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

States continue to issue statements or guidance or otherwise respond to the U.S. Supreme Court's decision in "South Dakota v. Wayfair, Inc."

In *Wayfair*, the Supreme Court overruled the physical presence nexus standard of *Quill* and *National Bellas Hess* with respect to state and local taxation of remote sales. Soon after the Supreme Court issued its decision in *Wayfair*, various states issued guidance, press releases or introduced bills in response to the decision in the *Wayfair* case. Read [TaxNewsFlash](#)

More states have now responded to the Court's decision.

Hawaii

The Hawaii Department of Taxation on June 27, 2018, announced how it plans to implement the state's recently enacted "general excise tax" (GET) economic nexus provisions. This law has an effective date of July 1, 2018, and applies to tax years beginning after December 31, 2017.

The Department announced that it will enforce the GET provisions beginning January 1, 2018, but will allow "qualifying taxpayers" to pay GET due from January to June 2018 without penalty or interest. The announcement provides details on how "qualifying taxpayers" can pay the tax on "catchup income."

Idaho

The State Tax Commission issued a [release](#) stating that it was "...still studying how the decision affects out-of-state retailers, such as online sellers, that make sales to Idaho citizens" and that it is "closely watching any actions by the U.S. Congress on this issue."

The Tax Commission also stated that it will implement a new law (House Bill 578) that requires out-of-state retailers to collect Idaho sales tax on their sales to Idaho customers when: (1) the out-of-state seller has an agreement with an Idaho retailer to refer potential buyers to the out-of-state seller for a commission; and (2) the total sales to the Idaho buyers exceeded \$10,000 in the previous year. The law is effective July 1, 2018. Any out-of-state retailer that is required or wants to collect the state sales tax for its Idaho customers can register online.

Iowa

The Iowa Department of Revenue issued a statement simply confirming that the state's recently enacted economic provisions (substantially similar to those of South Dakota) are effective January 1, 2019.

The Iowa Department of Revenue noted that “the *Wayfair* ruling does not change the effective date of Senate File (SF) 2417 and the Iowa Department of Revenue will not seek to impose sales tax liability for periods prior to January 1, 2019 for retailers whose only obligation to collect Iowa sales tax comes from these new laws.”

If a retailer should have collected Iowa sales tax under the traditional physical presence rule of Quill Corp. v. North Dakota and Iowa law that existed prior to SF 2417, those retailers are encouraged to participate in Iowa's voluntary disclosure program.

Massachusetts

The Massachusetts Department of Revenue issued a statement that the existing regulation as applicable to vendors making sales via the internet “continues to apply and is not impacted by the Supreme Court's decision.”

Under the regulation, remote sellers that (1) have the requisite “in-state physical presence” (generally defined with references to having “apps” and “cookies” in Massachusetts or having relationships with in-state content distribution networks, and (2) meet a specific sales threshold of more than \$500,000 in Massachusetts sales from transactions completed over the internet and delivery into Massachusetts of 100 or more transactions, are required to collect and remit Massachusetts sales and use tax.

North Dakota

The Office of State Tax Commissioner issued an [update](#) noting that sellers can be required to collect sales taxes in states where the sellers do not have physical presence, and that North Dakota law requires remote sellers to collect North Dakota sales and use tax on their sales into the state.

If you do not meet the Small Seller Exception ...and you are not already registered and collecting North Dakota sales tax, you will need to be registered

and begin collecting the tax in North Dakota on October 1, 2018, or 60 days after you meet the Small Seller Exception threshold, whichever is later.

Rhode Island

The Rhode Island Department of Revenue, Division of Taxation, issued a statement noting that the “U.S. Supreme Court decision means that a state can require a retailer to collect and remit the state’s sales tax—including online retailers that have no physical presence in the state.”

Under a Rhode Island law enacted in 2017, any non-collecting retailer that has in the immediately preceding calendar year (1) over \$100,000 of taxable sales of tangible personal property, prewritten computer software, or taxable services delivered into Rhode Island, or (2) over 200 of such sales transactions must comply with certain use tax reporting requirements or register to collect and remit sales and use tax. The recently issued statement reminds taxpayers of this obligation and confirms that for non-collecting retailers, the choice to either collect or report is still available. There are five reporting requirements that apply to a non-collecting retailer. Read a [KPMG report](#)

Texas

The Texas Comptroller issued a statement noting that “under its existing legal authority, the Comptroller's office has started reviewing rules that may need updating.”

The Comptroller stressed, however, that this would not include any retroactive application of the new law to remote sellers that have no physical presence in Texas. According to the Comptroller’s release, “the Texas Legislature [is expected] to play an important role in addressing key issues when they return in January 2019.”

Vermont

The Vermont Department of Taxes issued a statement explaining that remote sellers meeting the state’s economic nexus thresholds of sales of at least \$100,000 or 200 individual transactions during any preceding 12-month period are required to register to collect and remit sales tax beginning July 1, 2018.

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

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