



TaxNewsFlash

United States



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KPMG report: Nexus, taxation of remote sales, marketplace facilitators (GA, NE, NC, WV)

More U.S. state and local governments continue to react in response to the U.S. Supreme Court's decision in "South Dakota v. Wayfair, Inc." and in particular with respect to sales tax obligations for remote sales and transactions involving marketplace facilitators.

Proposed legislation in various states

Bills have been introduced in Florida, Kansas, Missouri, Mississippi, and Tennessee that would adopt sales and use tax economic nexus and/or marketplace facilitator provisions.

In Arizona, a bill was introduced that would establish an e-commerce compliance office to assist Arizona taxpayers in complying with taxes levied by other jurisdictions.

Georgia

The governor signed [House Bill 276](#) [PDF 18 KB] that requires a marketplace facilitator to collect and remit sales and use tax, if in the previous or current calendar year it has retail sales (including facilitated sales) of at least \$100,000. The legislation is effective April 1, 2020.

Nebraska

The Department of Revenue issued an [information guide](#) [PDF 141 KB] addressing the taxation of prepared food and beverage delivery services. There is information for food and food delivery "app" and platform providers that are considered multi-vendor marketplace platforms (MMPs) (that is, those essentially involved in facilitating sales and facilitating collection from the customer).

If a customer orders and pays for food, beverages, and delivery through an MMP, the MMP is considered the retailer of the products and is responsible for collecting and remitting sales tax on the entire cost of the transaction—including the food and beverage as well as any delivery charge and service charge. In addition, if the locality where the restaurant is located levies a city occupation tax and the restaurant separately charges the customer for that tax, the occupation tax is included in the

sales tax base, and the MMP is responsible for collecting and remitting that occupation tax to the local jurisdiction.

North Carolina

The Department of Revenue issued a [directive](#) [PDF 225 KB] addressing the obligations of marketplace facilitators. The directive clarifies that a marketplace facilitator is required to collect and remit motor vehicle lease and subscription tax, scrap tire disposal tax, white goods disposal tax, dry-cleaning solvent tax, and the 911 service charge for prepaid wireless telecommunications service (as applicable). The directive further provides that a marketplace facilitator must collect and remit local sales and use tax. Finally, the directive includes a list of “frequently asked questions” (FAQs) that address a number of issues including the economic nexus threshold computation, filing frequency, and reporting procedures.

West Virginia

The Department of Revenue issued [guidance](#) [PDF 138 KB] addressing the sales tax obligations of marketplace facilitators. The guidance clarifies that a marketplace facilitator, referrer, and remote seller must collect the state sales and service tax, state use tax, and the municipal sales and use tax. The guidance further provides that a marketplace facilitator or referrer is deemed an agent of a marketplace seller.

Read a [February 2020 report](#) prepared by KPMG LLP

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