

# State positions post-Wayfair

Effective January 22, 2019

State	Has state indicated a position on retroactive application of Wayfair?	Authority/State Guidance	Does state have economic nexus statute or regulation in place	If yes, effective date	If yes, is there a sales or transaction threshold?	Citation	Notes
Alabama	Y	Department of Revenue (DOR) intends to require compliance with the regulation beginning 10/1/2018	Y	1/1/2016; enforcement began 10/1/2018	\$250,000 in previous calendar year, and meets state "doing business" threshold (Ala. Code §40-23-68)	Ala. Reg. §810-6-2-.90.03	Guidance memo published 7/3/2018 stating enforcement as of 10/1/2018; remote sellers with annual Alabama sales in excess of the rule's \$250,000 small seller exception should register for the Alabama Simplified Sellers Use Tax Program and begin collecting no later than 10/1/2018. See <a href="https://revenue.alabama.gov/2018/07/03/ador-announces-sales-and-use-tax-guidance-for-online-sellers/">https://revenue.alabama.gov/2018/07/03/ador-announces-sales-and-use-tax-guidance-for-online-sellers/</a>
Alaska	N/A						
Arizona	N	X	N	X	X	X	The Arizona Department of Revenue is continuing to analyze the Supreme Court decision and will proceed with any public guidance after it has completed its review of the ruling's implications for Arizona. No time frame on when the analysis will be completed, DOR spokesman Ed Greenberg told Bloomberg Tax.
Arkansas	N	X	N	X	X	X	State suggests registration. HB 1002, pre-filed on 11/15/2018, would apply a \$100,000 or 200 transaction threshold, with no retroactive applicability, effective the first day of the calendar quarter following the effective date of the legislation.
California	Y	California Department of Tax and Fee Administration (CDTFA) Wayfair Stakeholders' Meeting, 10/24/2018; Special Notice: New Use Tax Collection Requirements for Out-of-State Retailers Based on Sales into California Effective April 1, 2019 (December 2018)	y	4/1/2019	\$100,000 or 200 transactions in previous or current calendar year	Special Notice: New Use Tax Collection Requirements for Out-of-State Retailers Based on Sales into California Effective April 1, 2019 (12/2018)	On 12/11/2018, the CDTFA announced that, beginning 4/1/2019, out-of-state retailers that, during the preceding or current calendar year, made sales for delivery into California exceeding \$100,000 or in 200 or more separate transactions will be required to collect and remit use tax on their California sourced taxable transactions. The same thresholds will apply for local (district) tax purposes as well. The CDTFA will not seek retroactive application of <i>Wayfair</i> (i.e., collection obligation would apply only prospectively to sales made after the date of adoption). On 12/14/2018, the California Legislature introduced AB 147, which would make changes to the requirements announced by the CDTFA. Major provisions in the bill would raise the threshold to \$500,000, which also would apply to the collection of transactions and use taxes for in-state retailers that sell into other in-state taxing jurisdictions. The bill would expand the definition of retailers to include marketplaces that list or advertise tangible personal property for sale by third-party sellers and collect payments for these sales on their behalf. AB 147 contains an urgency clause, meaning it will require approval by a two-thirds vote and will take effect immediately if enacted.
Colorado	Y	Emergency Reg. §39-26-105(4)	Y	12/1/2018	\$100,000 or 200 transactions in previous or current calendar year	Emergency Reg. §39-26-105(4)	Remote sellers meeting the sales threshold must register for sales and use tax purposes between 11/1/2018 and 11/30/2018, and begin collecting tax on sales beginning on 12/1/2018. Existing notice and reporting requirements should continue to apply to remote sellers that do not meet the threshold.
Connecticut	Y	Conn. Gen. Stat. §12-407(a)(15) enacted by 2018 SB 417	Y	12/1/2018	200 transactions with Connecticut customers <i>and</i> \$250,000 in receipts (both Connecticut and non-Connecticut based) during 12 months ending 9/20/18, and regularly solicits business in the state via the internet or otherwise	Conn. Gen. Stat. §12-407(a)(15) enacted by 2018 SB 417	Based on conversations with the Department of Revenue Services (DRS), the state seems to understand that the prior threshold of 100 transactions with no minimum gross receipts amount is vulnerable to a Commerce Clause challenge, which is why it recommended to the legislature to amend the existing law to conform to South Dakota's law. However, the DRS has not gone as far as saying that it believes the current law to be unenforceable. Therefore, there is risk that Connecticut will assess tax on taxpayers that have over 100 sales transactions into Connecticut for the period between the <i>Wayfair</i> decision and 12/1/2018 (the effective date of the amended statute). Further, based on EY Desk discussions with DRS, it has not foreclosed its ability to assert a filing requirement for periods prior to <i>Wayfair</i> , based on the current statute. For clients that do not have physical presence and that are concerned with retroactive application, closing agreements may effectively protect against historical assessments in exchange for registration and prospective-only compliance. This could be a favorable option for many taxpayers to eliminate potential Accounting Standards Codification (ASC) 450, <i>Contingencies</i> , liabilities.
Delaware	N/A						

