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March 20, 2020

TO: Members of The Nonprofit Alliance
FROM: Martin Eisenstein & Jamie E. T. Szal
SUBJECT: State Sales Tax

It seems ironic to include a memorandum and schedule regarding state sales tax in the midst of the COVID-19 crisis, but, in fact, as we all begin to work remotely, this is a good time to take stock of your tax situation. The state tax world has changed significantly since June 21, 2018, when the U.S. Supreme Court decided the case of *South Dakota v. Wayfair*. In that case, the Court held that a retailer that merely made sales into a state can be required to collect that state's sales and use tax; if it does not it is liable for the sales tax on all of its taxable sales. This is called "economic nexus."¹ As a result, all but two states—Florida and Missouri—of the 45 states and the District of Columbia that impose sales taxes on the sale of tangible personal property and certain specified services have adopted so-called economic nexus laws, where annual sales to a state in excess of a specified amount creates an obligation for the retailer to collect and remit to the state its sales tax on retail sales in the state. If the retailer fails to do so, it is liable for the tax itself.

You may ask what *Wayfair* has to do with your organization or business, because nonprofits generally do not make sales. The simple answer is plenty. Nonprofits circulate direct mail to their members and prospective members. An order to produce and distribute direct mail materials is subject to sales tax, unless there is an exemption. Direct mailings, thus, have sales tax consequences for the printer and the mail house, to the extent the mail house acquires printing services from the printer and resells them to the nonprofit, because the printer/mail house is deemed the retailer by all states. Since the printer/mail house is potentially required to collect tax on the price of the printing services and some ancillary services the materials are distributed, lest it be liable for the tax wherever the materials are distributed, the printer/mail house will (and should) include a sales tax charge to its nonprofit customer unless an exemption applies.

The tax collection obligations of printers and mail houses as well as the availability of exemptions varies on a state-by-state basis. In the attached spreadsheet we provide our state-by-

¹ Of course, it has always been the case that a company or organization that maintained an office or property in a state, or had employees or agents in the state, had nexus and was required to comply with the sales tax laws. This is called physical presence.

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state survey as of March 20, 2019. The first tab shows each state's *Wayfair* law; i.e. the threshold that triggers tax collection obligations of printers and mail houses. The second tab depicts the exemptions for direct mail materials.

As is the case for any survey, the "devil is in the detail." In other words, the application of a state's laws to an organization or company depends on the facts and circumstances, so that even though we are lawyers the spreadsheets (and their contents) should not be deemed to be providing legal advice to any reader. Equally, the survey is only as of the date listed, and the law can and does change over time.

We close by noting that it goes without saying that the current COVID-19 crises has created unprecedented challenges for nonprofits, businesses and the many families that depend on them. Above all else, we at Brann & Isaacson wish you the very best as you strive to keep your families and your employees safe.

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The Nonprofit Alliance

State-by-State Taxability/Exemptions as of 3/20/20

by Martin Eisenstein and Jamie Szal, Brann & Isaacson

Subject to the Caveats Set Forth In the Memorandum Dated March 20, 2020 from Martin Eisenstein and Jamie Szal. The information in this chart is not the provision of legal advice.

State	SSUTA Member	Remote Seller Nexus	TAXABILITY OF DIRECT MAIL MATERIALS DISTRIBUTED FROM OUT OF STATE	Taxability of Purchases by Nonprofits (Subject to Detailed Review of State's Laws)
<i>Streamlined Sales and Use Tax Agreement</i>			TAXABLE	
Alabama	No	Yes	TAXABLE	Taxable
Alaska	n/a	No		
Arizona	No	Yes	TAXABLE	Exempt, subject to limitations. Ariz. Rule 15-5-182.B.
Arkansas	Yes	Yes	TAXABLE	Exempt. Reg. R15-5-182 ; Reg. R15-5-2361 - Charitable organization must request (sales) tax-exempt status from Department.
California	No	Yes	NOT TAXABLE ONLY IF MEET STRICT REQUIREMENTS OF LAW	Exempt, subject to strict limitations. Cal. Rev. & Tax §§ 214, 6375
Colorado	No	Yes	TAXABLE	Exempt, subject to limitations. Colo. Rev. Stat. § 39-26-718.
Connecticut	No	Yes	TAXABLE	Exempt, subject to limitations. Conn. G. Stat. § 12-412.
Delaware	n/a			
D. C.	No	Yes	NOT TAXABLE IF MAILED FROM OUTSIDE OF STATE	Exempt, subject to limitations. D.C. Code § 47-2005
Florida	No	Legislation Introduced But Did Not Pass Legislature	NOT TAXABLE ONLY IF MEET STRICT REQUIREMENTS OF LAW	Exempt, subject to limitations. Fla. Stat. § 212.08.
Georgia	Yes	Yes	TAXABLE	Taxable
Hawaii	No	Yes	TAXABLE	Generally taxable, with limited exceptions. Haw. Rev. Stat. § 237-23(a).

