertising or solicitation through the Internet.
HI	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 transactions, in the current or immediately preceding calendar year.Beginning July 1, 2018, Hawaii asserts	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.	Hawaii requires out-of-state sellers to collect tax on Internet sales to Hawaii residents beginning July 1, 2018. 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 their gross income or

	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.		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.
IA	YesThreshold: from January 1, 2019 until July 1, 2019, $100,000 in retail sales or 200 or more separate transactions, in the immediately preceding or current calendar year. Effective July 1, 2019, $100,000 in retail sales in the immediately preceding or current calendar year.Beginning January 1, 2019, Iowa requires the	Yes. The Iowa Department of Revenue issued guidance highlighting the law's compliance with considerations outlined in Wayfair (sales threshold, not retroactive, SSUTA member).	Yes, beginning January 1, 2019.Beginning January 1, 2019, Iowa requires the following out-of-state sellers to collect tax on Internet sales to Iowa residents: (1) a retailer with gross revenue from Iowa sales equal to or exceeding $100,000 for the immediately preceding or current calendar year; (2) until June 30, 2019, a

	following out-of-state sellers to collect tax on Internet sales to Iowa residents: (1) a retailer with gross revenue from Iowa sales equal to or exceeding $100,000 for the immediately preceding or current calendar year; (2) until June 30, 2019, 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); (4) a marketplace facilitator that makes or facilitates		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); (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 until June 30, 2019, has 200 or more separate transactions, for the immediately preceding or current calendar year; and (5) a referrer with

	Iowa sales on its own behalf or for one or more marketplace sellers equal to or exceeding $100,000 or until June 30, 2019, has 200 or more separate transactions, for the immediately preceding or current calendar year; and (5) a referrer with $100,000 or more in Iowa sales or or until June 30, 2019, has 200 or more separate Iowa sales transactions that result from referrals from a platform of the referrer.Effective July 1, 2019, having 200 or more separate sales transactions in Iowa is no longer a nexus trigger for remote sellers, marketplace facilitators, and referrers to collect and remit tax on Internet sales to Iowa residents; remote sellers, marketplace facilitators, and referrers will only be subject to the $100,000 gross revenue from Iowa sales threshold.		$100,000 or more in Iowa sales or or until June 30, 2019, has 200 or more separate Iowa sales transactions that result from referrals from a platform of the referrer.Effective July 1, 2019, having 200 or more separate sales transactions in Iowa is no longer a nexus trigger for remote sellers, marketplace facilitators, and referrers to collect and remit tax on Internet sales to Iowa residents; remote sellers, marketplace facilitators, and referrers will only be subject to the $100,000 gross revenue from Iowa sales threshold.
ID	Yes, as of June 1, 2019.Threshold: Over $100,000 in sales.As of June 1, 2019, out-of-state retailers and marketplace facilitators without a physical presence in Idaho must collect Idaho sales tax if their sales in Idaho exceed $100,000 in the current or previous calendar year. Prior to June 1, 2019, the State Tax Commission was 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	Yes.As of June 1, 2019, new Idaho legislation affecting retailers and marketplace facilitators was enacted in response to the Wayfair decision. Prior to June 1, 2019, the Idaho State Tax Commission (STC) issued a statement that it was still studying the Wayfair decision. The STC also indicated that it was implementing the state's new referral agreement nexus law that went into effect on July 1, 2018.	Idaho may require out-of-state sellers to collect tax on Internet sales to Idaho residents.As of June 1, 2019, out-of-state retailers and marketplace facilitators without a physical presence in Idaho must collect Idaho sales tax if their sales in Idaho exceed $100,000 in the current or previous calendar year. Prior to June 1, 2019, the State Tax Commission was studying how the South Dakota v. Wayfair, Inc. et al., U.S. S. Ct., Dkt. No. 17-494, 06/21/2018Dkt.

	decision affected out-of-state retailers, such as online sellers, that made sales to Idaho citizens, and was closely watching any actions by the U.S. Congress on this issue as well as any developing legal issues arising from the decision.		No. 17-494, 06/21/2018 decision affected out-of-state retailers, such as online sellers, that made sales to Idaho citizens, and was closely watching any actions by the U.S. Congress on this issue as well as any developing legal issues arising from the decision.
IL	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. Update: 06/20/2018 Illinois has enacted an economic nexus law effective 10/1/2018	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	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.

