



# TaxNewsFlash

United States



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## KPMG report: Sales tax collection requirements for remote sellers, marketplace facilitators (California, Connecticut, Maine, Utah)

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

States also have been imposing the tax collection obligation on what are being determined to be "marketplace facilitators" or "marketplace providers." To date, 33 states have enacted marketplace provisions, leaving only 12 states remaining that impose sales tax—Florida, Georgia, Kansas, Louisiana, Massachusetts, Michigan, Mississippi, Missouri, North Carolina, Ohio, Tennessee, and Wisconsin.

The legislatures in Massachusetts, Michigan, North Carolina, Ohio, and Wisconsin are currently considering marketplace legislation.

### California

Senate Bill 92 addresses certain issues related to marketplaces. The legislation revises the pre-existing provisions addressing newspapers, websites, and other entities that advertise tangible personal property for sale.

Under the revised law, newspapers, internet websites, and other entities that advertise tangible personal property for sale; refer purchasers to the seller by telephone, internet link, or other similar means to complete the sale; and do not participate further in the sale "are not facilitating a sale."

The legislation also allows certain delivery network companies (as defined) to elect to be treated as marketplace facilitators. Finally, the legislation limits liability for marketplace sellers that were engaged in business in California solely because they used a marketplace facilitator to make sales and the marketplace facilitator stored the seller's inventory in California. These sellers will be relieved of penalties associated with their failure to collect and remit sales and use tax for sales made from April 1, 2016, to March 31, 2019, if they register, file completed returns for all applicable tax periods, and pay all taxes due or apply for an installment agreement within 90 days of the effective date.

## Connecticut

The governor signed the state's budget bill (House Bill 7424) that, among other things, revises the economic thresholds for remote sellers by lowering the dollar threshold for establishing economic nexus from \$250,000 to \$100,000 in gross receipts. The additional 200 separate transactions threshold remains the same.

The new law also eliminates the requirement that a person must also "engage in the regular or systematic solicitation of sales of tangible personal property" to be considered a person required to collect and remit sales tax under the economic nexus provisions. These changes take effect on July 1, 2019.

## Maine

L.D. 1452 was signed into law, and adopts economic nexus provisions for marketplace facilitators. Effective October 1, 2019, a marketplace facilitator is required to collect and remit sales and use tax if, in the previous or current calendar year, it facilitates \$100,000 in gross sales or has at least 200 or more separate transactions of sales of tangible personal property or taxable services.

## Utah

The State Tax Commission issued an updated sales and use tax bulletin summarizing recently enacted marketplace provisions. The guidance provides that marketplace sellers are not required to register for a sales tax license for facilitated sales unless they otherwise have nexus in Utah. If the seller has nexus, it must file sales tax returns, but is not required to report sales made through a marketplace. Further, the guidance provides that purchasers incorrectly charged sales tax must seek a refund from the marketplace facilitator, rather than the seller.

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

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