



Shishir Lagu
Partner- US Taxation

US STATE TAX ALERT

AUGUST 2018

"ECONOMIC NEXUS IN SALES TAX- DO YOU NEED TO REVISIT YOUR SALES TAX NEXUS ANALYSIS?"

In wake of the Supreme court's Wayfair decision, the states have started issuing guidance on their approach to economic nexus rules.

The US Supreme Court on June 21, 2018 delivered a judgement in Wayfair case overturning the 1992 Quill Corporation decision. It held that the states can compel out-of-state retailers to collect sales taxes even if they don't have a physical presence in the state. For our detailed analysis of this case, refer our previous newsletter at http://knavcpa.com/documents/top-reads/us/US%20_Tax%20News.pdf

The Wayfair decision strengthens the case for lot of states which have already enacted laws moving away from physical nexus. This decision will help states in certain ongoing cases against it for enacting economic nexus. Certain states had issued regulations providing for economic nexus norms, but the provisions were to become effective only upon overturning of Quill Corporation decision, which happened on account of Wayfair decision. And of course, the states that have hitherto not addressed the issue beyond physical nexus standard, will now be seen on enacting laws to effect the shift.



We have tabulated below the guidance released by some states on this matter along with relevant links for detailed state wise guidance:

STATE	TAX IMPLICATIONS
Alabama	<p>The Department of Revenue’s existing “economic nexus” 810-6-2-.90.03 will be applied prospectively for sales made on or after October 1, 2018.</p> <p>Alabama marketplace sales in excess of \$250,000 to collect tax on sales made by or on behalf of its third-party sellers or to comply with reporting and customer notification requirements. The Act mandates compliance with reporting or remitting requirements on or before January 1, 2019.</p> <p>https://revenue.alabama.gov/2018/07/03/ador-announces-sales-and-use-tax-guidance-for-online-sellers/</p>
Hawaii	<p>Hawaii’s economic nexus laws are effective July 1, 2018 and are applicable to tax years beginning after Dec. 31, 2017.</p> <p>The Economic Nexus Threshold are as follows:</p> <p>(1) The person has gross income of \$100,000 or more from the sale of tangible personal property delivered in the State, services used or consumed in the State, or intangible property used in the State; or</p> <p>(2) The person has entered into 200 or more separate transactions involving tangible personal property delivered in the State, services used or consumed in the State, or intangible property used in the State.</p> <p>However, Hawaii will not retroactively administer its provisions for the Jan. 1, 2018, to June 30, 2018, period for taxpayers who lacked a physical presence in the state, even if those taxpayers satisfied Hawaii’s economic presence provisions for 2017 or 2018.</p> <p>http://files.hawaii.gov/tax/news/announce/ann18-10_amended.pdf</p>
Idaho	<p>The new law provides that a retailer selling tangible personal property to Idaho customers is generally presumed to be engaged in business in Idaho if the out-of-state retailer generates annual sales of \$10,000 or more through certain Idaho persons. The new law is effective July 1, 2018.</p> <p>Out-of-state retail merchants with annual gross revenues from Indiana sales exceeding \$100,000, or 200 or more separate Indiana transactions will need to register and remit Indiana sales tax.</p> <p>https://content.govdelivery.com/accounts/INDOR/bulletins/201d096</p>
Iowa	<p>Collection requirements of S.F. 2417 take effect Jan. 1, 2019.</p> <p>Iowa includes an exception for small sellers, which will require only retailers to collect Iowa sales tax if the retailer sells \$100,000 or more in products and/or services or makes 200 or more separate sales transactions.</p> <p>https://www.legis.iowa.gov/legislation/BillBook?ba=SF2417&ga=87</p>
Kentucky	<p>The nexus standards that Kentucky adopted in HB 487 are effective July 1, 2018.</p> <p>The legislation also requires remote retailers with 200 or more sales into the state or \$100,000 or more in gross receipts from sales into the state to register and collect Kentucky sales and use tax.</p> <p>Registrations should be completed with sales and use tax collections beginning by October 1, 2018.</p> <p>https://revenue.ky.gov/News/Pages/Kentucky-Sales-and-Use-Tax-Collections-by-Remote-Retailers-U.S.-Supreme-Court-Ruling.aspx</p>