State	Has state indicated a position on retroactive application of Wayfair?	Authority/State Guidance	Does state have economic nexus statute or regulation in place	If yes, effective date	If yes, is there a sales or transaction threshold?	Citation	Notes
<b>Dist of Columbia</b>	Y	Internet Sales Tax Emergency Amendment Act of 2018 (approved 12/31/2018 as D.C. Bill 22-1070)	Y	Emergency regulation effective 1/1/2019 for 90 days (until 3/31/2019)	\$100,000 or 200 transactions in previous or current calendar year	B22-0914 (introduced 7/9/2018, passed 12/4/2018); Internet Sales Tax Emergency Amendment Act of 2018 (approved 12/31/2018 as D.C. Bill 22-1070)	Bill passed on 12/4/2018 subject to Congressional review. Emergency regulation effective 1/1/2019 through 3/31/2019.
<b>Florida</b>	N	X	N	X	X	X	The Florida Department of Revenue (FDOR) is unlikely to send out notices or publish anything official in the immediate future, as they wait to see how the Governor/Legislature want to handle compliance. While there are statutes regarding collection in place, in practice, FDOR has informally stated in the past that certain provisions (such as the affiliate basis for nexus) were not enforceable absent other indicators of true physical presence. FDOR has historically not been aggressive on nexus enforcement. The rulings issued by the state have been very conservative and have held to a hardline physical presence standard. Further, there are no published thresholds. The expectation is that the FDOR will publish guidance or otherwise clarify its position before making any moves toward collection or enforcement on remote sellers.
<b>Georgia</b>	Y	2018 HB 61	Y	1/1/2019	\$250,000 or 200 transactions in previous or current calendar year	Ga. Code §§48-8-2(8) (M.1), (M.2), -30 enacted by 2018 HB 61	While not an explicit grace period, Georgia's economic nexus provision doesn't go into effect until 2019. Therefore, taxpayers will likely have no obligation from 6/21/2018 through 12/31/2018.
<b>Hawaii</b>	Y	Announcement No. 2018-10, Haw. Dept. of Tax. Revised (7/10/2018)	Y	7/1/2018	\$100,000 or 200 transactions in previous or current calendar year	2018 SB 2514	Hawaii had published guidance explaining that Act 41 became effective on 7/1/2018, but applies to taxable years beginning after 12/31/2017. On July 10, 2018, the Department reissued Announcement 2018-10, stating that it would not retroactively administer the economic nexus provision (Act 41), which is effective as of 7/1/2018.
<b>Idaho</b>	N	X	N	X	X	X	Idaho suggests that remote sellers register, but has not provided any specific thresholds. The Idaho State Tax Commission has stated that it is monitoring the developments post <i>Wayfair</i> and will implement H.B. 578 (the state's "click-through" statute), which went into effect on 7/1/2018. See Notice: New Presumption Applied to Definition of a Retailer Engaged in Business in this State (8/6/2018). On 7/18/2018, the Commission introduced a proposed regulation that would define a "retailer" to include out-of-state sellers, with no sales threshold.
<b>Illinois</b>	Y	Effective date of 2018 HB 3342 (Illinois PA 100-0587)	Y	10/1/2018	\$100,000 or 200 transactions in previous or current calendar year	35 ILCS §§105/2, 110/2; Ill. Admin. Code §150.803	Emergency regulation (Ill. Admin. Code §150.803) adopted 9/11/2018 explains application of <i>Wayfair</i> decision and timing for determination of new nexus standard under 35 ILCS §105/2. The Illinois Department of Revenue issued further guidance on 11/1/2018. See Ill. Dep't of Revenue, Remote Seller Nexus ( <i>Wayfair</i> ), 11/1/18.
<b>Indiana</b>	Y	Indiana Revenue Tax Bulletin (7/27/2018)	Y	7/1/2017; enforcement began 10/1/2018	\$100,000 or 200 transactions in previous or current calendar year	Ind. Code §6-2.5-2-1(c) enacted by 2017 HB 1129	Until 8/27/2018, the Indiana Department of Revenue had been prohibited from enforcing the obligation to collect sales tax from remote sellers pending the outcome of a challenge brought by American Catalog Mailers Association and NetChoice. On 8/27/2018, the Indiana Superior Court for Marion County issued an order granting a joint motion to voluntarily dismiss the complaint. On 8/31/2018, the Department confirmed a 10/1/2018 effective date. See Indiana Revenue Tax Bulletins (7/27/2018 and 8/31/2018). However, the Department reminded merchants that they may voluntarily register to collect and remit sales tax before the effective date. (See Indiana DOR: <i>South Dakota v. Wayfair, Inc.</i> , 07/02/2018).
<b>Iowa</b>	Y	Iowa Department of Revenue (IA DOR) website: <a href="https://tax.iowa.gov/south-dakota-v-wayfair">https://tax.iowa.gov/south-dakota-v-wayfair</a>	Y	1/1/2019	\$100,000 or 200 transactions in previous or current calendar year, and has electronic/software/cookie presence in state or uses an in-state sales facilitator	Iowa Code §423.14A enacted by 2018 SF 2417	The Iowa Department of Revenue (IA DOR) indicated on its website that the state's new sales and use tax nexus provisions (i.e., economic nexus, marketplace provider, cookie nexus) enacted by the Legislature in 5/2018 apply prospectively beginning 1/1/2019, and that the ruling in <i>Wayfair</i> does not change the effective date of this legislation. The IA DOR clarified that it "will not seek to impose sales tax liability for periods prior to 1/1/2019 for retailers and marketplaces whose only obligation to collect Iowa sales tax comes from these new laws."
<b>Kansas</b>	N	X	N	X	X	X	Although Kansas does not have an economic nexus provision, it does have a very well defined "doing business" statute and regulation, which include "solicitation of orders via catalogs or other media" as activities creating nexus with the state of Kansas. Kan. Stat. Ann. §79-3702(h)(1) ; Kan. Admin. Regs. §92-20-7(a). The state also has adopted by regulation anti- <i>Bellas Hess</i> laws, which list "solicitation of orders via catalogs or other media" as nexus creating activities. Kan. Admin. Regs. §92-20-7(a).
<b>Kentucky</b>	Y	X	Y	7/1/2018; enforcement began 10/1/2018	\$100,000 or 200 transactions in previous or current calendar year	2018 HB 366; 2018HB487	Kentucky published additional guidance on 6/27/2018 indicating that the nexus standards that Kentucky adopted in H.B. 487 have the same thresholds at issue in the <i>Wayfair</i> case. The news release explains that remote sellers who are required to register for sales and use tax collections in Kentucky may go through the Governing Board's central registration system to register in all 24 streamlined member states. Kentucky Department of Revenue, News Release (6/27/2018). On 7/30/2018, the Department announced that while HB 487 has an effective date of 7/1/2018, remote sellers that meet the transaction or receipt thresholds should prepare to begin the registration process for collection of Kentucky sales and use tax on a prospective basis, and that registrations should be completed with sales and use tax collections beginning by 10/1/2018.