		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.	
IN	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.	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.	Indiana requires out-of-state sellers to collect tax on Internet sales to Indiana residents. 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.
KS			

	No. Kansas has not adopted an economic nexus provision. However, Kansas can, and does, require on-line and other remote sellers with no physical presence in Kansas to collect and remit the applicable sales or use tax on sales delivered into Kansas. This requirement will be enforced beginning October 1, 2019. Update: 08/01/2019 Guidance issued by the Department of Revenue regarding remote sellers and collection requirements beginning October 1, 2019.	Yes. Kansas can, and does, require on-line and other remote sellers with no physical presence in Kansas to collect and remit the applicable sales or use tax on sales delivered into Kansas. Accordingly, a remote seller must register with Kansas and obtain a sales or use tax account number. This requirement will be enforced beginning October 1, 2019. Update: 08/01/2019 Guidance issued by the Department of Revenue regarding remote sellers and collection requirements beginning October 1, 2019.	Kansas requires out-of-state sellers to collect and remit tax on Internet sales delivered into Kansas. The requirement to register in Kansas and remit taxes will be enforced beginning October 1, 2019. Kansas can, and does, require on-line and other remote sellers with no physical presence in Kansas to collect and remit the applicable sales or use tax on sales delivered into Kansas. The requirement to collect and remit will not be enforced on remote sellers prior to October 1, 2019.Processing orders electronically, through the internet or otherwise, does not relieve a retailer of the responsibility to collect the tax from the purchaser if the retailer does business in Kansas. Update: 08/01/2019 Guidance issued by the Dept. regarding remote sellers and enforcing collection beginning 10/01/2019.
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, including effective July 1, 2019 retail sales facilitated by a marketplace provider on behalf of a remote retailer,	Yes.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.	Remote sellers selling tangible personal property or digital property delivered or transferred electronically to a purchaser in Kentucky, including, effective July 1, 2019, retail sales facilitated by a marketplace provider on behalf of a remote retailer, are required to collect sales tax, if the remote seller had 200 or more separate transactions in the state or their gross receipts exceeded

	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.		$100,000 in the previous or current calendar years.
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	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.	Louisiana does not require out-of-state sellers to collect tax on Internet sales to Louisiana residents; however, 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 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, 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

	criteria. The state will not enforce the legislation for tax periods before January 1, 2019.		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.
MA	Yes. Threshold: Effective October 1, 2019, more than $100,000 in sales within the state, in the prior taxable year or the current taxable year. Prior to October 1, 2019, more than $500,000 in sales and 100 or more separate transactions, within the preceding calendar year. Effective October 1, 2019, a remote retailer will be subject to the registration, collection, and remittance requirements as a vendor if its sales within the state in the prior taxable year or the current taxable year exceed $100,000. Also effective October 1, 2019, marketplace facilitators with sales of more than $100,000 into the state in the prior or current tax year must collect and remit tax on all direct sales and sales facilitated on behalf of marketplace sellers through their marketplace platforms. From October 1, 2017 until September 30, 2019, under Mass. Regs. Code 830 CMR §64H.1.7, the Massachusetts Department of Revenue asserted jurisdiction to impose sales and use tax collection duties on an out-of-state "internet vendor" that, within the preceding calendar year,	Yes. The Massachusetts Department of Revenue issued a statement that its cookie and app nexus policy regulation (Mass. Regs. Code 830 CMR §64H.1.7) "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. As of October 1, 2019, Mass. Regs. Code 830 CMR §64H.1.7 ceased to apply and has been replaced with Mass. Regs. Code 830 CMR §64H.1.9	Beginning October 1, 2019, out-of-state remote sellers must collect tax on sales of tangible personal property or services into Massachusetts when they have Massachusetts sales that exceed $100,000 in a calendar year. Marketplace facilitators (marketplaces) must collect tax on behalf of third parties selling on the marketplace when the marketplace's total Massachusetts sales (including those facilitated on behalf of marketplace sellers and those made directly by the marketplace on its own behalf) exceed $100,000 in a calendar year. Prior to October 1, 2019, Massachusetts requires out-of-state sellers to collect tax on Internet sales to Massachusetts residents if: (1) during the preceding 12 months, October 1, 2016 to September 30, 2017, it had in excess of $500,000 in Massachusetts sales from transactions completed over the Internet and made sales resulting in a delivery into Massachusetts in 100 or more transactions; and (2) for each calendar year beginning with 2018, if during the preceding

	made more than $500,000 in Massachusetts sales and made sales for delivery into the state in 100 or more transactions. The Department did not characterize its approach as economic nexus, instead taking the position that Internet vendors with a large volume of Massachusetts sales invariably have property interests in state software ("apps") and ancilliary data ("cookies") of in-state customers or have contracts with distribution networks or marketplace facilitators that facilitate in-state sales and constitute the requisite in-state physical presence.		calendar year it had in excess of $500,000 in Massachusetts sales from transactions completed over the Internet and made sales resulting in a delivery into Massachusetts in 100 or more transactions. Effective October 1, 2019, a remote retailer will be subject to the registration, collection, and remittance requirements as a vendor if its sales within Massachusetts in the prior taxable year or the current taxable year exceeds $100,000.
MD	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.	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) 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	Maryland requires out-of-state sellers to collect tax on Internet sales to Maryland residents.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

	17-494, 06/21/2018Dkt. 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.	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	does not want a delayed response to the South Dakota v. Wayfair, Inc. et al., U.S. S. Ct., Dkt. No. 17-494, 06/21/2018Dkt. 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.

