



TaxNewsFlash

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States respond to U.S. Supreme Court's decision in "Wayfair" case

A number of states have issued guidance, press releases or introduced bills in response to last week's decision of the U.S. Supreme Court in *South Dakota v. Wayfair, Inc.*

In *Wayfair*, the Court overruled the physical presence nexus standard of *Quill* and *National Bellas Hess*.

North Dakota

The North Dakota Department of Revenue announced that remote sellers are now required to collect North Dakota sales and use tax under a law passed in 2017 that, similar to South Dakota's law, requires remote sellers to collect North Dakota sales and use tax if the seller's sales into the state exceed \$100,000 or if the seller has 200 or more sales shipped to North Dakota. A new [webpage](#) has been created to provide resources for taxpayers to register and apply for a North Dakota sales and use tax permit. The North Dakota tax commissioner announced that over the next few weeks, the tax office "will be working to implement this new law change." The website indicates that it is a "work in progress" with information to be added as it is available.

Minnesota

The Minnesota Department of Revenue released a [statement](#) [PDF 187 KB] confirming that it is analyzing the Supreme Court's decision to identify how it affects the state, online retailers, remote sellers, and marketplace providers. According to the statement, the Department of Revenue "will work with our customers to ensure fair, efficient, and transparent implementation of this decision." The Department of Revenue indicated that it will provide additional guidance within 30 days.

Louisiana

The Louisiana Department of Revenue issued a [statement](#) noting that Louisiana's nexus provisions are similar to those in South Dakota—that is, a threshold of \$100,000 of Louisiana sales or 200 or more separate transactions for delivery into Louisiana. In its statement, the Department of Revenue noted that because the U.S. Supreme Court remanded *Wayfair*, it will be some time before there is a final decision and the full impact of the decision is known. Under current law, Louisiana's sales and use tax collection requirements apply to all tax periods beginning on or after the date of a U.S. Supreme Court's decision in *Wayfair* concluding that South Dakota's economic nexus rules are constitutional.

Legislation ([Senate Bill 1](#)) was quickly introduced in the Louisiana Senate that, if passed, would change the effective date of Louisiana's economic nexus rules to "all taxable periods beginning on or after August 1, 2018."

New Jersey

In each house of the New Jersey legislature, bills ([Assembly Bill 4261](#) and [Senate Bill 2974](#)) were introduced to adopt an economic nexus law identical to that under South Dakota law. The collection obligation would begin the first day of a calendar quarter 90 days following enactment.

Mississippi

The Mississippi Department of Revenue issued a [statement](#) [PDF 214 KB] that:

The effect of the U. S. Supreme Court's decision is that all out-of-state sellers who lack physical presence in [Mississippi] must now collect tax on sales to [Mississippi] residents. 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.

Maryland

The comptroller posted a statement on social media urging the U.S. Congress to adopt the Marketplace Fairness Act, and stating that his office was:

...now in the process of reviewing the details of the Supreme Court's decision, and ...will be communicating with businesses and taxpayers as quickly as possible with information regarding implementation and compliance with the Court's guidance.

West Virginia

The governor issued a [press release](#) following the Supreme Court's decision:

When I took office and our state was struggling financially, at that desperate time, I might have considered supporting legislation to enforce West Virginia sales tax on out-of-state transactions. However, now I do not support adding additional taxes

on our people in this manner. This is an issue for the Legislature, and legislation would have to be passed to authorize the state to enforce the collection of out-of-state sales taxes. With our state's growing economy, I don't want to reach into West Virginians' pockets when we don't need to.

Read a [June 2018 report](#) prepared by KPMG LLP

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