State	Has state indicated a position on retroactive application of Wayfair?	Authority/State Guidance	Does state have economic nexus statute or regulation in place	If yes, effective date	If yes, is there a sales or transaction threshold?	Citation	Notes
Louisiana	Y	Remote Sellers Information Bulletin No. 18-001 (Louisiana Department of Revenue 8/10/2018)	Y	1/1/2019	\$100,000 or 200 transactions in previous or current calendar year	2018 HB 17, codified as LA R.S. 47:301(4)	Louisiana enacted a provision that mimics South Dakota law during special session, with an effective date contingent on the outcome of <i>Wayfair</i> . On 8/10/2018, the Department issued Bulletin No. 18-001, which provided an analysis of the <i>Wayfair</i> decision and gave a 1/1/2019 effective date for the state's new definition of "dealer" required to register and collect the tax.
Maine	Y	2017 LD 1405 (36 MRSA §1951-B.7); Maine Tax Alert v. 28, issue 6: Maine Revenue Services Issues Guidance for Remote Sellers (8/2018)	Y	10/1/2017; enforcement began 7/1/2018	\$100,000 or 200 transactions in previous or current calendar year	36 MRSA §1951-B enacted by 2017 LD 1405	Maine Revenue Services announced that 36 MRSA 1851-B will be enforced for sales occurring on or after 7/1/2018, which is the first monthly filing period after the date of the <i>Wayfair</i> decision, and urges every seller that is subject to section 1951-B and has not already done so to immediately register as a Maine retailer and begin collecting and remitting Maine sales and use tax. Any remote seller that, on or after 7/1/2018 met or meets one, or both, of the nexus thresholds established by section 1951-B, but did not register as a retailer, is subject to assessment for any uncollected or unremitted Maine sales and use taxes.
Maryland	Y	Emergency Regulation No. 18-214 (8/29/2018); Tax Alert Regarding the United States Supreme Court Decision in <i>South Dakota v. Wayfair</i> and its Implications for Sales Tax Nexus (Md. Comptroller 9/20/2018)	Y	10/1/2018; emergency regulation valid through 3/30/2019 only	\$100,000 or 200 transactions in previous or current calendar year	Emergency/Proposed Regulation DLS Control No. 18-214 Comptroller of the Treasury: Sales and Use Tax: Sales and Use Tax: COMAR 03.06.01.33 (approved 8/29/2018)	The Maryland Comptroller has stated that, "pursuant to Maryland law, the Comptroller's Office shall impose sales tax collection requirements as broadly as is permitted under the United States Constitution." On 8/2/2018, the Comptroller issued proposed regulations that would apply to remote sellers with \$100,000 in sales or 200 transactions in the previous or current calendar year. On 8/29/2018, the Joint Committee on Administrative, Executive and Legislative Review approved Emergency Regulation No. 18-214, which is effective 10/1/2018 through 3/30/2018, and applies the same transaction thresholds as South Dakota's law. Permanent legislation defining nexus for sales and use tax collection purposes is expected.
Massachusetts	Y	Mass DOR News Release: U.S. Supreme Court Releases Decision on <i>Wayfair</i> Online Sales Tax Case - regulation 830 CMR 64H.1.7 Remains in Effect (6/22/18)	Y	10/1/2017	\$500,000 and 100 transactions in previous 12 months; exception provided if the vendor's only contacts with Massachusetts are that in-state customers may access a site on the vendor's out-of-state computer server	830 CMR 64H.1.7	The Department of Revenue announced that its existing regulation, 830 CMR 64H.1.7 (Vendors Making Internet Sales), which took effect on 10/1/2017, continues to apply and is not impacted by the Supreme Court's decision in <i>Wayfair</i> . See also Tax Information Release 18-8 (9/17/2018) (noting that the Department is enforcing the regulation for all tax periods after the regulation's effective date (10/1/2017) both prior to and subsequent to <i>Wayfair</i> ). In 12/2018, a group of online retailers filed suit in Suffolk County (MA) Superior Court challenging the regulation dating back to 10/2017. This action is in addition to a suit brought in the Circuit Court for Albemarle County (VA) by the Crutchfield Corp. in 10/2017 challenging the regulation.
Michigan	Y	Revenue Administrative Bulletin 2018-16 (8/1/2018)	Y	10/1/2018	\$100,000 or 200 transactions in previous calendar year	Revenue Administrative Bulletin 2018-16 (8/1/2018)	Pursuant to the Bulletin, if a seller has nexus in Michigan and makes a taxable retail sale to a Michigan purchaser it must remit and report tax as sales tax. If a seller has nexus in Michigan and makes a taxable retail sale to a Michigan purchaser and transfer of ownership of the property occurs outside of Michigan the tax must be remitted and reported as use tax. If a seller does not have nexus in Michigan, but nevertheless voluntarily collects and remits Michigan tax, it must be remitted and reported as use tax.