		developments occur in the Wayfair proceedings.	
ME	Yes. Threshold: $100,000 or more gross revenue from sales or 200 separate transactions, in the previous or current calendar year.For sales occurring on or after July 1, 2018, 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. Applicable for sales occurring on or after October 1, 2019, every person that makes sales of tangible personal property or taxable services for delivery into Maine with more than $100,000 in gross annual sales from the delivery of tangible personal property or taxable services in Maine or at least 200 separate transactions into Maine in the previous or current calendar year must collect and remit sales tax.	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.	Maine requires out-of-state sellers, and, applicable to sales occurring on or after October 1, 2019, marketplace facilitators, to collect tax on Internet sales to Maine residents.Out-of-state sellers, and, applicable to sales occurring on or after October 1, 2019, marketplace facilitators, are required to collect tax on Internet sales to Maine residents: if gross revenue from delivery of tangible personal property, products transferred electronically or services that are taxable by Maine into the state in the previous calendar year or current calendar year exceeds $100,000; or if there are at least 200 separate transactions in the previous calendar year or the current calendar year of sales of tangible personal property, products transferred electronically or services that are taxable by Maine for delivery into the state. Applicable to sales occurring on or after October 1, 2019, "marketplace" means a physical or electronic locations, including an Internet website.
MI	Yes.Threshold: Over $100,000 in retail sales in retail sales or 200 or more transactions with, Michigan purchasers in the previous calendar	Yes.Michigan requires remote sellers with sales exceeding $100,000 to, or 200 or more transactions with, Michigan purchasers in the previous calendar	Michigan requires out-of-state sellers to collect tax on Internet Sales to Michigan residents. Michigan has adopted an economic nexus

	year to collect and remit sales tax.	year to collect and remit sales tax. The first payments were due on November 20, 2018.The Michigan Department of Treasury waived failure to file and deficiency penalties for returns and payments due prior to December 31, 2018, so long as the taxpayer incurring those penalties had nexus solely due to Michigan Revenue Administrative Bulletin No. 2018-16, 08/01/2018 and Wayfair ; interest was not waived.	provision. Michigan requires remote sellers with sales exceeding $100,000 to, or 200 or more transactions with, Michigan purchasers in the previous calendar year to collect and remit sales tax.
MN	Yes.Minnesota has adopted an economic nexus provision and has adopted a marketplace sales tax law.Effective October 1, 2018, following the decision of the U.S. Supreme Court in South Dakota v. Wayfair, which overturned the physical presence standard for sales and use tax nexus, Minnesota's internet marketplace provider law applies and the Minnesota Department of Revenue asserts economic nexus against remote sellers. As of October 1, 2018 and for sales and purchases made before October 1, 2019, the Department relies on the broad language of the state's nexus law to assert economic nexus against remote sellers making sales into the state of (1) 100 or more retail sales shipped to Minnesota in a consecutive 12-month period; or (2) ten or more retail sales shipped to Minnesota that total more	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.	Minnesota requires out-of-state sellers to collect tax on Internet sales to Minnesota residents. Effective 10/1/2018, and for sales and purchases made before October 1, 2019, a retailer not maintaining a place of business in this state is presumed to be engaged in regular solicitation within Minnesota if it engages in regular or systematic soliciting of sales from potential customers in Minnesota by certain communication systems, including use of computer database, and retailer makes 100 or more retail sales from outside Minnesota to destinations in Minnesota during a period of 12 consecutive months; or makes ten or more retail sales totaling more than $100,000 from outside Minnesota to destinations in Minnesota during a period of 12 consecutive months.For sales and purchases made after

	than $100,000 in a consecutive 12-month period. Threshold: $100,000 in sales.Effective for sales and purchases made after September 30, 2019, the thresholds are: (a) makes or facilitates 200 or more retail sales from outside Minnesota to destinations in Minnesota during the prior 12-month period; or (b) makes or facilitates retail sales totaling more than $100,000 from outside Minnesota to destinations in Minnesota during the prior 12-month period. 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		September 30, 2019, a retailer not maintaining a place of business in Minnesota or marketplace provider not maintaining a place of business in Minnesota is required to collect tax on sales if it distributes, by mail or otherwise, catalogs, periodicals, advertising flyers, or other written solicitations of business to customers in the state. For sales and purchases made after September 30, 2019, the requirement applies if the out-of-state seller makes 200 or more retail sales from outside Minnesota during the prior 12-month period or makes or facilitates more than $100,000 in retail sales from outside Minnesota to destinations in Minnesota during the prior 12-month period. Update: 06/28/2019 Eff. for sales and purchases made after 9/30/2019, Minnesota modifies and clarifies the duty of remote sellers and marketplace providers to collect sales taxes and increases the threshold amounts.