Idaho	No	Yes	TAXABLE	Generally taxable, with limited exceptions. Ida. Rule 35.01.02.085.01
Illinois	No	Yes	Probably not taxable	Exempt, subject to limitations. The organization must have an active exemption identification number issued by the Department of Revenue. 35 ILCS 120/1g.
Indiana	Yes	Yes	TAXABLE	Exempt, with exceptions. Ind. Code § 6-2.5-5-26(b). Exemption for sales by not-for-profit if: seller not operated primarily for social purposes; property sold designed and intended to support orgs educational, cultural, religious purps; and property sold is not designed or intended of use in carrying on private business.
Iowa	Yes	Yes	TAXABLE	Exempt, with exceptions. Iowa Code § 423.3.78; Rule 701 17.1. Limited exemption for sales by 501(c)(3) orgs where activity from which proceeds derived are educational, religious, charitable activities; and entire proceeds of sales are expended for educational, religious, or charitable purposes. But see Hope Evangelical Lutheran Church v. Iowa Department of Revenue and Finance, 463 N.W.2d 76 (Iowa 1990); Policy Letter 01300107 - church sunday school, church camp not an educational institution, and so sales of educational materials not exempt.
Kansas	Yes	Yes*	TAXABLE	Taxable. (K.A.R. 92-19-67(a)). Nonprofit corporations, businesses, organizations, and associations regularly engaged in the business of selling tangible personal property at retail or furnishing services or entertainment to the ultimate user or consumer and not for resale are retailers liable for sales tax.
Kentucky	Yes	Yes	TAXABLE	Exempt, with exceptions. Exemption likely not available to IVP. Ky. Rev. Stat. § 139.495. Exception limited to sales by resident nonprofit (or resident SMLLC subsidiary of nonprofit institution); sales by school bookstores of books and course materials; or sales by non-profit, school-sponsored clubs and organizations.

Louisiana	No	Yes	TAXABLE	Taxable. La. Rev. Stat. § 47:305.13-14, .18. Nonprofit organizations are subject to sales tax on sales made by them in connection with regularly conducted activities that compete with other businesses. Sales of textbooks and course-related software to post-secondary academic degree-granting institutions are exempt. Sales of bibles, songbooks, and literature to churches and synagogues are exempt.
Maine	No	Yes	TAXABLE	Generally taxable, with limited exemptions. 36 Me. Rev. Stat. § 1760
Maryland	No	Yes	TAXABLE	Exempt, with exceptions. Exemption likely not available to IVP. Md. Tax. Gen. Artl § 11-204(b); Reg. 03.06.01.22.C. Sales made by a religious organization or other nonprofit organization exempt under IRC 501(c)(3) are exempt if the proceeds are used to carry on the exempt purposes of the organization, and then only the part of the sale price that qualifies for a federal income tax deduction as a charitable contribution is exempt.
Massachusetts	No	Yes	TAXABLE	Exempt, subject to 3 conditions: property must be used in the conduct of the organization's enterprise; organization must have a certificate of exemption from the DOR; and vendor must maintain records of each sale. M.G.L. c. 64H, § 6(e).
Michigan	Yes	Yes	NOT TAXABLE IF MAILING IS NOT FROM MICHIGAN	Taxable. Mich. R. 204.140(5); R.205.65. Nonprofit entities engaged in retail sales activity of any kind must be licensed and collect applicable taxes. Sales to regularly organized houses of worship may be exempt. Sales to religious organizations and societies composed of church members are taxable.