Minnesota	Y	Minn. DOR cites as authority Minn. Stat. §297A.66, which requires sellers to collect Minnesota sales and use tax to the extent allowed under the U.S. Constitution	Y	10/1/2018	100 or more retail sales or 10 or more retail sales that total more than \$100,000	See 7/25/2018 press release	In a 7/25/2018 News Release, the Minnesota Department of Revenue stated that it would require remote sellers and marketplace providers facilitating sales into Minnesota to begin collecting sales tax no later than 10/1/2018.
Mississippi	Y	Sales and Use Tax Guidance for Online Sellers (Mississippi Department of Revenue 8/6/2018)	Y	9/1/2018	\$250,000 in previous 12 months, and "purposefully or systematically" exploit the Mississippi market	Miss. Reg. §35.4.03.09	On 8/6/2018, the Department announced that it will allow online sellers to begin collection of Mississippi use tax for sales made on or after 9/1/2018 when such sellers register to collect Mississippi tax by 8/31/2018. Remote sellers with annual Mississippi sales in excess of the \$250,000 small seller exception should register for a Mississippi Use Tax Account and begin collecting tax no later than 9/1/2018.
Missouri	N	X	N	X	X	X	Missouri has no economic nexus provisions currently in the statutes. The state does have affiliate and click through nexus provisions currently in effect. The Missouri House introduced HB 2390 in 2/2018, which is currently in committee. HB 2390 has a \$100,000 and 200 transaction requirement for out of state sellers. The acting Director of Tax indicated that the Department of Revenue is still reviewing and did not anticipate any immediate impacts to Missouri's enforcement of current statutes/regulations.
Montana	N/A						State has explained that Montana businesses selling online products to buyers in a state, such as South Dakota, that requires online retailers to collect sales tax will need to collect and pay those sales taxes. See <a href="https://mtrevenue.gov/taxes/general-sales-tax/#wayfair">https://mtrevenue.gov/taxes/general-sales-tax/#wayfair</a>
Nebraska	Y	Statement from the Nebraska Department of Revenue Regarding the South Dakota v. <i>Wayfair</i> United States Supreme Court Decision (7/27/2018)	Y	1/1/2019	No statutory threshold, but the Department has noted that it would apply a \$100,000 or 200 transaction threshold, similar to South Dakota's law, in light of the Court's analysis in <i>Wayfair</i>	Neb. Rev. Stat. §77-2701.13; Statement from the Nebraska Department of Revenue Regarding the South Dakota v. <i>Wayfair</i> United States Supreme Court Decision (7/27/2018)	Governor Pete Ricketts issued a press release in response to the Court's decision in <i>Wayfair</i> , briefly stating that the decision is currently under review to determine how it will affect Nebraska, and added that any increased sales tax revenue should aid in property tax relief for Nebraskans. (Press Release, Office of Gov. Pete Ricketts, 6/21/2018). On 7/27/2018, the Department issued a statement noting that the effective date for registration and collection would be 1/1/2019, and that "the Department plans to administer the collection responsibility consistently with the Supreme Court's decision in <i>Wayfair</i> , which looked favorably upon an exception for remote sellers with sales of \$100,000 or less or with fewer than 200 separate transactions in the state annually. The Department does not intend to pursue retroactive sales tax collection from remote sellers that did not have physical presence in Nebraska for sales made to customers in Nebraska prior to January 1, 2019. Depending on the final outcome of the <i>Wayfair</i> litigation - which remains pending in South Dakota -- the Department may seek legislation in the 2019 legislative session as needed."
Nevada	Y	LCB File No. R189-18, Nev. Tax Comn. approved 9/13/2018	Y	10/1/2018	\$100,000 or 200 transactions in previous or current calendar year	LCB File No. R189-18, Nev. Tax Comn. approved 9/13/2018	On 9/13/2018, the Nevada Tax Commission unanimously approved a draft regulation that imposes the same sales thresholds as South Dakota SB 106, effective 10/1/2018. See News Release (Nevada Dept. of Taxn. 9/27/2018).