	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. Update: 06/28/2019 Eff. for sales and purchases made after 9/30/2019, Minnesota modifies and clarifies the duty of remote sellers and marketplace providers to collect sales taxes and increases the threshold amounts.		
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 South Dakota v. Wayfair.	Missouri may require a seller to collect tax on Internet sales to Missouri residents.A vendor is presumed engaged in business activities in Missouri if the vendor enters into an agreement with one or more residents under which the resident, for a commission or other consideration, directly or indirectly refers

			potential customers by a link on an internet website to the vendor if the cumulative gross receipts from sales to Missouri customers referred by residents with such an agreement exceeded $10,000 during the preceding 12 months. This presumption may be rebutted by submitting proof that the Missouri resident did not engage in any activity within Missouri that was significantly associated with the vendor's ability to establish or maintain its market in the state during the preceding 12 months. Mail order houses and other firms advertising or selling via computers and their selling agents are considered engaged in business in Missouri. Further, sales over the internet are subject to sales tax if the sales transaction's shipping and delivery point is within Missouri. However, a seller is not considered engaged in business in Missouri by exploiting the market by any media-assisted, media-facilitated, or media-solicited means, including, computer-assisted shopping.
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	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	An out-of-state seller may be required to collect tax.An out-of-state seller who lacks a Mississippi physical presence but who is purposefully or systematically exploiting the Mississippi market is considered to establish a substantial economic

	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, 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.	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 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.	presence in Mississippi for use tax purposes and is required to collect sales tax if sales into the state exceed $250,000 for 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, 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.
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	Montana does not impose a general sales tax.

		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, 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 must 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.Effective March 20, 2019, this economic nexus policy was codified into state law.	North Carolina may require out-of-state sellers to collect tax on Internet sales to North Carolina residents. Effective November 1, 2018 or 60 days after a remote seller meets the threshold, whichever is later, 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 must 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.

ND	Yes.Threshold: Effective January 1, 2019, remote sellers with sales into the state of $100,000From October 1, 2018 through December 31, 2018, threshold was $100,000 or 200 separate transactions into the state, during the previous or current calendar year. Update: 04/01/2019 200 separate transactions into the state creating nexus are eliminated for taxable years beginning after 12/31/2018	No.	North Dakota requires out-of-state sellers to collect tax on Internet sales to North Dakota residents. Effective January 1, 2019, threshold is sales into the state of $100,000, during the previous or current calendar year.From October 1, 2018 through December 31, 2018, threshold was $100,000 or 200 separate transactions into the state, during the previous or current calendar year. Effective for taxable events occurring after July 1, 2019, a marketplace facilitator, which does not have a physical presence in North Dakota, is a retailer subject to tax and must remit sales or use tax if it facilitates or makes sales through the marketplace that, when the sales are combined, meet the threshold amount of $100,000 in the previous or current calendar year; a marketplace facilitator is not required to collect and remit sales or use tax on any sale made before October 1, 2019. Update: 04/01/2019 Marketplace facilitators must collect and remit tax for sales occurring on or after 10/01/2019
NE	Yes. Nebraska has adopted an economic nexus policy. Remote sellers must obtain a sales tax permit on or before January 1, 2019, if they have more than $100,000 of sales into	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,	Effective April 1, 2019, a retailer who lacks a physical presence in Nebraska and who operates a website or other digital medium or media to execute sales to purchasers of property

	Nebraska or 200 or more separate transactions for delivery into the state annually.Effective April 1, 2019, a retailer who lacks a physical presence in Nebraska and who operates a website or other digital medium or media to execute sales to purchasers of property subject to sales or use taxes in Nebraska, as well as a "multivendor marketplace platform" (or a retailer who uses a "multivendor marketplace platform") that acts as an intermediary by facilitating sales between a seller and the purchaser of property subject to sales or use taxes in Nebraska, will be deemed to be engaged in business in Nebraska if: (1) the retailer or multivendor marketplace platform made total retail sales of property in Nebraska that exceeded $100,000 in the previous or current calendar year; or (2) the retailer or multivendor marketplace platform made retail sales in Nebraska of 200 or more separate transactions in the previous or current calendar year.	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. The Department noted that "[d] epending on the final outcome of the Wayfair litigation—which remains pending in South Dakota—[it] may seek legislation in the 2019 legislative session." The Department has also added a "South Dakota v. Wayfair, Inc. Collection of Sales Tax by Remote Sellers" FAQs page to its website.	subject to sales or use taxes in Nebraska, as well as a "multivendor marketplace platform" (or a retailer who uses a "multivendor marketplace platform") that acts as an intermediary by facilitating sales between a seller and the purchaser of property subject to sales or use taxes in Nebraska, will be deemed to be engaged in business in Nebraska if: (1) the retailer or multivendor marketplace platform made total retail sales of property in Nebraska that exceeded $100,000 in the previous or current calendar year; or (2) the retailer or multivendor marketplace platform made retail sales in Nebraska of 200 or more separate transactions in the previous or current calendar year.
NH	N/A	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)	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)	New Jersey requires remote sellers to collect sales tax if their sales exceed either (1) $100,000 of sales into New Jersey or (2) 200 or more transactions in New Jersey.

