

OUT-OF-STATE SALES TAX REQUIREMENTS GUIDE

In *South Dakota v. Wayfair*, the Supreme Court determined that a State could require out-of-state sellers of goods to collect and remit taxes if they perform a significant quantity of business in that State. In doing so, the Court overruled two of its precedents establishing the pre-*Wayfair* “physical-presence rule.” Under the pre-*Wayfair* regime, states could require out-of-state sellers to collect and remit taxes to the State only if the seller maintained a physical presence within the State’s borders. After *Wayfair*, states may require remote sellers to collect and remit taxes if the seller has a “substantial nexus with the taxing State[,]” which need not be a physical presence within the State.

An alarming trend following *Wayfair* is the lack of business awareness about the decision, its consequences, and its wide-ranging applicability. A 2020 survey of businesses revealed that over 40% of respondents were completely unaware of *Wayfair* and its impact on sales tax collection.¹ Small businesses unaware of the post-*Wayfair* regime and compliance rules are subject to foreign state tax assessments if they transact business across state lines. In a post-COVID-19 world where states may be seeking to increase their revenues, small businesses out of compliance with their remote seller obligations are convenient targets.

The following chart should help small businesses begin to navigate their post-*Wayfair* tax obligations.

NFIB’s Small Business Legal Center strongly recommends small businesses work with a CPA or tax professional in navigating their post-*Wayfair* sales tax obligations.

STATE	SALES TAX (%)	COVERED ITEMS	REFERENCE PERIOD	REMOTE SELLER THRESHOLDS ²	STATE CONTACT INFORMATION
Alabama	4	Gross proceeds of all retail sales from tangible personal property	Previous Calendar Year	> \$250,000	Alabama Department of Revenue
Alaska ³	0	Gross sales from property, products, or services delivered into Alaska	Previous or Current Calendar Year	\$100,000; or 200 transactions	Alaska Remote Seller Sales Tax Commission

¹ Gail Cole, *Wayfair Turns 2, But Survey Shows Many Businesses Still Unaware of Economic Nexus*, AVALARA, (June 1, 2020), <https://www.avalara.com/blog/en/north-america/2020/06/wayfair-turns-2-but-many-businesses-still-unaware-of-economic-nexus.html>.

² These thresholds reference the amount of activity into the specified state, not overall business activity. For example, if the threshold is \$100,000 of gross receipts from sales of tangible personal property, then a business would only look to see whether it had \$100,000 of gross receipts of tangible personal property into that specific state.

³ While Alaska does not have a state sales tax, these thresholds are used by local jurisdictions for taxing out-of-state sellers with an economic nexus.

STATE	SALES TAX	COVERED ITEMS	REFERENCE PERIOD	REMOTE SELLER THRESHOLDS ²	STATE CONTACT INFORMATION
Arizona	5.6	Gross proceeds of sales of tangible personal property or gross income from sales of tangible personal property or services into the State	Previous or Current Calendar Year	> \$200,000 (2019) > \$150,000 (2020) > \$100,000 (2021+)	Arizona Department of Revenue E-Commerce Compliance and Outreach Team
Arkansas	6.5	Sales of tangible personal property, taxable services, digital code, or certain digital products delivered into the State	Previous or Current Calendar Year	> \$100,000; or 200 transactions	Arkansas Department of Finance and Administration
California	7.25	Total combined sales of tangible personal property delivered into California by the retailer and all persons related to the retailer, as set forth in 26 U.S.C 267(b)	Preceding or Current Calendar Year	> \$500,000	California Department of Tax and Fee Administration
Colorado	2.9	Retail sales of tangible personal property, commodities, and/or services	Previous or Current Calendar Year	> \$100,000; 200 transactions (Prior to April 14, 2019) > \$100,000 (After April 14, 2019)	Colorado Department of Revenue Tax Division
Connecticut	6.35	Retail sales of tangible personal property or services set forth in § 12-407	Oct. 1 – Sept. 30 immediately preceding month/quarter of tax liability determination	200 transactions AND \$100,000	Connecticut Department of Revenue Services
Delaware ⁴	0	Total receipts of a business received from goods sold and services rendered into Delaware	N/A	N/A	Delaware Division of Revenue
District of Columbia	6	Total gross receipts from retail sales delivered into D.C. or retail sale transactions	Previous or Current Calendar Year	> \$100,000; or > 200 transactions	District of Columbia Office of Tax and Revenue
Florida	6	Sale of tangible personal property	Previous Calendar Year	>\$100,000	Florida Department of Revenue

⁴ Delaware imposes a gross receipts tax, which comprises “the total receipts of a business received from goods sold and services rendered in the State.” This tax usually ranges from .0945% - 1.9914%.

