Online Sales Tax—State Updates

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South Dakota-style economic nexus statutes

Threshold >$100,000 in sales/yr or 200 transactions/yr:

Hawaii, Maine, Vermont (SST)—eff. 7/1/18

Illinois, Indiana (SST), Kentucky (SST), Wisconsin (SST), North Dakota (SST)—eff. 10/1/18

New Jersey (SST), South Dakota (SST) North Carolina (SST)—eff. 11/1/18

DC, Iowa (SST), Nebraska (SST) Utah (SST)—eff. 1/1/19

Wyoming (SST)—eff. 2/1/19

Louisiana (eff. date TBD--Dept. Bulletin 18-002)

Virginia, Rhode Island (SST)--eff. 7/1/19

Note: North Dakota enacted SB 2191, eliminating the “200 transactions” threshold, eff. 1/1/19

Threshold $250,000 and 200 transactions/yr:

Connecticut—eff. 12/1/18; HB 6720 introduced to require joining SSUTA
Economic nexus implemented by regulation/ruling

Threshold $250,000 sales/yr:
• Alabama reg eff. 10/1/18
• Mississippi reg eff. 9/1/18

Threshold: >$100,000 sales/yr or 200 transactions/yr:
• Maryland emer. reg eff. 10/1/18 (HB 811 introduced to codify)
• Nevada emer. reg eff. 10/1/18 (SST)
• Washington emer. reg eff. 10/1/18) (SST) (2019 SB 5581 enacted, eliminating “200 transactions” threshold 3/18/19, establishing $100,000 threshold for B&O tax eff. 1/1/20)
• Wisconsin emer. reg eff. 10/1/18 (SST)
  Threshold >$100,000 sales/yr:
• South Carolina Rev Ruling # 18-14 eff. 11/1/18
Economic nexus implemented by notice

Threshold >$100,000 sales or 200 transactions/yr:
• **Michigan** Bulletin 2018-16 eff. 10/1/18 (SST)
• **Nebraska** FAQ eff. 1/1/19 (SST); LB 284 enacted, eff. 4/1/19
• **North Carolina** guidance eff. 11/1/18 (SST); SB 56 enacted 3/20/19
• **West Virginia** notice eff. 1/1/19 (SST)

Threshold >$100,000 sales and 10 transactions, or 100 transactions/yr:
• **Minnesota** notice eff. 10/1/18 (SST)

Threshold >$300,000 sales and 100 transactions/yr:
• **New York** Notice N-19-1, published 1/15/19
Economic nexus regulations/notices not yet implemented

Threshold $500,000 sales/yr:

• **Tennessee** reg (litigation pending)(Assoc. M.-SST); SB 82, HB 733 introduced to require remote sellers to collect when sales/yr. exceed $100,000 or 200 transactions, allows flat 2.25% local rate on remote sales, eff. 1/1/20

• **Texas** reg 34 TAC Section 3.286 eff. 10/1/19; HB 2153, SB 70 pending, allow flat local rate on remote sales

Threshold >$100,000 sales or 200 transactions/yr:

• **Colorado** emer. reg—enforcement extended to 6/1/19; HB19-1240 introduced 3/12/19 proposing economic nexus (retail sales >$100,000/yr), marketplace facilitator collection requirements, and destination sourcing with small seller exception, eff. 6/1/19

• **California** notice eff. 4/1/19; AB 147 approved by House, $500,000/yr economic nexus threshold, eff. 4/1/19, including marketplace facilitator collection, eff. 10/1/19

• **Pennsylvania** Bulletin 2019-01 (no separate transaction threshold), including marketplace facilitator collection, eff. 7/1/19
Sales tax states not yet providing Wayfair guidance

**Arkansas**: HB 1002 amended 1/29/19; SB 576 passed Senate; implementing economic nexus (> $100,000 sales volume/200 transactions/yr)

**Arizona**: HB 2702 first reading, economic nexus (> $100,000 sales volume/200 transactions/yr)

**Florida**: SB 1112 introduced, economic nexus (> $100,000 sales/200 transactions/yr) eff. 7/1/19

**Idaho**: H 259 passed House, requires remote sellers with sales > $100,000/yr. to collect, including marketplace facilitator collection, eff. 6/1/19