	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.	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	Yes.Threshold: At least $100,000 from sales, leases and licenses of tangible personal property, sales of licenses and sales of services and licenses for use of real property sourced to New Mexico in the previous calendar year.Effective July 1, 2019, New Mexico requires out-of-state sellers to collect tax on Internet sales to New Mexico residents when the remote seller or marketplace provider has total taxable gross receipts of at least $100,000 from sales, leases and licenses of tangible personal property, sales of licenses and sales of services and licenses for use of real property sourced to New Mexico in the previous calendar year. Update: 04/15/2019 Economic nexus imposed beginning 07/01/2019	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."	New Mexico requires out-of-state sellers to collect tax on Internet sales to New Mexico residents beginning July 1, 2019. When the remote seller or marketplace provider has total taxable gross receipts of at least $100,000 from sales, leases and licenses of tangible personal property, sales of licenses and sales of services and licenses for use of real property sourced to New Mexico in the previous calendar year. Update: 04/15/2019 Economic nexus imposed beginning 07/01/2019
NV	Yes.Threshold: 200 or more retail sales and gross receipts greater	Yes.The Nevada Department of Taxation has issued a regulation	Nevada requires out-of-state sellers to collect tax on Internet sales to

	than $100,000.Nevada has adopted an economic nexus provision.	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.	Nevada residents.Effective October 1, 2018, Nevada requires remote sellers to collect and remit Nevada sales tax if the seller's gross revenue from retail sales of tangible personal property into Nevada in the prior or current year is greater than $100,000 or the seller conducts 200 or more retail sales of tangible personal property for delivery in the state
NY	Yes. The Department recently issued guidance to taxpayers stating that as a result of the U.S. Supreme Court's Wayfair decision, "certain existing provisions in the New York State Tax Law that define a sales tax vendor immediately became effective." Specifically, N.Y. Tax Law §1101(b)(8)(iv) includes in the definition of a vendor persons who are "regularly or systematically soliciting business in the state" that is defined as exceeding $500,000 of gross receipts from sales of tangible personal property made in the state and making more than 100 sales of property delivered into the state, in the immediately preceding four sales quarters.	Yes.The Department has issued guidance stating that "certain existing provisions in the New York State Tax Law that define a sales tax vendor immediately became effective" after the U.S. Supreme Court's June 2018 decision in South Dakota v. Wayfair, which abandoned the physical presence requirement for imposing sales tax collection responsibilities on remote sellers.Sellers who lack a physical presence in the state and who, in the immediately preceding four sales quarters, have made more than $500,000 (increased from $300,000, effective as of June 21, 2018) in gross receipts from tangible personal property sales delivered into the state, and made more than 100 sales of tangible personal property that were delivered into the state, must register as a sales tax vendor and	Yes.The Department has issued guidance stating that "certain existing provisions in the New York State Tax Law that define a sales tax vendor immediately became effective" after the U.S. Supreme Court's June 2018 decision in South Dakota v. Wayfair, which abandoned the physical presence requirement for imposing sales tax collection responsibilities on remote sellers.Sellers who lack a physical presence in the state and who have made more than $500,000 (increased from $300,000, effective as of June 21, 2018) in gross receipts from tangible personal property sales delivered into the state, and made more than 100 sales of tangible personal property delivered into the state, in the immediately preceding four sales quarters must register as a sales tax vendor and collect and

		collect and remit the applicable state and local sales tax. The sales tax quarters in New York are: March 1 through May 31; June 1 through August 31; September 1 through November 30; and December 1 through February 28/29.	remit the applicable state and local sales tax. The sales tax quarters in New York are: March 1 through May 31; June 1 through August 31; September 1 through November 30; and December 1 through February 28/29.
OH	Yes.An out-of-state retailer will have substantial nexus with Ohio if in the current or previous calendar year: (1) it has gross receipts exceeding $100,000 from sales in Ohio; or (2) has 200 or more separate sales transactions in Ohio. Effective August 1, 2019, the threshold for substantial nexus of $500,000 from sales into Ohio and that meets certain criteria as well as the elimination of an existing presumption of substantial nexus for a retailer that has a "click-through" agreement with an Ohio resident that referred more than $10,000 in sales in the prior year was eliminated.	Yes. The Ohio Department of Taxation has issued an alert to taxpayers advising them of the sales and use tax substantial nexus changes enacted by L. 2019, H166, effective on the 91st day after the bill is filed with the Secretary of State, unless otherwise stated. Effective August 1, 2019, an out-of-state retailer will have substantial nexus with Ohio if in the current or previous calendar year: (1) it has gross receipts exceeding $100,000 from sales in Ohio, or (2) has 200 or more separate sales transactions in Ohio. The legislation modifies the activities sufficient to establish a presumption of substantial nexus with Ohio consistent with the U.S. Supreme Court's decision in South Dakota v. Wayfair.	Ohio may require out-of-state sellers to collect tax on Internet sales to Ohio residents. On June 21, 2018, the U.S. Supreme Court in South Dakota v. Wayfair overturned the physical presence standard for substantial nexus and paved the way for states to assert sales and use tax nexus against sellers who have an economic presence in a state and meet a dollar or transaction threshold for sales delivered into the state. The opinion suggested that an internet seller's apps and cookies on electronic devices in the state might also create the requisite presence to establish nexus.
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."	Oklahoma may require out-of-state sellers to collect tax on Internet sales to Oklahoma residents. A remote seller, a marketplace facilitator, or a referrer who had aggregate sales of tangible personal property within Oklahoma, or delivered to locations