STATE	TAX IMPLICATIONS
Massachusetts	<p>An Internet vendor with a principal place of business located outside the state that is not otherwise subject to tax is required to register, collect and remit Massachusetts sales or use tax with respect to its Massachusetts sales as follows:</p> <p>(a) For the period beginning October 1, 2017 through December 31, 2017, if during the preceding 12 months, October 1, 2016 to September 30, 2017, it had in excess of \$500,000 in Massachusetts sales from transactions completed over the Internet and made sales resulting in a delivery into Massachusetts in 100 or more transactions.</p> <p>(b) For each calendar year beginning with 2018, if during the preceding calendar year it had in excess of \$500,000 in Massachusetts sales from transactions completed over the Internet and made sales resulting in a delivery into Massachusetts in 100 or more transactions.</p> <p>https://www.mass.gov/regulations/830-CMR-64h17-vendors-making-internet-sales</p>
Minnesota	<p>Minnesota will require remote sellers and Marketplace Providers facilitating sales into Minnesota to collect sales tax no later than October 1, 2018.</p> <p>Minnesota has a Small Seller Exception, which does not require remote sellers to collect sales tax until their sales during a period of 12 consecutive months total either:</p> <ul style="list-style-type: none"> • 100 or more retail sales shipped to Minnesota • 10 or more retail sales shipped to Minnesota that total more than \$100,000 <p>http://www.revenue.state.mn.us/newsroom/Documents/20180725%20Wayfair%20Update.pdf</p>
Mississippi	<p>Mississippi already followed economic nexus with effect from December 1, 2017 which required collecting tax from remote sellers.</p> <p>Mississippi requires any out-of state seller lacking physical presence and who has sales greater than \$250,000 for the prior 12 month period must register and collect the tax from its Mississippi customers.</p> <p>http://www.dor.ms.gov/Press%20Releases/Wayfair%20NEW.pdf</p>
Michigan	<p>The Department of Treasury announced that, consistent with the Wayfair decision, and effective from Oct. 1, remote sellers with sales exceeding \$100,000 or more than 200 transactions with Michigan purchasers in the previous calendar year will be required to collect and remit tax.</p> <p>https://www.michigan.gov/documents/treasury/RAB_208-16_629240_7.pdf</p>
Nebraska	<p>Remote sellers must obtain a sales tax permit on or before Jan. 1, 2019 and must begin collecting and remitting sales tax on sales made to customers in Nebraska. The amendment would become effective Oct. 1, 2018.</p> <p>http://www.revenue.nebraska.gov/news_rel/jul_18/wayfair.pdf</p>
New Jersey	<p>Proposed bill would set an economic nexus threshold for sellers without physical presence in N.J. at \$100,000 or 200 transactions. The amendment would be effective from July 1, 2018.</p> <p>http://www.njleg.state.nj.us/2018/Bills/A4500/4261_11.HTM</p>