State	Has state indicated a position on retroactive application of Wayfair?	Authority/State Guidance	Does state have economic nexus statute or regulation in place	If yes, effective date	If yes, is there a sales or transaction threshold?	Citation	Notes
New Hampshire	N/A						New Hampshire developed draft legislation that would have prevented a foreign taxing jurisdiction from taxing or auditing a New Hampshire retailer without giving notice to the state attorney general, and prohibit sellers from providing customer information to a foreign taxing authority unless they made a specific request to the attorney general. The legislation, which was proposed by Gov. Chris Sununu, passed in the New Hampshire Senate but was voted down by the New Hampshire House (7/25/2018).
New Jersey	Y	Sales and Use Tax Information for Remote Sellers Effective October 1, 2018 (New Jersey Division of Taxation 8/14/2018)	Y	11/1/2018	\$100,000 or 200 transactions in previous or current calendar year	A4496/S2990 (signed 10/4/2018)	On 7/1/2018, both houses of the New Jersey Legislature approved Assembly Bill 4261 (A4261), which would impose a sales tax collection requirement on remote sellers with no physical presence in New Jersey. The collection requirement would apply to remote sellers with: (1) over \$100,000 in sales of tangible personal property, services or specified digital products in New Jersey; or (2) 200 or more separate transactions in the state in any one calendar year, as long as there is at least one sale of tangible personal property in that year. The bill would also provide for a one-year trailing requirement to collect tax if one of the two thresholds was met in the prior year. A4261 further provides that marketplace facilitators, which are entities providing a forum through which third parties can sell products (e.g., the internet), must collect sales tax through the forum on all retail sales destined for New Jersey locations. The marketplace facilitator is not required to collect the tax if the third-party seller is registered to collect New Jersey sales and use tax. A4261 would become effective on 10/1/2018 and not have retroactive effect. On 8/27/2018, Governor Phil Murphy issued a conditional veto of the legislation and directed the legislature to make certain changes to the bill regarding administration of the provisions, inclusion of digital goods and taxable services in determining the sales threshold, and granting authority to the Division of Taxation to audit marketplace facilitators. Governor Murphy indicated that he would sign the bill with such changes included. On 9/26/2018, the potential effective date was revised to 11/1/2018. A4496/S2990 was passed on 9/27/2018 and signed into law on 10/4/2018. See also Updated Guidance for Remote Sellers (NJ Div. of Taxn. 09/25/2018).
New Mexico	N	X	N	X	X	X	
New York	N	X	Y	1/15/2019	\$300,000 and 100 transactions in the immediately preceding four quarters (Note: NY uses non-standard quarter measurement starting on 3/1 of each calendar year)	N.Y. Tax Law §1101(b)(8)(iv); Notice N-19-1 (N.Y. Dept. of Taxn. And Fin. 1/15/2019)	The Department of Taxation and Finance issued a notice (N-19-1) on 1/15/2019 announcing that any remote seller that meets the sales threshold set forth in N.Y. Tax Law §1101(b)(8)(iv) (part of New York's <i>anti-Bellas Hess</i> law from 1989) should immediately register as a vendor and begin charging and collecting tax.
North Carolina	Y	N.C. Department of Revenue Directive SD-18-6 (8/7/2018)	Y	11/1/2018	\$100,000 or 200 transactions in previous or current calendar year, or 60 days after meeting the sales threshold, whichever is later	N.C. Department of Revenue Directive SD-18-6 (8/7/2018); N.C. Gen. Stat. §105-164.8	On 8/7/2018, the North Carolina Department of Revenue announced that it will apply the Court's ruling in the <i>Wayfair</i> decision on a prospective basis for remote sellers that do not have a physical presence in North Carolina if the remote sellers are not registered to collect and remit North Carolina sales and use tax. This prospective treatment will not apply if the seller has a physical presence or other legal obligation to collect and remit North Carolina sales and use tax.
North Dakota	Y	North Dakota State Tax Commissioner website notice	Y	Later of 10/1/18 or 60 days after meeting sales threshold	\$100,000 or 200 transactions in previous or current calendar year	2017 SB 2298	Businesses must be registered and begin collecting tax on 10/1/2018. See <a href="https://www.nd.gov/tax/remoteseller">https://www.nd.gov/tax/remoteseller</a>
Ohio	N	X	Y	1/1/2018	\$500,000 in previous or current calendar year, and has electronic/software/presence in state used to make sales	2017 HB 49	Ohio has issued a short statement explaining that the decision "does not have an immediate, direct impact on Ohio. The Court ruled on the laws in another state; not on Ohio's tax laws." The statement went on to say that it anticipates some measure of voluntary compliance, but "otherwise the sales tax rules and laws in Ohio will stay the same until the General Assembly decides whether or not to change them."
Oklahoma	Y	Notice: Remote Sellers Information and FAQs (Oklahoma Tax Commission 08/31/2018)	Y	7/1/2018	At least \$10,000 during the immediately preceding 12-calendar-month period	2018 HB 1019	On 8/31/2018, the Oklahoma Tax Commission announced that "Remote sellers are now required to collect and remit sales or use taxes on all orders delivered to Oklahoma, whether or not the seller has a physical presence in the state. This includes online and mail-order companies." The notice also points out that marketplace facilitators and referrers must file an election with the Commission to collect and remit Oklahoma sales or to comply with statutory notice and reporting requirements. Entities that meet the sales threshold or make an election to collect as a marketplace facilitator are encouraged to register "as soon as possible."
Oregon	N/A						
Pennsylvania	Y	Sales and Use Tax Bull. 2019-01 <i>Maintaining a Place of Business in the Commonwealth</i> (Pa. Dept. of Rev. January 8, 2019, effective July 1, 2019)	Y	3/1/2018; 7/1/2019	From 3/1/2018, remote sellers with \$10,000 in immediately preceding 12-month period must make election either to collect and remit tax or comply with notice and reporting requirements; From 7/1/2019, remote sellers with \$100,000 in gross sales in previous 12 months must collect (cannot elect to report)	2017 HB 542; Sales and Use Tax Bull. 2019-01 <i>Maintaining a Place of Business in the Commonwealth</i> (Pa. Dept. of Rev. January 8, 2019, effective July 1, 2019)	Informally, the Pennsylvania Department of Revenue has allowed an extension of the due date to make the "collect or report" election through the date the seller contacts the Department, provided that the seller elects to register and collect/remit the tax. On 1/8/2019, the Pennsylvania Department of Revenue announced that, effective 7/1/2019, the state's economic nexus provisions will apply only to those persons who, in the previous twelve months, made more than \$100,000 of gross sales into the Commonwealth. Marketplace facilitators that have no physical presence in Pennsylvania must include both facilitated and direct sales in determining whether they have exceeded the economic nexus threshold. Marketplace sellers that lack any physical presence in Pennsylvania must include both their direct sales and those sales made through a marketplace facilitator that does not collect sales tax on its behalf in determining whether they have exceeded the economic nexus threshold. The notice and reporting provisions will continue to apply, but remote sellers that meet the sales threshold will not be able to elect to report only.