Minnesota	Yes	Yes	Likely TAXABLE	Taxable. Minn. Stat. § 297A.67; Rule 8131.6200.9; Rule 8130.6700. Textbooks print and digital) are exempt when prescribed for use in a course of study to regularly enrolled students. Instructional materials (other than textbooks) prescribed for use in conjunction with a course of study in educational institutions with regularly enrolled students are also exempt.
Mississippi	No	Yes	TAXABLE	Exempt.
Missouri	No	Legislation Introduced	NOT TAXABLE IF MAILING IS NOT FROM MISSOURI	Exempt.. Mo. Rev. Stat. § 144.030 (19)-(20).
Montana	n/a			
Nebraska	Yes	Yes	TAXABLE	Available exemptions not applicable to IVP. Sales by an organization created exclusively for religious purposes are exempt if 3 conditions were met: the sale occurred during an activity conducted by the organization; the organization only sells property it owns during one such activity per year; and the activity does not last longer than 3 consecutive days.
Nevada	Yes	Yes	TAXABLE	Exempt. Nev. Stat. 372.343. Nonprofit organization created for religious, charitable, or educational purposes must apply and demonstrate how NV citizens benefit from organization.
New Hampshire	n/a			
New Jersey	Yes	Yes	TAXABLE	Available exemptions not applicable to IVP. Sales by a nonprofit organization holding a valid Exempt Organization Certificate at occasional fundraising sales may be exempt if all of the proceeds go to the exempt organization. N.J. Admin. Code 18:24-9.11.
New Mexico	No	Yes	TAXABLE	Exempt, if the organization uses the property in functions that qualify for the federal exemption, and so long as it presents a NM issued Non-Taxable Transaction Certificate. N.M. Stat. Ann. § 7-9-60.

New York	No	Yes	NOT TAXABLE ONLY IF MEET STRICT REQUIREMENTS OF LAW	Generally taxable, subject to limited exemptions. N.Y. Tax Law § 1116(a).
North Carolina	Yes	Yes	TAXABLE	Taxable. N.C. Dept. Rev. Important Notice: Retail Sales by Certain Nonprofits. A nonprofit that makes retail sales must register, collect, and remit any applicable tax due on such sale.
North Dakota	Yes	Yes	TAXABLE	Taxable. N.D. Code § 57-39.2-02.1
Ohio	Yes	Yes	NOT TAXABLE ONLY IF MEET STRICT REQUIREMENTS OF LAW	Exempt, subject to limitations. Ohio Rev. Code § 5739.02
Oklahoma	Yes	Yes	TAXABLE	Exempt.
Oregon	n/a			
Pennsylvania	No	Yes	NOT TAXABLE ONLY IF MEET STRICT REQUIREMENTS OF LAW	Generally taxable, subject to limited exemptions. Pa. Const. Art. VIII, § 2(a)(v); 72 P.S. § 7204
Rhode Island	Yes	Yes	TAXABLE	Generally taxable, subject to limited exemptions. RI Gen Laws Sec. 44-18-30(5).
South Carolina	No	Yes	TAXABLE	Generally taxable, subject to limited exemptions. S.C. Code § 12-36-2120(41); S.C. Rev. Rule 09-8.
South Dakota	Yes	Yes	TAXABLE	Generally taxable, subject to limited exemptions. S.D. Code § 10-45-10; S.D. Admin. Rules 64:06:01:21.
Tennessee	Yes	Yes	TAXABLE	Exempt. Tenn. Code Ann. § 67-6-322.
Texas	No	Yes	PROBABLY TAXABLE	Exempt, subject to strict limitations. Tex. Tax Code § 151.310; Tex. Admin Code tit. 34, Rule 3.322.
Utah	No	Yes	TAXABLE	Exempt only where substantially related to the organization's exempt purpose. Utah Code Ann. § 59-12-104.
Vermont	Yes	Yes	PROBABLY TAXABLE	Generally taxable, with limited exemptions and only where the organization holds an exemption certificate issued by VT Tax Commissioner. 32 V.S.A. § 9743.