STATE	TAX IMPLICATIONS
North Dakota	<p>North Dakota’s economic nexus provisions were contingent on overturning Quill and became effective immediately upon release of the Wayfair decision. North Dakota will require sellers to collect and remit sales taxes beginning Oct. 1, 2018 or 60 days.</p> <p>North Dakota law includes an exception for small sellers, which will require sales tax collection by remote sellers only if their sales into the state meet one of the following criteria in the current or previous calendar year:</p> <ul style="list-style-type: none"> • Taxable sales shipped to North Dakota meet or exceed \$100,000 OR • Taxable sales shipped to North Dakota meet or exceed 200 separate transactions. <p>https://www.nd.gov/tax/remoteseller</p>
North Carolina	<p>The Department requires all remote sellers having gross sales in excess of \$100,000 sourced to North Carolina or 200 or more separate transactions sourced to North Carolina in the previous or current calendar year to register, collect, and remit sales and use tax to this State effective November 1, 2018 or 60 days after a remote seller meets the Threshold, whichever is later.</p> <p>https://files.nc.gov/ncdor/documents/files/sd-18-6_0.pdf</p>
Oklahoma	<p>Oklahoma already followed economic nexus with effect from July 1,2018 and on or before June 1 of each calendar year thereafter, beginning June 1, 2019.</p> <p>Remote sellers, marketplace facilitators, and referrers who make sales of taxable tangible personal property delivered into Oklahoma worth at least \$10,000 within a 12-month period must file an election by July 1, 2018, to either begin collecting and remitting Oklahoma’s sales tax or to comply with notification and reporting requirement.</p> <p>http://webserver1.lsb.state.ok.us/cf_pdf/2017-18%20ENR/hB/HB1019XX%20ENR.PDF</p>
Pennsylvania	<p>Pennsylvania already followed economic nexus with effect from March 1,2018.</p> <p>Remote sellers, marketplace facilitators, and referrers who make sales of taxable tangible personal property into the state totalling \$10,000 or more are required to file an election by March 1, 2018,</p> <ul style="list-style-type: none"> • to either begin collecting Pennsylvania’s sales and use tax by April 1, 2018, or • to comply with notification and reporting requirements. <p>https://www.revenue.pa.gov/GeneralTaxInformation/Tax%20Types%20and%20Information/SUT/MarketPlaceSales/Pages/Remote-Sellers.aspx</p>
Rhode Island	<p>The Department requires all remote sellers having \$100,000 in gross revenue from the sale of taxable goods/services delivered in Rhode Island; or 200 or more transactions of taxable goods/ services delivered in Rhode Island to register, collect, and remit sales and use tax to this State effective July 15, 2018 or two weeks after a remote seller meets the threshold, whichever is later.</p> <p>http://www.tax.ri.gov/notice/Notice%202017-09%20--%20Noncollecting%20Retailer%20Advisory%20--%2008-04-17.pdf</p>
Utah	<p>Economic nexus thresholds of \$100,000 in sales or 200 or more transactions and require remote sellers to begin collecting and remitting sales taxes beginning Jan. 1, 2019.</p> <p>https://le.utah.gov/~2018S2/bills/static/SB2001.html</p>

STATE	TAX IMPLICATIONS
Vermont	<p>Certain out-of-state vendors are now required to register with the State of Vermont and collect and remit sales tax beginning July 1, 2018.</p> <p>An out-of-state vendor making sales into the State must register and collect sales tax if they made sales of at least \$100,000 or 200 individual transactions during any preceding twelve -month period.</p> <p>http://tax.vermont.gov/business-and-corp/sales-and-use-tax/sales-and-use/wayfair</p>
Washington	<p>Beginning October 1, 2018, remote businesses making either \$100,000 or more in sales to or 200 transactions with Washington purchasers must register their business and collect/submit retail sales/use tax on those sales.</p> <p>https://dor.wa.gov/find-taxes-rates/retail-sales-tax/marketplace-fairness-leveling-playing-field</p>
Wisconsin	<p>Wisconsin will begin its enforcement on October 1, 2018.</p> <p>New standards to enforce sales tax laws on remote sellers will be developed in the rule, consistent with Wayfair, which approved a small seller exception for remote sellers who do not have annual sales of products and services into the state of more than \$100,000 or 200 or more separate transactions.</p> <p>https://dor.wa.gov/find-taxes-rates/retail-sales-tax/marketplace-fairness-leveling-playing-field</p>

Disclaimer: This publication contains general information only, and none of KNAV International Limited, its member firms, or their related entities (collectively, the 'KNAV Association') is, by means of this publication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser. No entity in the KNAV Association shall be responsible for any loss whatsoever sustained by any person who relies on this publication.



KNAV refers to one or more member firms of KNAV International Limited ('KNAV International'); which itself is a not-for-profit, non-practising, non-trading corporation incorporated in Georgia, USA. KNAV International is a charter umbrella organization that does not provide services to clients. Each firm within KNAV's association of member firms, is a legally separate and independent entity. Services of audit, tax, valuation, risk and business advisory are delivered by KNAV's independent member firms in their respective global jurisdictions.

All member firms of KNAV International in India, North America and UK are a part of the US\$ 2.01 billion, US headquartered Allinial Global; which is an accounting firm association, that provides a broad array of resources and support for its member firms, across the globe.

For expert assistance, please contact **Shishir Lagu** at: shishir.lagu@knavcpa.com or +91 98190 13046

Visit us at: www.knavcpa.com