State	Has state indicated a position on retroactive application of Wayfair?	Authority/State Guidance	Does state have economic nexus statute or regulation in place	If yes, effective date	If yes, is there a sales or transaction threshold?	Citation	Notes
<b>Rhode Island</b>	Y	Notice 2018-24 (6/27/2018) appears to indicate retroactive application to date of economic nexus provision (8/17/2017)	Y	8/17/2017	\$100,000 or 200 transactions in previous or current calendar year	2017 HB 5175, codified as R.I. Gen. Laws §44-18.2-3	The Rhode Island Division of Taxation issued an advisory regarding the collection of Rhode Island sales and use tax by remote sellers. The notice reminds remote sellers of registration options and collection/notice requirements. Rhode Island Advisory No. 2018-24, 06/27/2018. On 7/23/2018, the Division released a supplementary statement, noting that the obligations of non-collecting retailers (including remote sellers) are not affected by the <i>Wayfair</i> decision, and that under Rhode Island's law, a non-collecting retailer must either: register with the Division of Taxation and collect and remit Rhode Island sales and use tax; or provide notice to consumers regarding their Rhode Island sales and use tax obligations. Rhode Island Advisory No. 2018-29 (07/23/2018).
<b>South Carolina</b>	Y	Revenue Ruling No. 18-14 (South Carolina Department of Revenue 9/18/2018)	Y	11/1/2018	\$100,000 in previous or current calendar year, including exempt sales, marketplace sales, and sales of services and digital goods (marketplace sales also included in determining if marketplace provider meets threshold)	Revenue Ruling No. 18-14 (South Carolina Department of Revenue 9/18/2018)	On 8/10/2018, the Department issued guidance to implement <i>Wayfair</i> , with legislation expected to codify the position in 2019. The Department noted that it is "committed to working in partnership with remote retailers and the business community to ensure a smooth implementation of the collection of South Carolina sales and use tax." Director Hartley Powell has publicly stated that S.C. Code §12-36-70 "has long authorized the imposition of sales and use tax on all retailers, including remote retailers with no physical presence." On 9/18/2018, the Department formalized this position and set a 11/1/2018 applicable date for retailers that do not have a physical presence in South Carolina but who establish an economic presence as outlined in Revenue Ruling No. 18-14. In Revenue Ruling 18-15 (9/20/2018), effective for sales after 11/1/2018), the Department noted that once a retailer has established nexus with the state for sales and use tax purposes, it also must remit local taxes for every local jurisdiction in which the Department administers such collections.
<b>South Dakota</b>	Y	2016 SB 106; 2018 SB 1 and 2018 SB 2	Y	11/1/2018	\$100,000 or 200 transactions in previous or current calendar year	2016 SB 106, codified as S.D. Laws §10-64-2	SB 106 was stayed pending final determination of Commerce Clause issues based on remand of <i>Wayfair</i> case from US Supreme Court. The legislature dissolved the injunction for all but named litigants on 9/12/2018. SB 1 and SB 2 signed on 9/12/2018 allows state to require remote sellers to collect and pay sales tax starting on 11/1/2018. Named litigants reached deal with state (announced 10/31/2018) to begin collecting and remitting tax effective 1/1/2019.
<b>Tennessee</b>	Y	Sales and Use Tax Notice #18-11 (Tennessee Department of Revenue 8/2018)	Y	7/1/2017 (stayed pending outcome of legal challenges and/or legislative activity)	Dealer engages in the regular or systematic solicitation of Tennessee consumers through any means and makes sales that exceed \$500,000 to Tennessee consumers during previous 12 months	Rule 1320-05-01.129	Tennessee imposed economic nexus standard by regulation, which is currently being challenged in Chancery Court. Following promulgation of the rule it was presented to the Legislature to adopt. The Legislature enacted a law stating: "[T]he department