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Washington State: Economic nexus bill enacted; remote retailers and marketplaces affected

Legislation in Washington State was signed by the governor on March 15, 2019, concerning economic nexus for remote retailers and marketplaces.

In many ways, Washington State has been at the forefront of the economic nexus movement. The state first enacted economic nexus provisions for purposes of its business and occupation (B&O) tax in 2010. In 2017, while the *Wayfair* case was still pending, the state legislature adopted a bill requiring a remote seller meeting a specified threshold of gross receipts from retail sales into the state to elect either to collect retail sales or use tax on taxable retail sales or to comply with certain sales and use tax notice and reporting provisions. This election / mandate requirement also extended to marketplace facilitators that facilitated sales on behalf of third-party remote sellers, as well as referrers.

In light of the U.S. Supreme Court's decision in *South Dakota v. Wayfair, Inc.*, Washington State's Department of Revenue announced last year that the collect or report option was not available to sellers and others that satisfied the greater than \$100,000 of retail sales or 200 transactions threshold. According to the Department, sellers and marketplaces meeting these thresholds were required to start collecting and remitting as of October 1, 2018.

The bill signed by the governor on March 15, 2019—[Substitute Senate Bill 5581](#):

- Codifies the Department's position on economic nexus for remote retailers and marketplaces as of October 1, 2018
- Eliminates the 200 transactions threshold
- Eliminates certain provisions of the law that are no longer needed (e.g., click-through nexus provisions)
- Makes the state's economic nexus provisions uniform for both B&O and sales tax
- Makes certain other changes to Washington's tax laws

Read a [March 2019 report](#) [PDF 41 KB] prepared by KPMG LLP

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