Virginia	No	Yes	NOT TAXABLE ONLY IF MATERIALS MAILED FROM OUTSIDE OF THE STATE	Taxable. Va. Code § 58.1-609.10(8). However, sales of textbooks sold for use by students attending a nonprofit or for profit college or other institute of learning are exempt when (i) sold by the institute of learning or (ii) sold by any other dealer, if the textbooks are certified by a department or instructor as required.
Washington	Yes	Yes	TAXABLE	Available exemptions not applicable to IVP. Sales by a nonprofit organization at occasional fundraising sales may be exempt if all of the proceeds go to the exempt organization. Wash. Rev. Code 82.08.02573; 82.04.3651; Wash. Admin. Code 458-20-169. Fundraising does not include the operation of a regular place of business in which sales are made during regular hours.
West Virginia	Yes	Yes	TAXABLE	Available exemptions not applicable to IVP. W.Va. Code 11-15-9(a)(2),(14). A church that has a current registration certificate and that is exempt from federal income taxes may make exempt sales at fundraisers sponsored by the church if a fundraiser lasts no more than 84 consecutive hours and is held no more than six times during any 12-month period. Sales of textbooks required to be used in any WV school or institute in WV that qualifies as nonprofit or educational are exempt.
Wisconsin	Yes	Yes	NOT TAXABLE ONLY FOR CATALOGS AND PROMOTIONAL INSERTS	Taxable. Wis. Stat. § 77.52(7); Rule 11.35. A nonprofit that is engaged in a trade or business of selling must obtain a seller's permit and pay sales tax on all taxable gross receipts.
Wyoming	Yes	Yes	TAXABLE	Generally taxable, subject to limited exemptions, and only where the organization secures approval in writing of the Wy. DOR. Wy. Stat. § 39-15-105.

Summary of Direct Mail Categories	Applicable States
States in which Direct Mail May Be Exempt Subject To Strict Limits	CA, DC, FL, IL, MI, MO, NY, OH, PA, VA, WI (Catalogs only)
States in which Newspaper Advertising Inserts (but not catalogs) are Exempt	AK, GA, IN, IA, KS, KY, MI, MN, ND, NE, NV, NJ, NC, OH, OK, RI, SC, SD, TN, TX, UT, VT, WA, WV, WY
Taxable States: SSUTA Members (SSUTA Certificate for Self-Pay)	AK, GA, IN, IA, KS, KY, MN, NE, NV, NJ, NC, OK, RI, SD, TN, VT, WA, WV, WY
Taxable States: Non-SSUTA Members that Allow Self-Pay	AL, AZ, CO, CT, ID, LA, ME, MD, MA, MI, SC, TX
Taxable States: Non-SSUTA Members that Do Not Allow Self-Pay	HI, NM

The Nonprofit Alliance
State-by-State Sales Tax Nexus Laws as of 3/20/20
by Martin Eisenstein and Jamie Szal, Brann & Isaacson

Subject to the Caveats Set Forth in the Memorandum Dated March 20, 2020 from Martin Eisenstein and Jamie Szal. The information in this chart is not the provision of legal advice.

				Required Compliance Date
State	Statutory requirements for tax collection	Citation	Comments	
AL	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 (SSUT)	Ala. Code 40-23-68(b)(9); Alabama Reg. 810-6-2-.90.03	Although Alabama has home rule jurisdictions with varying tax rates, a retailer without a physical presence need only register with the Alabama Department of Revenue (and not the local jurisdictions) and collect and remit sales taxes at a single rate of 8%.	10/01/18
AK	No statewide tax, but sales tax at the local level.	http://arsstc.org/wp-content/uploads/2020/02/ARSSTC-Notice.pdf ; AND https://beta.juneau.org/index.php?gfdownload=2020%2F02%2F2020-02-03_Notice_of_Adoption.pdf&form-id=22&field-id=11&hash=c45ffb0c51a7a8dac775f7fdc730a747aa15738dffdde1c3bd79f0b0e647676c	32 of the 106 municipalities in Alaska that impose sales taxes have created the Alaska Remote Seller Sales Tax Commission. The Remote Seller Sales Tax Commission approved a uniform remote sales tax code that its members must adopt to gain authority to require sales tax collection by remote sellers. The uniform code requires retailers with at least \$100,000 in sales or 200 transactions <i>into the state</i> (not locality) annually must register with the Commission to remit sales taxes imposed by the member municipalities. Each municipality must adopt the code by ordinance for it to take effect. As of 3/20/2020, twelve jurisdictions have adopted the Code. All tax filings are made with the Remote Seller Sales Tax Commission, although the taxability among jurisdictions varies.`	City of Juneau adopted by ordinance the Model Code on 2/3/20, requiring registration by 3/3/20 and tax collection by 4/1/20 , according to Commission policy; the City of Nome, effective 9/1/2019, this may change, as Nome has joined the Remote Seller Sales Tax Commission;
AZ	\$150k for 2020 [\$200,000 in gross receipts through 12/31/2019, \$150k for 2020, and \$100k for 2021 and thereafter]	SB1019, § 1 (codified at Ariz. Rev. Stat. § 42-5040.A.2, C.2.		10/1/2019 [reduced thresholds take effect 1/1/20 and 1/1/21]
AR	Aggregate sales of \$100,000 or 200 transactions	Ark. Code 26-53-124(a)(1)(A)	<u>8/2019</u> : The AR Attorney General issued an opinion that whether a remote seller exceeds the \$100,000 threshold is determined based on taxable sales. <u>12/2019</u> : The Arkansas Department of Finance and Administration issued a new opinion letter (Opinion Number 20190717) (dated Oct. 30, 2019) addressing how to measure the economic nexus thresholds in the context a subscription for digital downloads. The one-year subscription allowed for multiple downloads of e-Books and other digital goods. The Department determined that that each separate download under the terms of the subscription would be considered a single transaction for purposes of economic nexus, rather than the one-year subscription counting as a single transaction.	07/01/19