of revenue shall be prohibited from collecting any internet sales or use taxes authorized under department rule 1320-05-01-.129(2) and permitted under a ruling of any court, until such court's ruling has been fully reviewed and rule 1320-05-01-.129(2) has been approved by the general assembly pursuant to §4-5-226." Therefore it appears the Legislature needs to act before Tennessee can compel collection. Legislature will not be back in session until 1/2019 and it is an election year, so a special session would likely be difficult. The state is said to be considering whether the regulation is still necessary, as it is believed that statutory authority to require sales tax collection already exists. In 8/2018, the Department issued Notice #18-11, which stated that it will continue not to enforce the economic nexus provision because of the law prohibiting enforcement until the legislature reviews the <i>Wayfair</i> decision. The notice also points out that and such enforcement would not have retroactive effect.
<b>Texas</b>	Y	Draft regulation issued 9/2018 - prospective only. See also News Release: Comptroller Issues Initial Guidance on Remote Seller Sales Tax Decision by U.S. Supreme Court (6/27/2018); Letter from the desk of Glenn Hegar: State Grows Faster than Expected; New Ruling to Change Sales Taxation" (7/26/2018)	Y	1/1/2019 (will not be enforced until 10/1/2019)	\$500,000	Draft 34 Tex. Admin. Code §3.286	In 9/2018, the Comptroller issued draft regulations (34 Tex. Admin. Code §3.286) that would, among other aspects, provide for a \$500,000 sales threshold, applied prospectively only, effective 1/1/2019, but not enforced until 10/1/2019. SB 119, introduced 11/12/2018, would establish a \$100,000 or 200 transaction threshold, effective 9/1/2019. SB 70, pre-filed on November 12, would allow remote sellers to elect to collect using a single local that would be published annually in the Texas Register. Under the proposed law, purchasers would not be responsible for any additional use tax.
<b>Utah</b>	Y	2018 SB 2001 (amending Utah Code §59-12-107)	Y	1/1/2019	\$100,000 or 200 transactions in previous or current calendar year	2018 SB 2001 (amending Utah Code §59-12-107)	On 7/17/2018, Governor Gary Herbert called the Utah legislature into a Second Special Session, to begin on 7/18/2018, in order to consider amending the state's sales and use tax laws in light of the <i>Wayfair</i> decision. SB 2001 passed on 7/19/2019; signed by Governor on 7/23/2018.
<b>Vermont</b>	Y	Vermont Department of Revenue Statement (6/27/2018)	Y	7/1/2018	\$100,000 or 200 transactions in previous 12 months, and "regular, systematic, or seasonal" solicitation of sales of tangible personal property in Vermont	2016 H 873 (Act 134)	Vermont issued guidance stating, "Vendors are now required to register with Vermont and collect and remit sales tax beginning 7/1/2018." Vermont Department of Revenue Statement, Out-of-State Vendor Provisions, 06/27/2018. See also Vermont Tax News for Businesses and Nonprofits (07/31/2018).
<b>Virginia</b>	N	X	N	X	X	X	Per Virginia Secretary of Finance Aubrey Layne Jr., as of 10/2018, Virginia was considering legislation, modelled after SD SB 106, that would likely take effect 7/1/2019 on a non-retroactive basis.
<b>Washington</b>	Y	Notice: Marketplace Fairness - leveling the playing field (Wash. Department of Revenue 8/3/2018)	Y	1/1/2018 (notice or collection - lower threshold); 10/1/2018 collection required at \$100,000 or 200 transactions	\$10,000 in current or immediately preceding calendar year (applies to sales of digital goods as well, effective 1/1/20); \$100,000 or 200 transactions requires registration and collection by 10/1/2018	2017 HB 2163	Remote sellers with \$10,000 in sales in the current or immediately preceding calendar year can elect to register and collect the tax or comply with notice and reporting requirements. Effective 10/1/2018, remote sellers with at least \$100,000 in sales or 200 transactions with in-state customers must register and collect the sales and use tax.