		Notice and reporting policy have been enacted by law, for remote sellers, marketplace facilitators, and referrers, with an alternative collection election.	within Oklahoma, subject to sales and use tax worth at least $10,000 during the immediately preceding twelve-calendar-month period must file an election with the Tax Commission to collect and remit sales and use taxes, or comply with specified notice and reporting requirements. Okla. Stat. 68 §1392
OR	N/A	N/A	N/A
PA	Yes.Effective for transactions occurring on or after July 1, 2019, Pennsylvania economic nexus applies to those persons who had more than $100,000 in taxable sales in Pennsylvania during the previous 12 months, including marketplace facilitators and online sellers. However, the marketplace seller provisions will remain in effect and apply to those vendors who have neither a physical presence nexus, nor an economic nexus in Pennsylvania, but who have at least $10,000 in sales of tangible personal property in Pennsylvania during the prior calendar year (but less than $100,000 in Pennsylvania sales in the previous 12 months). Update: 07/01/2019 Economic nexus legislation enacted effective July 1, 2019.	Yes.Effective for transactions occurring on or after July 1, 2019, Pennsylvania economic nexus applies to out-of-state sellers who had more than $100,000 in taxable sales in Pennsylvania during the previous 12 months. However, marketplace facilitators, and referrers with aggregate retail sales of tangible personal property in Pennsylvania of at least $10,000 in the prior calendar year (but less than $100,000 in the previous 12 months) will still be required to file an election, before March 1, 2018, to either to collect and remit sales tax or comply with detailed notice and reporting requirements. Update: 07/01/2019 Economic nexus legislation enacted effective July 1, 2019.	Effective for transactions occurring on or after July 1, 2019, Pennsylvania economic nexus applies to those persons who had more than $100,000 in taxable sales in Pennsylvania during the previous 12 months, including marketplace and online sellers. However, the marketplace seller provisions will remain in effect and apply to those vendors who have neither a physical presence nexus, nor an economic nexus in Pennsylvania and made less than $100,000 in sales in Pennsylvania during the previous 12 months. Update: 07/01/2019 Economic nexus legislation enacted effective July 1, 2019.
RI	Yes.Threshold: $100,000 or 200 separate transactionsEffective July 1, 2019, Rhode Island	Yes.As of July 1, 2019, new Rhode Island legislation affecting remote sellers,	Rhode Island may require out-of-state sellers to collect tax on Internet sales to Rhode Island

	requires remote sellers, marketplace facilitators, and referrers lacking a physical presence in Rhode Island to register with the Division of Taxation and collect and remit Rhode Island sales and use tax if their gross revenue from the sale of taxable goods/services delivered into Rhode Island, in the previous calendar year, totaled at least $100,000 or the sales were made into Rhode Island in 200 or more separate transactions. Effective August 17, 2017 through June 30, 2019, 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 (effective August 17, 2017 through June 30, 2019) and retail sale facilitators (January 15, 2018 through June 30, 2019).	marketplace facilitators, and referrers was enacted in response to the Wayfair decision.Prior to July 1, 2019, the Rhode Island Division of Taxation issued statements that the obligations of non-collecting retailers (including remote sellers) under Rhode Island's 2017 law were not affected by Wayfair; and noncollecting retailers had to comply with current law.	residents.Effective July 1, 2019, Rhode Island requires remote sellers, marketplace facilitators, and referrers lacking a physical presence in Rhode Island to register with the Division of Taxation and collect and remit Rhode Island sales and use tax if their gross revenue from the sale of tangible personal property, prewritten computer software delivered electronically or by load and leave, vendor-hosted prewritten computer software, and/or taxable services delivered into Rhode Island, in the previous calendar year, totaled at least $100,000 or the sales were made in 200 or more separate transactions.Effective August 17, 2017 through June 30, 2019, Rhode Island requires a non-collecting retailer to elect either to comply with notice and reporting requirements or to register to collect and remit sales and use tax on all taxable sales into Rhode Island, if, in the preceding calendar year, the non-collecting retailer has: at least $100,000 in gross revenue from the sale of tangible personal property, prewritten computer software delivered electronically or by load and leave, and/or has taxable services delivered into Rhode Island; or 200 or more transactions of taxable goods/services delivered in Rhode Island. Rhode