**Kansas**: SB 22 vetoed by governor, proposed economic nexus (> $100,000 sales/yr)

**Missouri**: HB 548 (simplified sales tax remittance program), HB 648 (require payment processors to collect), HB 724 (join SSUTA), SB 50 (simplified sales tax remittance program), SB 46 (join SSUTA, implement Wayfair) introduced. SB 46, 50 passed S. W & M Com. 2/12/19, SB 189 passed S. Com. 3/13/19 (economic nexus > $100,000 sales/200 transactions/yr) eff. 10/1/19

**New Mexico**: HB 6 sent to governor, economic nexus using $100,000 sales volume/yr. threshold, and adoption of destination sourcing for sales tax
Colorado-style notice and reporting laws

CO, GA, KY-(notice only), LA, MN, OK, PA, RI, TN-(notice only), VT, WA

2019 Legislation to eliminate notice/reporting and require remote seller collection:

• **Georgia**: HB 182 passed House and Senate, requires remote sellers to collect if sales >$100,000/yr., eff. 1/1/20

• **Kentucky**: HB 354 CCR enacted, repealing notice requirement

• **Oklahoma**: SB 513 passed Senate, HB 2352 (sales>$100,000/yr) passed House, HB 2201 passed House

• **Rhode Island**: S. 251 Sub A, H. 5278 Sub A enacted, requires remote sellers with sales >$100,000 sales/200 trans./yr. to collect

• **Washington**: SB 5581 enacted, eff. 7/1/19
Home Rule Local Sales Taxes

• Colorado SB 19-006 sent to governor, providing for centralized filing system for local sales/use taxes; HB19-1240 introduced 3/12/19 includes destination sourcing with small seller exception

• Louisiana SB 57 introduced, proposing constitutional amendment authorizing centralized collection of local sales taxes
Click-through nexus states

- AR CA CO CT GA ID IL KS LA ME MI MN MO NC NV NY OH PA RI TN VT WA

- Various thresholds (most use $10,000 or more in annual sales to customers in the state)

- Idaho: HB 259 passed House, would implement economic nexus eff. 6/1/19 for sales >$100,000/yr.

- Washington: SB 5581 enacted, repeals Washington’s “click-thru nexus” provision

Cookie nexus

**Massachusetts** Reg 830 CMR 64 H.1.7 $500,000 sales and 100 transactions/yr. threshold eff. 10/1/17; challenges pending in Virginia Circuit Court (*Crutchfield Corp. v. Harding*, No. CL 1700145-00) and Massachusetts Superior Court (*Blue Nile LLC, et al. v. Harding*, motion to dismiss filed 2/25/19)

**Ohio** Rev. Code § 5741.01(I)(2)(i) $500,000 sales threshold; challenge in *American Catalog Merchants Association v. Testa*, Ohio district court, voluntarily dismissed 12/18/18

**Iowa** S. F. 2417 $100,000/yr. sales or 200 trans./yr. eff. 1/1/19

**Rhode Island** H5175A collect or report if $100,000 sales/yr or 200 trans, eff. 8/17/17
Marketplace facilitator as collector/reporter laws

Enacted in 2017:

- **Minnesota** (HF 1 news release published 7/25/18--collect eff. 10/1/18 if place of business in MN)

- **Pennsylvania** (HB 542 collect or report if sales >$10,000/yr; Bulletin 2019-01, mandatory collection for sales >$100,000/yr. eff. 7/1/19)

- **Rhode Island** (H5175A collect or report if sales/yr $100,000/200 trans eff. 8/17/17; 2019 H. 5278 Sub A and S. 251 Sub A enacted, removing reporting requirements and requiring collection)

- **Washington** (HB 2163 collect eff. 1/1/18; 2019 HB 5581 enacted, repealing notice/reporting eff. 7/1/19)
Marketplace facilitator as collector/reporter laws

Enacted in 2018 pre-Wayfair:

- **Alabama** (HB 470 collect if sales/yr $250,000 or report eff. 1/1/19)
- **Connecticut** (SB 417 collect/referrer report if sales/yr $250,000 + 200 trans eff. 12/1/18)
- **Iowa** (SF 2417 collect/referrer report if sales/yr $100,000/200 trans eff. 1/1/19)
- **Oklahoma** (HB 1019XX collect if sales/yr $10,000 or report eff. 7/1/18)
Marketplace facilitator as collector laws

Enacted in 2018 post-\textit{Wayfair}:

\textbf{South Dakota} (SB 2 collect if sales/yr >$100,000/200 trans eff. 3/1/19)

\textbf{New Jersey} (A. 4496 collect if sales/yr >$100,000/200 trans eff. 11/1/18)

\textbf{DC} (B22-1070 collect eff. 4/1/19)

Enacted in 2019:

\textbf{Nebraska} (LB 284) eff. 4/1/19

\textbf{New York} (S. 1509, part G) eff. 6/1/19

\textbf{Kentucky} (HB 354) \textbf{Rhode Island} (H. 5278 Sub A, S. 251 Sub A)

\textbf{Virginia} (HB 1722, SB 1083) \textbf{West Virginia} (HB 2813) \textbf{Wyoming} (HB 69) eff. 7/1/19

\textbf{North Dakota} (SB 2338) eff. 10/1/19
Marketplace facilitator as collector litigation

**Louisiana** (*Normand v. Wal-Mart.com* litigation re obligation of marketplace facilitator to collect at parrish level as “dealer;” Wal-Mart’s petition to review to Louisiana S. Ct. challenged as untimely)

**South Carolina** (Amazon litigation pending—trial held Feb. 4-8, 2019, decision expected in April; SC DOR considers marketplace to be the retailer; ruling #18-14 requiring collection if sales/yr >$100,000 effective 11/1/18)

**State Agency Opinions:**

**New York** State Tax and Finance Dept. Adv. Op. TSB-1-19(1)S 3/7/19: software vendor operating online marketplace facilitating taxable sales by other software vendors considered co-vendor, required to collect

**Tennessee** A. G. Op. No. 19-03 (3/12/19): department authorized to promulgate regs to require in-state marketplace facilitators to collect as “dealers”
2019 marketplace facilitator as collector bills

**Arizona**: HB 2702 first reading

**Arkansas**: SB 576 passed Senate

**California**: AB 147 passed House, eff. 10/1/19

**Florida**: SB 1112 introduced 2/15/19, eff. 7/1/19

**Georgia**: HB 276, SB 128 passed differing versions, eff. 1/1/20

**Hawaii**: SB 396 passed Senate 2/28/19; SD 1, SB 396 hearing in House Ways and Means Committee

**Idaho**: H 259 passed House, requires remote sellers with sales >$100,000/yr. to collect, including marketplace facilitator collection, eff. 6/1/19

**Indiana**: HB 1352, SB 322 introduced, eff. 7/1/19. House passed HB 1352 on 2/13/19; Senate passed SB 322 on 2/20/19

**Kansas**: SB 22 vetoed by governor, proposed marketplace collection

**Maine**: HB 1452 introduced 4/2/19

**Maryland**: SB 728, HB 1301 introduced, eff. 7/1/19

**Massachusetts**: Governor’s FY 19 Budget Message; H. 1, S. 1637, S. 7762 introduced

**Missouri**: SB 46, 50 passed Sen. W & M Com. 2/12/19, eff. 1/1/20
2019 marketplace facilitator collection bills cont.

**New Mexico**: HB 6 sent to governor

**Nevada**: AB 445 introduced 3/25/19

**Oklahoma**: SB 513 passed Senate, HB 2352 and HB 2201 passed House (option to collect or report)

**South Carolina**: SB 214 passed Senate 3/13/19

**Texas**: SB 890, HB 1525 introduced, eff. 9/1/19

**Utah**: SB 168 sent to governor 3/12/19, eff. 1/1/20

**Vermont**: H 117 introduced

**Wisconsin** Governor proposed marketplace facilitator collection requirements in FY 2019-21 Biennial Budget Proposal 2/28/19
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