CA	\$500,000 in sales	AB 147	<p>AB 147 (effective 4/1/19) set an economic nexus threshold of \$500,000 in sales and eliminated any requirement to track sales by district. (The bill also eliminates "click through" nexus provisions that have been in effect for several years.) The CDTFA issued a Special Notice following the passage of AB 147 indicating that any retailer required to be registered with the state must collect any applicable district tax if the retailer's sales of property delivered into the state (not the district) exceed \$500k in the prior or current calendar year. The notice also indicates that for any retailer that registered to collect in CA pursuant to the previously issued regulation, who does not have nexus in CA under the new legislation may close its account or voluntarily continue to collect. In another Special Notice, CDTFA stated that retailers of certain products who are required to collect sales/use tax as of April 1, 2019 will also be required to register for and collect certain fees charged to address waste disposal issues. (The product categories are: covered electronic devices, new tires, lead-acid batteries, and lumber / engineered wood products.) Another bill, SB 92 permits limited enforcement of past sales/use tax obligations against retailers that used a MPF and stored inventory in the state. Retailers with in-state inventory maintained by a marketplace may be able to limit past liability for uncollected sales tax to sales completed on and after April 1, 2016, if they did not register prior to December 1, 2018, and come forward to remit past due taxes by September 30, 2019. Special Notice L-681 (July 2019) notes that the operative date of the new district use tax collection requirement was changed from April 1 to April 25, 2019, eliminating the retroactive effect of AB 147. However, district taxes collected by a retailer prior to April 25, 2019, must be remitted to the CDTFA. July 2019: an updated publication clarifies that leasing a computer server in CA constitutes nexus. Additionally, an updated District Tax publication notes that the \$500,000 small seller threshold is measured on a combined group basis (total of TPP sales for delivery in CA by the seller and all persons related to the seller in the preceding or current calendar year).</p> <p>The CDTFA issued draft amendments to Regulations 1684 and 1827. The proposed amendments to Reg. 1684 indicate that once a retailer exceeds the small seller threshold and is required to register, the retailer must remain registered during the remainder of any calendar year that it: 1) has physical presence; or 2) at least met the small seller threshold.</p> <p>09/2019: CA released Special Notice L-694 regarding MPFs and MPGs. It clarifies that, generally, a MPF is considered to be the seller and retailer for sales made through the marketplace. MPFs should notify MPGs that the MPF will be collecting and paying the tax; remote sellers are no longer liable for this tax on sales made on the participating marketplace. 10/2019: The CDTFA released a discussion paper and proposed regulations regarding its MPF statute to help MPFs and sellers determine who is responsible for paying sales tax. 12/2019: The DTFA issued a Special Notice (dated Nov. 2019) entitled "Local and District Tax Information for Out-of-State Retailers" that simply explains that the local and district taxes apply to sales by out-of-state retailers based on exceeding the sales thresholds for the entire state, as detailed above. The Special Notice provides some cursory guidance on how to report the taxes on each return. 1/2020: the DTFA issued a notice regarding proposed rule changes that would reiterate the 4/1/2019 effective date for collection by retailers exceeding the \$500,000 threshold.</p>	4/1/2019 [Note: Both the DTFA notice and AB 147 require collection by remote sellers as of 4/1/19]
CO	\$100,000 in gross receipts	Colo. Rev. Stat. 39-26-102(b)	<p><u>Local Home Rule City Updates:</u> 12/2019: The new "home rule" city of Castle Pines has adopted an ordinance and begun to contact remote sellers to demand sales/use tax registration and collection if the retailer has more than \$100,000 in sales into the state (not merely the city). B&I prepared a forceful response on behalf of certain clients, asserting that the demand is inconsistent with the Commerce Clause and the principles of the Supreme Court's decision in Wayfair. 02/2020: The Tax Director for the City of Castle Rock, a Home Rule city, confirmed that the CO Home Rule cities have come to a group consensus that they will not separately enforce remote seller nexus until all Home Rule cities do so simultaneously. They have formed a Home Rule Commission, similar to the Alaska RSST, that is in the process of negotiating a centralized registration portal, centralized filing and payment portal, and uniform definitions. There is no current anticipated date as to when the Home Rule cities will roll out remote seller enforcement, other than they intend to do so. <u>2/25/2020</u>: The CO DOR will conduct a hearing on the proposed rules concerning the remote sales tax threshold for doing business in the state, as well as on marketplace facilitator collection obligations, on March 17. 03/2020: Due to the closure of the state in response to the COVID-19 virus, the hearing on the propose rules was postponed.</p>	June 1, 2019 (by statute for state-level and state-administered local sales taxes)
CT	\$100,000 in sales <i>and</i> 200 transactions (eff. 07/01/19)	Public Act 19-117 / Conn. Gen. Stat. 12-407(a)(15)(A)(v)		12/1/18 (on higher sales threshold); 07/01/2019 (for reduced \$100,000 plus 200 transactions threshold)
DC	\$100,000 in sales or 200 transactions	Bill 22-914 (amending Chapter 20 Title 47)		01/01/19
DE	[No sales tax]			
FL			No economic nexus law. Proposed Wayfair legislation did not pass the legislature before it adjourned in March 2020	[No date yet established]
GA	\$100,000 effective 1/1/2020; \$250,000 or 200 transactions (eff. 1/1/19)	H.B. 61; HB 182	Collection obligation for retailers with at least \$250,000 in sales effective 7/1/19, simultaneous with full repeal of Notice & Reporting. (\$100,000 threshold effective 1/1/20.)	7/1/2019 [at a threshold of \$250,000 or 200 transactions]; and 1/1/2020 [at a threshold of \$100,000, without notice and reporting]
HI	\$100,000 or 200 transactions (eff. 7/1/18)	S. 2514		07/01/18
ID	\$100,000 in sales	HB 259	HB259 was signed by the Governor on 4/9/19. It requires tax collection by remote sellers based on \$100,000 in sales effective June 1, 2019. This bill provides that an affected retailer "shall not collect or remit any local sales tax or any other tax or assessment that is not imposed by this chapter." The Department has published additional guidance on its website consistent with the new law. The new guidance suggests it will continue to enforce click-through nexus. The Department issued a Summer 2019 newsletter reminding remote sellers and MPFs of the changes that took effect on June 1. It also advises retailers to verify whether their MPF is collecting Idaho sales tax. If not, the retailer must collect and remit that sales tax to the Commission.	06/01/19