			Island imposes notice requirements on referrers (effective August 17, 2017 through June 30, 2019) and retail sale facilitators (January 15, 2018 through June 30, 2019).
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.	A remote seller meeting the $100,000 threshold must collect tax on it's Internet sales in 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 sufficient 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. A remote seller includes any related entity assisting the remote seller in sales, storage, distribution, payment collection, or in any other manner with respect to the remote seller.
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	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	South Dakota does not require out-of-state sellers to collect tax on Internet sales to South Dakota residents. Retailers not registered to collect and remit South Dakota sales and use tax are required to provide notice that South Dakota use tax is due on nonexempt purchases of tangible personal property, services, or products transferred electronically.

	Dakota annually.On June 21, 2018, the U.S. Supreme Court issued a decision in South Dakota v. Wayfair, overturning the physical presence standard 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.	$100,000 in sales or services for delivery into South Dakota in 200 or more separate transactions.	
TN	Yes. Effective October 1, 2019, Tennessee will enforce its rule that requires out-of-state sellers to collect tax on sales by distribution of catalogs or other advertising materials in the state if those sellers have $500,000 or more in sales during the previous 12 month period.	Yes.Effective October 1, 2019, Tennessee will enforce its rule that requires out-of-state sellers to collect tax on sales by distribution of catalogs or other advertising materials in the state if those sellers have $500,000 or more in sales during the previous 12 month period..	Effective October 1, 2019, Tennessee will enforce its rule that requires out-of-state sellers to collect tax on sales by distribution of catalogs or other advertising materials in the state if those sellers have $500,000 or more in sales during the previous 12 month period.
TX	Yes.Texas has adopted an economic nexus provision, but will not go into effect until October 1, 2019.Remote sellers must obtain a permit and begin collecting use tax by October 1, 2019, if during the period July 1, 2018 through June 30, 2019, the remote seller's total Texas revenue during that period exceeds the safe harbor amount of $500,000. After this initial 12 calendar month period, a remote seller must obtain a permit and begin collecting use tax no later than the first day of the fourth month after the month in which a remote seller exceeds the safe harbor amount.	Yes.The Texas Comptroller of Public Accounts adopted amendments to regulations that require remote sellers to obtain a permit and begin collecting use tax by October 1, 2019, if during the period July 1, 2018 through June 30, 2019, the remote seller's total Texas revenue during that period exceeds the safe harbor amount of $500,000. After this initial 12 calendar month period, a remote seller must obtain a permit and begin collecting use tax no later than the first day of the fourth month after the month in which a remote seller exceeds the safe	Texas does not require out-of-state sellers to collect tax on Internet sales to Texas residents.However, remote sellers must obtain a permit and begin collecting use tax by October 1, 2019, if during the period July 1, 2018 through June 30, 2019, the remote seller's total Texas revenue during that period exceeds the safe harbor amount of $500,000. After this initial 12 calendar month period, a remote seller must obtain a permit and begin collecting use tax no later than the first day of the fourth month after the month in which a remote

		harbor amount. The comptroller has also posted website guidance to be updated periodically.	seller exceeds the safe harbor amount.
UT	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.Effective October 1, 2019, a marketplace facilitator must pay or collect and remit sales and use tax if the marketplace facilitator, in the previous calendar year or the current calendar year, makes sales of tangible personal property, products transferred electronically, or services on the marketplace facilitator's own behalf or facilitates sales on behalf of one or more marketplace sellers that either exceed $100,000 or 200 or more separate transactions.	Yes.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.The Commission noted that it has voluntary compliance agreements with many out-of-state companies lacking a physical presence in Utah.	Effective January 1, 2019, Utah will require out-of-state sellers to collect tax on Internet sales to Utah residents if the out-of-state seller has more than $100,000 in sales or 200 transactions into the state per year.Effective October 1, 2019, a marketplace facilitator must pay or collect and remit sales and use tax if the marketplace facilitator, in the previous calendar year or the current calendar year, makes sales of tangible personal property, products transferred electronically, or services on the marketplace facilitator's own behalf or facilitates sales on behalf of one or more marketplace sellers that either exceed $100,000 or 200 or more separate transactions.
VA	Yes. Effective July 1, 2019, Virginia has adopted an economic nexus provision.	Yes. Effective July 1, 2019, Virginia requires out-of-state retailers to register for the collection of sales and use tax if it receives more than $100,000 in gross revenue from retail sales in Virginia in the previous or current calendar year, or engages in 200 or more separate retail sales transactions.	Virginia does not require out-of-state sellers to collect tax on Internet sales to Virginia residents.
VT			