STATE	SALES TAX	COVERED ITEMS	REFERENCE PERIOD	REMOTE SELLER THRESHOLDS ²	STATE CONTACT INFORMATION
Georgia	4	Sales of tangible personal property	Previous or Current Calendar Year	> \$250,000; or 200 transactions (prior to Jan. 1, 2020) > \$100,000; or 200 transactions (after Jan. 1, 2020)	Georgia Department of Revenue
Hawaii ⁵	0	Gross receipts from selling retail goods and services	Preceding or Current Calendar Year	\$100,000; or 200 transactions	Hawaii Department of Taxation
Idaho	6	Cumulative gross receipts from sales delivered into Idaho	Previous or Current Calendar Year	> \$100,000	Idaho State Tax Commission
Illinois	6.25	Sale of tangible personal property	Preceding 12-Month Period	\$100,000; or 200 transactions	Illinois Department of Revenue
Indiana	7	Sales of tangible personal property, products transferred electronically, and services	Previous or Current Calendar Year	> \$100,000; or 200 transactions	Indiana Department of Revenue
Iowa	6	Sales of tangible personal property, services, or certain digital products	Preceding or Current Calendar Year	\$100,000; or 200 transactions (prior to July 1, 2019) \$100,000 (after July 1, 2019)	Iowa Department of Revenue
Kansas	6.5	Cumulative gross receipts from sales to customers in the State	Preceding or Current Calendar Year	> \$100,000	Kansas Department of Revenue
Kentucky	6	Sales of tangible personal property or digital property	Previous or Current Calendar Year	\$100,000; or 200 transactions	Kentucky Department of Revenue Division of Sales and Use Tax
Louisiana	4.45	Sales of tangible personal property, products delivered electronically, or services for delivery in Louisiana	Previous or Current Calendar Year	> \$100,000; or 200 transactions	Louisiana Sales and Use Tax Commission for Remote Sellers

⁵ Hawaii imposes a 4 or 4.5%, depending on location within the State, general excise tax on businesses.

STATE	SALES TAX	COVERED ITEMS	REFERENCE PERIOD	REMOTE SELLER THRESHOLDS ²	STATE CONTACT INFORMATION
Maine	5.5	Sales of tangible personal property, products transferred electronically, or taxable services for delivery	Previous or Current Calendar Year	> \$100,000; or 200 transactions	Maine Revenue Services
Maryland	6	Sales of tangible personal property or taxable services	Previous or Current Calendar Year	> \$100,000; or 200 transactions	Comptroller of Maryland Sales and Use Tax
Massachusetts	6.25	Sales of tangible personal property or services	Previous or Current Calendar Year	>\$100,000	Massachusetts Department of Revenue
Michigan	6	Tangible personal property	Previous Calendar Year	> \$100,000; or > 200 transactions	Michigan Department of Treasury
Minnesota	6.875	Sales of tangible personal property or taxable services	Prior 12-month period	> \$100,000; or 200 transactions	Minnesota Department of Revenue
Mississippi	7	Gross proceeds or gross income from sales of tangible personal property or taxable services	Prior 12 months	> \$250,000	Mississippi Department of Revenue
Missouri	4.225	Sales of tangible personal property or taxable services	Current or Previous Calendar Year (determined quarterly)	\$100,000	Missouri Department of Revenue
Montana	0	N/A	N/A	N/A	Montana Department of Revenue
Nebraska	5.5	Total retail sales	Previous or Current Calendar Year	> \$100,000; or 200 transactions	Nebraska Department of Revenue Taxpayer Assistance
Nevada	4.6	Retail sales of all tangible personal property	Previous or Current Calendar Year	> \$100,000; or 200 transactions	Nevada Department of Taxation
New Hampshire	0	N/A	N/A	N/A	New Hampshire Department of Revenue

