



TaxNewsFlash

United States



No. 2019-444
September 9, 2019

KPMG report: Remote sellers and marketplace nexus guidance (updates from numerous states)

State taxing authorities continue to issue guidance for remote sellers and marketplace facilitators concerning recently enacted remote seller and marketplace nexus laws—generally enacted in response to the U.S. Supreme Court’s decision in “United States v. Wayfair, Inc.”

- Remote seller and marketplace laws in Arizona, California, Colorado, Massachusetts, Maryland, Maine, Nevada, North Dakota, Tennessee, Texas, and Utah are effective October 1, 2019.
- The Kansas Department of Revenue will begin enforcing sales tax collection requirements for remote sellers effective October 1, 2019.
- Tax authorities in Arizona, Arkansas, California, Iowa, Minnesota, Ohio, Oklahoma, and South Carolina have all issued guidance in the past few weeks.
- The tax authority in New Hampshire issued guidance with regard to the so-called “anti-Wayfair” law.

In addition to state reactions, localities are also responding to the *Wayfair* decision.

The City Council in Nome, Alaska (a city with a population of less than 5,000 people) adopted an ordinance in late August 2019 providing that a seller will be required to collect Nome local tax if it lacks a physical presence in the city, but in the current or previous calendar year, has gross revenue of \$100,000 or more and at least 100 separate transactions from sales of property, digital products or services delivered into the state. The ordinance extends the economic nexus provisions to marketplace facilitators and has an effective date of September 1, 2019 (the first day of the first calendar month following the date the ordinance was passed).

Arizona

The Department of Revenue created a website with resources and guidance on the new economic nexus standards for remote sellers and marketplace facilitators. Remote sellers and marketplace

facilitators can begin registering for “transaction privilege tax” today, September 9, 2019, in advance of the law becoming effective on October 1, 2019.

The Department also established an E-Commerce Compliance and Outreach (ECCO) team to answer questions about the licensing and registration process. In determining whether a remote seller or a marketplace facilitator meets the state’s economic nexus thresholds, remote sellers and marketplace facilitators are to account for income generated by affiliated entities, as well as their own sales. The guidance further provides that remote sellers and marketplace facilitators located outside the state are required to source sales based on the shipping address of the customer (or the billing address if the shipping address is not available). Conversely, a marketplace facilitator located in Arizona will source sales based on the marketplace facilitator’s location in Arizona if the order information is received in Arizona; otherwise, sourcing will be based on the customer’s address if the order information is received outside of Arizona.

Arkansas

A legal opinion (No. 20190501) issued by the Department of Finance and Administration Revenue Legal Counsel clarifies that the economic nexus thresholds that apply to remote sellers and marketplace facilitators are limited to taxable sales of goods, services or specified digital products. Thus, for purposes of determining whether the threshold has been exceeded, a remote seller or marketplace facilitator is not to consider exempt sales.

Iowa

The Department of Revenue adopted new regulations addressing the state’s economic nexus and marketplace law. The regulations provide that a marketplace seller is not deemed to sell products on a marketplace when merely advertising the products on the marketplace. Further, coupons and discounts offered by marketplace facilitators and remote sellers are “retailer’s discounts” that reduce the taxable amount of a sale. Finally, the regulations provide that marketplace facilitators can claim a credit for previously remitted sales taxes associated with items returned by customers when the refund is or may be issued by the marketplace facilitator or marketplace seller.

Ohio

The Department of Taxation launched a webpage for use by out-of-state sellers and marketplace facilitators. The webpage contains information on registration requirements for out-of-state sellers and marketplace facilitators. Although Ohio retains its origin-based sourcing rules for intrastate sales of tangible personal property, the Department reminded taxpayers that sales made by a marketplace facilitator will be sourced to “the location where the consumer receives the property or service that is sold.”

South Carolina

The Department of Revenue issued guidance (Rev. Rul. 2019-6) to address the sales and use tax obligations of marketplace facilitators. The revenue ruling states that “marketplace facilitators” can include brick and mortar retailers, online retailers, and online food delivery service companies. The ruling also includes examples of different marketplace transactions and addresses the sales and use tax responsibility of each party.

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

The information contained in TaxNewsFlash is not intended to be “written advice concerning one or more Federal tax matters” subject to the requirements of section 10.37(a)(2) of Treasury Department Circular 230, as the content of this document is issued for general informational purposes only, is intended to enhance the reader’s knowledge on the matters addressed

therein, and is not intended to be applied to any specific reader's particular set of facts. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. Applicability of the information to specific situations should be determined through consultation with your tax adviser.

KPMG International is a Swiss cooperative that serves as a coordinating entity for a network of independent member firms. KPMG International provides no audit or other client services. Such services are provided solely by member firms in their respective geographic areas. KPMG International and its member firms are legally distinct and separate entities. They are not and nothing contained herein shall be construed to place these entities in the relationship of parents, subsidiaries, agents, partners, or joint venturers. No member firm has any authority (actual, apparent, implied or otherwise) to obligate or bind KPMG International or any member firm in any manner whatsoever.

Direct comments, including requests for subscriptions, to [Washington National Tax](#). For more information, contact KPMG's Federal Tax Legislative and Regulatory Services Group at + 1 202.533.4366, 1801 K Street NW, Washington, DC 20006-1301.

To unsubscribe from TaxNewsFlash-United States, reply to [Washington National Tax](#).

[Privacy](#) | [Legal](#)