



# TaxNewsFlash

United States



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## KPMG report: Sales tax obligations of marketplaces, remote sellers (Arizona, Illinois, New York, Tennessee, Vermont)

State lawmakers continue to enact legislation, and state tax agencies continue to issue guidance, in response to the U.S. Supreme Court's decision in "South Dakota v. Wayfair, Inc."

A rapidly increasing number are imposing a tax collection obligation on what they are terming "marketplace facilitators" or "marketplace providers." For instance:

- **Arizona, Illinois, and Vermont:** Legislation adopting economic nexus applicable to remote sellers and/or marketplaces was signed into law in each state (described in more detail below).
- **Minnesota:** An omnibus tax bill (House File 5) reflects changes to the state's provisions applicable to marketplaces. Read [TaxNewsFlash](#)

Finally, certain other states issued guidance on their economic nexus laws.

### Arizona

House Bill 2757 adopts transaction privilege tax (TPT) economic nexus provisions for marketplace facilitators and remote sellers. The bill's provisions require a "remote seller" (as defined) to remit the TPT if in the previous or current calendar year, it has gross proceeds or gross income in Arizona that exceeds the specified economic nexus threshold.

- For calendar year 2019, the threshold is more than \$200,000 of sales.
- For calendar year 2020, the threshold is more than \$150,000 of sales.
- For calendar year 2021 and subsequent years, the threshold is more than \$100,000 of sales.

House Bill 2757 also requires a marketplace facilitator to remit the TPT if it exceeds \$100,000 in gross proceeds of sales or gross income.

Lastly, House Bill 2757 provides that it will supersede the provisions of all municipal TPTs as they relate to businesses classified under the retail TPT classification. The effect would be to limit to some degree the ability of city TPT regimes to differ from the state TPT for those in the retail classification. These provisions have an effective date of effective October 1, 2019.

## **Illinois**

Senate Bill 689 amends Illinois' retailer's occupation tax (ROT) law to require marketplace facilitators (as defined) to collect and remit ROT on sales they facilitate if the marketplace facilitator meets a \$100,000 or more of receipts threshold or a 200 transactions threshold. The effective date is January 1, 2020. Additional changes are made to Illinois law due to the state's unique ROT regime.

## **Vermont**

House Bill 536 expands the state's existing economic nexus provisions to marketplace facilitators, effective June 1, 2019. A marketplace facilitator has a sales and use tax obligation if it has at least \$100,000 or at least 200 individual sales transactions in Vermont.

## **New York**

The New York Department of Taxation and Finance issued guidance addressing the sales tax obligations of marketplace providers. The guidance clarifies that a marketplace provider's sales tax collection requirement is limited to sales of tangible personal property—defined as also including sales of prewritten computer software downloaded or remotely accessed.

Further, a marketplace provider is not required to collect tax on rentals of passenger cars and sales of services, restaurant food, hotel occupancy, or admissions to a place of amusement.

The guidance provides additional information regarding other requirements of a marketplace provider and liability relief for both marketplace providers and sellers.

## **Tennessee**

The Department of Revenue issued a series of notices and "frequently asked questions" (FAQs) addressing the state and local sales and use tax obligations of remote sellers.

- Notice #19-04 provides that remote sellers exceeding the \$500,000 threshold "as of July 31, 2019 must register and begin collecting Tennessee sales and use tax by October 1, 2019."
- Notice #19-05 provides guidance on reporting local sales taxes.
- The FAQs provide some additional details on registration requirements and clarify that out-of-state dealers making only sales for resale will not be required to register with the Department.

Read a [June 2019 report](#) prepared by KPMG LLP

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