STATE	SALES TAX	COVERED ITEMS	REFERENCE PERIOD	REMOTE SELLER THRESHOLDS ²	STATE CONTACT INFORMATION
New Jersey	6.625	Tangible personal property, specified digital products, or taxable services	Prior or Current Calendar Year	> \$100,000; or 200 transactions	New Jersey Division of Taxation
New Mexico	5.125	Gross receipts from sales pursuant to Section 7-1-14 NMSA 1978	Previous Calendar Year	\$100,000	New Mexico Department of Taxation & Revenue
New York	4	Sales of tangible personal property	Preceding 4 sales tax quarters (3/1-5/31, 6/1-8/31, 9/1-11/30, 12/1-2/28 or 29)	> \$500,000 AND > 100 transactions	New York Department of Taxation and Finance
North Carolina	4.75	Sales of tangible personal property, certain digital property, and taxable services	Previous or Current Calendar Year	> \$100,000; or 200 transactions	North Carolina Department of Revenue
North Dakota	5	Taxable sales of tangible personal property and some specified services	Previous or Current Calendar Year	> \$100,000; or 200 transactions (Prior to July 1, 2019) > \$100,000 (After July 1, 2019)	North Dakota Office of Tax Commissioner
Ohio	5.75	Sales of all tangible property and taxable services	Previous or Current Calendar Year	> \$100,000; or 200 transactions	Ohio Department of Taxation
Oklahoma	4.5	Aggregate sales of tangible personal property	Previous or Current Calendar Year	> \$100,000	Oklahoma Tax Commission
Oregon	0	N/A	N/A	N/A	Oregon Department of Revenue
Pennsylvania	6	Taxable sales of tangible personal property and services	Previous 12 Calendar Months	> \$100,000	Pennsylvania Department of Revenue
Rhode Island	7	Sales of tangible personal property, prewritten computer software delivered electronically or by load and leave, and taxable services	Previous Calendar Year	\$100,000; or 200 transactions	Rhode Island Department of Revenue Division of Taxation

STATE	SALES TAX	COVERED ITEMS	REFERENCE PERIOD	REMOTE SELLER THRESHOLDS ²	STATE CONTACT INFORMATION
South Carolina	6	Gross revenue from sales of tangible personal property, products transferred electronically, and services delivered into South Carolina	Previous or Current Calendar Year	> \$100,000	South Carolina Department of Revenue
South Dakota	4.5	Tangible personal property, products transferred electronically, or services delivered into the State	Previous or Current Calendar Year	> \$100,000; or 200 transactions	South Dakota Department of Revenue
Tennessee	7	All retail sales, excluding resale sales	Previous 12-Month Period	> \$500,000 (Prior to 10/1, 2020) > \$100,000 (After 10/1, 2020)	Tennessee Department of Revenue
Texas	6.25	Gross revenue from taxable and nontaxable sales of tangible personal property and services	Preceding 12 Calendar Months	\$500,000	Texas Comptroller
Utah	6.10	Sales of tangible personal property, products transferred electronically, or services	Previous or Current Calendar Year	> \$100,000; or 200 transactions	Utah State Tax Commission
Vermont	6	Sales of taxable and nontaxable tangible personal property, products transferred electronically, or services	Any preceding 12-Month Period	\$100,000; or 200 transactions	Vermont Agency of Administration Department of Taxes
Virginia	5.3	Retail sales of tangible personal property and certain taxable services	Previous or Current Calendar Year	> \$100,000; or 200 transactions	Virginia Department of Taxation
Washington	6.5	Gross receipts applying to all Washington income, including retailing, wholesaling, service, other apportionable activities, and all retail sales	Previous or Current Calendar Year	> \$100,000	Washington Department of Revenue

STATE	SALES TAX	COVERED ITEMS	REFERENCE PERIOD	REMOTE SELLER THRESHOLDS ²	STATE CONTACT INFORMATION
West Virginia	6	Gross sales of tangible personal property and/or services	Previous or Current Calendar Year	> \$100,000; or 200 transactions	West Virginia State Tax Department
Wisconsin	5	Gross sales of tangible personal property, specified digital goods, and taxable services	Previous or Current Calendar Year	> \$100,000; or 200 transactions (Prior to 2/20/21) > \$100,000 (2/20/21 – Present)	Wisconsin Department of Revenue
Wyoming	4	Gross revenue of tangible personal property, admissions, or services	Immediately Preceding or Current Calendar Year	> \$100,000; or 200 transactions	Wyoming Department of Revenue