IL	\$100,000 in sales or 200 transactions (eff. 10/1/18)	Public Act 100-587 (see comments)	<p>Effective 10/1/18; under DOR Bulletin FY 2019-05, sellers assess whether they meet the sales or transactions threshold for the 12-month period ending Aug. 31, 2018. A seller meeting either of the thresholds must collect starting October 1, 2018. For a seller not meeting the threshold as of 8/31/18, it should review whether it meets the thresholds at the end of each subsequent quarter for the preceding 12-month period, and register within 30 days after it crosses either threshold. It must collect for at least a one year period. Illinois DOR adopted an emergency regulation stating that transactions that would be exempt from tax do not count toward determining economic nexus obligations.</p> <p>--Illinois has published proposed remote seller regulations, which would clarify key points made in guidance previously published by Illinois as follows:</p> <ul style="list-style-type: none">• Remote seller nexus does not apply to retailers who make exclusively nontaxable sales.• Only those sales made to a purchaser in Illinois (not merely sales delivered to an Illinois address) count toward determining whether the retailer exceeds the small seller thresholds. Subsection (c)(3)(B)• Sales for resale are not counted toward gross receipts. Subsection (c)(3)(E).• Sales of items of TPP that must be registered with a separate state agency (such as vehicles) are excluded from the gross receipts calculation. Subsection (c)(3)(E)(ii).• Sales that are subject to the Retailers’ Occupation Tax are excluded from the gross receipts calculation. This includes, for example, sales made at a trade show. Subsection (c)(3)(E)(iv).• Remote retailers subject to the regulation are not obligated to collect any local sales or use taxes (including taxes levied by Chicago). This will change under the new bill described below, effective January 1, 2021. <p>--As part SB 690 signed 6/28/19 remote retailers will be required to collect the Retailer’s Occupation Tax (under the existing thresholds), where they are now required to collect the Use Tax. This means that remote retailers will be required to collect any applicable local sales taxes under the ROT, where under the Use Tax they now collect only the state use tax. The amendments also repeal Click-Through Nexus and Affiliate (related company) Nexus. The law also requires the DOR to adopt provisions to establish certified service providers and related assistance in reporting tax on remote sales. The DOR will establish an expedited registration process for remote sellers using a CSP.</p> <p>-- As part of SB 119 (signed 12/2019), the obligation of remote sellers to collect the Retailer’s Occupation Tax is delayed from 07/01/2020 to 01/01/2021; and the class action protection provision for remote sellers and service providers is removed. Additionally, once the Retailers' Occupation Tax takes effect, remote sellers and MPFs will source their sales and collect tax based on the location where a product is delivered.</p> <p>02/11/2020: The IL DOR released a notice reiterating that, for the time being, MPSS are responsible for all retailers' occupation tax on orders filled from in-state inventory sold through MPFs. (See "Marketplace Sellers Making Marketplace Sales Subject to Retailers’ Occupation Tax.")</p>	10/1/2018 [for the Use Tax]; 01/01/2021 [remote sellers must switch to the Retailer's Occupation Tax, including local ROTs]
IN	\$100,000 in sales or 200 transactions	Ind. Code § 6-2.5-2-1(c)		10/01/18
IA	\$100,000 sales (eff. 1/1/19)	S.F. 2417 H.F. 779		01/01/19
