



# TaxNewsFlash

United States



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## KPMG report: States imposing tax collection obligations on remote sellers (Louisiana, Nevada, New Hampshire)

State lawmakers continue to enact legislation in response to the U.S. Supreme Court's decision in "*South Dakota v. Wayfair, Inc.*"

Some states are imposing the tax collection obligation on what they are terming "marketplace facilitators" or "marketplace providers."

### **Louisiana**

House Bill 547 was signed into law to clarify the authority of the Louisiana Sales and Use Tax Commission for Remote Sellers to require remote sellers to collect sales and use tax as a result of the *Wayfair* decision.

Because the Commission has yet to set a date on which remote sellers must start collecting, House Bill 547 requires the Commission to set an enforcement date of no later than July 1, 2020, and to publish a notice of enforcement no later than 30 days prior to the enforcement date.

House Bill 547 amends the definition of "remote seller" to mean "a seller who sells for sale at retail, use, consumption, distribution, or for storage to be used for consumption or distribution any taxable tangible personal property, products transferred electronically, or services for delivery within Louisiana, but does not have physical presence in Louisiana, and is not considered a dealer."

### **Nevada**

Assembly Bill 445 has been signed, and adopts economic nexus provisions that apply to marketplaces. The legislation provides that effective October 1, 2019, a marketplace facilitator is required to collect and remit sales and use tax if, during the current and previous calendar year, it has cumulative gross receipts exceeding \$100,000 or 200 or more separate retail sales transactions. The law also authorizes the Department of Taxation to adopt regulations imposing a collect-or-report obligation for referrers that exceed the economic nexus thresholds.

### **New Hampshire**

New Hampshire is one of five states with no sales and use tax. Senate Bill 242 (having been passed by both houses of the legislature) highlights the state's opposition to the *Wayfair* decision. If signed by the governor, Senate Bill 242 would prohibit other taxing jurisdictions from taking an action or imposing a sales tax collection obligation on New Hampshire sellers that lack a physical presence in that jurisdiction unless the taxing jurisdiction provides written notice to the New Hampshire Department of Justice 45 days prior to taking such action. The bill would also require New Hampshire sellers to notify the Department of Justice of any request from another taxing jurisdiction for private consumer information. The bill would allow New Hampshire remote sellers to comply with the other taxing jurisdiction's directive or request, if the seller finds it to be in its best interest.

The New Hampshire legislature believes this revised version of Senate Bill 242 will not have constitutional implications. The act would be effective immediately upon its passage.

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

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