	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, 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	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.	Vermont requires out-of-state sellers to collect tax on sales in Vermont if they made sales of at least $100,000 or 200 individual transactions during any preceding twelve-month period.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, 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.		period for determining sales and use tax liability.
WA	Yes. Effective October 1, 2018 through December 31, 2019, remote businesses that make $100,000 in retail sales to or, until March 14, 2019, 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. Effective March 14, 2019, the 200-transaction threshold is eliminated. Effective January 1, 2020, remote sellers with substantial nexus under Wash. Rev. Code §82.04.067 are required to collect and remit sales and use tax.In addition, until July 1, 2019, the following thresholds exist for remote sellers and marketplace facilitators: 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	Yes.In additional to the notice and reporting or sales tax collection thresholds effective prior to the Wayfair decision, the Department of Revenue has announced that, pursuant to the decision in Wayfair, effective October 1, 2018 through December 31, 2019, 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. Effective January 1, 2020, remote sellers with substantial nexus under Wash. Rev. Code §82.04.067 (see 10,180) are required to collect and remit sales and use tax.	Washington may require out-of-state sellers to collect tax on Internet sales to Washington residents.Out-of-state sellers purposefully or systematically exploiting the Washington market by any media-assisted, media facilitated, or media-solicited means, including but not limited to, direct mail advertising, unsolicited distribution of catalogues, computer-assisted shopping, telephone, television, radio or other electronic media, or magazine or newspaper advertisements or other media, are deemed to be engaged in business in the state and must collect tax; purposeful or systematic exploitation of the market is presumed if gross sales to Washington residents are over $500,000 for 12 consecutive months.On June 21, 2018, the U.S. Supreme Court in South Dakota v. Wayfair U.S. S. Ct., 17-494, 06/21/201817-494, 06/21/2018, overturned the physical presence standard for substantial nexus and paved the way for states to assert sales and use tax nexus against sellers who have an economic presence in a state and meet a dollar or transaction threshold for sales delivered into the state. Pursuant to the decision in Wayfair, the Department of Revenue

	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.		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. Effective March 14, 2019, the 200-transaction threshold is eliminated. Effective January 1, 2020, remote sellers with substantial nexus under Wash. Rev. Code §82.04.067 are required 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. 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 has enacted legislation and adopted an administrative rule establishing the economic nexus standards, which is consistent with collection thresholds set forth in Wayfair.	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. New standards for administering sales tax laws for remote sellers are established by statute and rule, consistent with South Dakota v. Wayfair, Inc, U.S. S. Ct. Dkt. No. 17-494, 06/21/2018 17-494, 06/21/2018, which approved a small seller exception for remote sellers who do not have annual sales of products and services into the state of (1) more than $100,000

			or (2) 200 or more separate transactions. Before the Wayfair decision, Wisconsin did not require out-of-state sellers to collect tax on Internet sales to Wisconsin residents.
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, 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	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 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	West Virginia may require an out-of-state seller lacking a physical presence in the state to collect tax on its Internet sales to West Virginia residents. 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 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

	$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.	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.	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.On June 21, 2018, the U.S. Supreme Court in South Dakota v. Wayfair, U.S. S. Ct. 17-494, 06/21/2018, overturned the physical presence standard for substantial nexus and paved the way for states to assert sales and use tax nexus against sellers who have an economic presence in a state and meet a dollar or transaction threshold for sales delivered into the state. The opinion suggested that an internet seller's apps and cookies on electronic devices in the state might also create the requisite presence to establish nexus.The West Virginia State Tax Department issued Administrative Notice 2018-18 in response to the Wayfair decision.
WY	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	Yes.The Wyoming Department of Revenue issued guidance indicating it will begin requiring remote and on-line sellers, meeting the thresholds to license, and	Wyoming may require out-of-state sellers to collect tax on Internet sales to Wyoming residents. Out-of-state sellers with no physical presence in Wyoming are required to

	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.	collect sales tax effective February 1, 2019. The thresholds are: gross revenue in the current or immediately preceding year from Wyoming sales of tangible personal property, admissions or services in excess of $100,000 or sales of tangible personal property, admissions or services delivered into Wyoming in 200 or more separate transactions in the current or immediately preceding year.	remit Wyoming sales tax if, in the current or immediately preceding calendar year: they have gross revenue from Wyoming sales of tangible personal property, admissions or services in excess of $100,000 or have sold tangible personal property, admissions or services delivered into Wyoming in 200 or more separate transactions.On June 21, 2018, the U.S. Supreme Court in South Dakota v. Wayfair U.S. S. Ct., 17-494, 06/21/201817-494, 06/21/2018, overturned the physical presence standard for substantial nexus and paved the way for states to assert sales and use tax nexus against sellers who have an economic presence in a state and meet a dollar or transaction threshold for sales delivered into the state. Effective July 1, 2019, marketplace facilitators that have that have gross revenue from Wyoming sales of tangible personal property, admissions or services in excess of $100,000 or have sold tangible personal property, admissions or services delivered into Wyoming in 200 or more separate transactions are required to collect tax on all sales which the facilitator makes on its own behalf and on all sales which the marketplace facilitator facilitates on behalf of marketplace sellers to customers in Wyoming.