KS	"any other contact with this state that would allow this state to require the retailer to collect and remit tax under the provisions of the constitution and laws of the United States"	Kan. Stat. 79-3702(h)(1)(F)	<p>Provisions requiring remote sellers to collect Kansas sales tax if they have at least \$100,000 in sales were incorporated into a comprehensive tax bill in the senate, SB22, which passed both the Senate and the House. However, Governor Kelly vetoed SB 22, based on objections to other parts of the bill. An earlier bill, HB2033, introduced in February, was then revived and remote seller provisions added to it, extending the definition of “retailer doing business in [Kansas]” to include any remote seller who derived cumulative gross receipts from sales in excess of \$100,000. It passed both houses and was presented to the Governor. On Friday, May 17, the governor again vetoed the legislation.</p> <p>--The DOR issued Notice 19-04 (August 1, 2019) indicating that remote sellers are required to collect sales/use tax beginning October 1, 2019, but did not set any minimum threshold for an affected remote seller based on sales or transactions. The Department instead asserted that it has the authority under the existing statute, K.S.A. 79-3702(h)(1)(F), to enforce the law "to the fullest extent permitted by law." The Department stated that it will not impose an obligation to collect for sales made prior to October 1, 2019 (no retroactive enforcement). A state legislative leader has asked the Kansas Attorney General to opine on the legality of the Kansas DOR's position. 09/2019: The KS Revenue Secretary Mark Burghart stated publicly that he did not believe the Wayfair decision mandated that states must adopt economic nexus thresholds.</p> <p>9/30/2019: The KS Attorney General released an opinion finding that Notice 19-04 is void and of no effect. The ruling opined that the DOR exceeded its authority in issuing the Notice. However, the DOR and the Governor’s office both issued statements disagreeing with the AG’s ruling, leaving significant legal uncertainty regarding the DOR’s position that sales tax collection was required as of October 1, 2019. 10/2019: A DOR spokesperson said the department "will continue" to require remote sellers to collect and remit tax. 12/2019: A legislative commission has recommended adopting a MPF law without a sales threshold, mirroring the Department's position regarding remote sellers. It remains to be seen what the Kansas legislature will do in 2020 regarding standards for tax collection by remote sellers or marketplaces. 01/2020: H.B. 2513, introduced 01/28/20, would require MPFs to collect and remit taxes on online sales with a \$100k small seller threshold. However, the bill contains a waiver provision which would allow MPSS to collect and remit the taxes instead of a MPF if the seller has over \$1 billion in gross sales in the U.S. In a January 27, 2020 report, the Governor's Council on Tax Reform endorsed the idea of requiring MPFs to register and to collect use tax. 01/30/2020: H.B. 2537 has been introduced in the House of Representatives. Effective immediately upon signing, it would create a threshold of \$100,000 in annual gross receipts in the current or preceding calendar year (including in 2019 or between 01/01/2020 and the effective date of the legislation) for remote sellers. H.B. 2537 was introduced by the same sponsor a few days after MPF H.B. 2513. 02/2020: S.B. 369 was introduced in KS. It would require MPFs and remote sellers with more than \$100,000 in the previous calendar year to collect and remit tax. Introduced H.B. 2513 would also require MPFs exceeding the \$100,000 threshold to collect and remit tax. On Feb. 10, among bills introduced in KS that would enact key components of the governor's proposed budget, was another MPF bill (S.B. 399), this one with no small seller threshold. <u>02/12/2020</u>: H.B. 2657, a companion bill to S.B. 399 and also without a small seller threshold, was introduced in the House. Effective Jul. 1, 2020, marketplace facilitators would be required to collect and remit tax with no small seller threshold. 02/24/2020 Senate hearing re: S.B. 399. <u>02/28/2020</u>: KS State Revenue Secretary Burghart told the governor's Council on Tax Reform that a small seller threshold for marketplace facilitators would make virtually no difference in the number of marketplace facilitators required to collect and remit taxes in the state since most MPFs would exceed the \$100,000 threshold anyway. However, he repeated the estimate that a small seller threshold of \$100,000 for remote sellers would cost the state \$10.5 million. UPDATE: 03/16/2020 Senate hearing scheduled re: S.B. 369.</p>	10/1/2019* [*Kansas AG ruled DOR Notice 19-04 void; DOR and Governor disagreed; enforcement date subject to uncertainty]