State	Has state indicated a position on retroactive application of Wayfair?	Authority/State Guidance	Does state have economic nexus statute or regulation in place	If yes, effective date	If yes, is there a sales or transaction threshold?	Citation	Notes
<b>West Virginia</b>	Y	Administrative Notice 2018-18: Collection of State and Municipal Sales and Use Taxes by Certain Out-of-State Retailers (WV State Tax Dept. 10/1/2018)	Y	1/1/2019	\$100,000 or 200 transactions in previous or current calendar year (calendar year 2018)	Administrative Notice 2018-18: Collection of State and Municipal Sales and Use Taxes by Certain Out-of-State Retailers (WV State Tax Dept. 10/1/2018)	Governor Jim Justice has indicated opposition to collecting the sales tax on internet commerce, even though it would mean more money for the state. See <a href="https://governor.wv.gov/News/press-releases/2018/Pages/Gov.-Justice-Issues-Statement-in-Response-to-U.S.-Supreme-Court-Sales-Tax-Decision.aspx">https://governor.wv.gov/News/press-releases/2018/Pages/Gov.-Justice-Issues-Statement-in-Response-to-U.S.-Supreme-Court-Sales-Tax-Decision.aspx</a> . On 10/1/2018, the West Virginia State Tax Department issued an administrative notice informing out-of-state vendors that do not collect West Virginia state and municipal sales and use taxes but have either \$100,000 in sales to West Virginia customers or make 200 transactions with West Virginia customers during calendar year 2018 must register and collect sales tax beginning 1/1/2019. See Administrative Notice 2018-18: Collection of State and Municipal Sales and Use Taxes by Certain Out-of-State Retailers (WV State Tax Dept. 10/1/2018).
<b>Wisconsin</b>	Y	S 883 (enacted 12/14/2018, generally effective 12/16/2018); Wisconsin Department of Revenue website notice; Emergency regulation Wisconsin Administrative Code Tax §11.97 (adopted 9/6/2018)	Y	10/1/2018	\$100,000 or 200 transactions in previous or current calendar year	2018 S 883 (generally effective 12/16/2018); Wisconsin Administrative Code Tax §11.97	The Wisconsin Department of Revenue announced effective date of 10/1/2018. See <a href="https://www.revenue.wi.gov/Pages/Businesses/remote-sellers.aspx">https://www.revenue.wi.gov/Pages/Businesses/remote-sellers.aspx</a> . On 9/6/2018, the Department adopted emergency regulation Wisconsin Administrative Code Tax §11.97 implementing the new standard. Effective 12/16/2018, S 833 modifies the definition of "retailer engaged in business in this state" under Wisc. Code §77.51 to apply the same thresholds as Wisconsin Administrative Code Tax §11.97.
<b>Wyoming</b>	Y	Prospective only - state to issue enforcement date	Y	7/1/2017 effective date (not enforced); enforcement to begin 2/1/2019	\$100,000 or 200 transactions in previous or current calendar year	2017 HB 0019	On 8/7/2018, the Wyoming Department of Revenue announced that the state currently is not requiring remote sellers to license to collect and remit sales tax, but that businesses wishing to voluntarily license in Wyoming may begin that process any time. See Bulletin, Wyoming Department of Revenue (8/7/2018). On 11/1/2018, the Department announced that it had reached a settlement agreement with several remote retailers and would begin enforcement of the economic nexus provisions beginning 2/1/2019.

EY | Assurance | Tax | Transactions | Advisory

About EY

EY is a global leader in assurance, tax, transaction and advisory services. The insights and quality services we deliver help build trust and confidence in the capital markets and in economies the world over. We develop outstanding leaders who team to deliver on our promises to all of our stakeholders. In so doing, we play a critical role in building a better working world for our people, for our clients and for our communities.

EY refers to the global organization, and may refer to one or more, of the member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients. For more information about our organization, please visit [ey.com](http://ey.com).

Ernst & Young LLP is a client-serving member firm of Ernst & Young Global Limited operating in the US.

© 2018 Ernst & Young LLP  
All Rights Reserved.  
1807-2801030

[ey.com](http://ey.com)