KY	\$100,000 in sales or 200 transactions	H.B. 487	<p>A news release states that while Kentucky thresholds technically had an effective date of July 1, 2018, for implementation purposes, the DOR advised unregistered remote sellers meeting either threshold that they were required to register with Kentucky by October 1, 2018, and start collecting the state’s sales and use tax on that date. The Department has further stated that registrations should be completed with sales and use tax collections beginning by October 1, 2018. Retailers may contact the Department of Revenue for assistance at KRS.WebResponseSalesTax@ky.gov.</p>	10/01/18
LA	\$100,000 in sales or 200 transactions (not yet in effect / enforced -- see state enforcement position)	Act No. 5, Second Extra. Sess. (2018)	<p>Remote Sellers Information Bulletin 18-001 indicated that remote sellers that meet the \$100,000 sales or 200 transactions thresholds could be required to register and collect commencing not later than Jan. 1, 2019, with no retroactive liability. Bulletin 18-001 noted that the state allows for an 8.45% combined tax rate for remote sellers. However, the Commission then issued a final version of Remote Sellers Information Bulletin 18-002 indicating that sales tax registration for the present is voluntary. (Also according to Bulletin 18-002, remote sellers with annual gross receipts greater than \$50,000 remain subject to LA's use tax reporting requirements.) The Louisiana House and Senate in May 2019 quickly advanced and passed HB 547, which the Governor signed. Under H.B. 547, the state's Sales and Use Tax Commission for Remote Sellers is directed to replace the current voluntary collection system with mandatory collection reflecting the appropriate local tax rate for the transactions, not later than 07/01/2020. Currently the voluntary system, which has a flat 8.45% combined rate, allocates 4.45% of the tax rate to the state, with 4% distributed to localities based on population, but that option will be eliminated. The Commission may adopt mandatory collection on 30 days notice, but not later than July 1, 2020. Until the Commission adopts mandatory collection, remote sellers may continue to collect at the 8.45% rate. The Commission met on July 19, 2019, to discuss two new proposed notices to remote seller (19-002 and 19-003). Notably, Bulletin 19-002 states that, while still subject to change, the Commission does not expect to adopt a collection date earlier than July 1, 2020. In addition, note that Remote Sellers will register through the Commission once the enforcement date is announced. <u>09/2019</u>, the Louisiana Sales and Use Tax Commission for Remote Sellers released two proposed rules drafts. One would allow the Commission to issue guidance similar to the Department of Revenue, and the other would require that remote sellers file their tax returns and payments electronically. <u>10/2019</u>: The Commission officially released the rules under consideration. <u>11/2019</u>: The Remote Seller's Commission awarded a contract to a provider to establish a portal for the filing of single remote seller sales/use tax return for all state and local taxes, in anticipation of July 1, 2020 implementation date. <u>01/2020</u>: The Louisiana Sales and Use Tax Commissioner for Remote Sellers has adopted rules allowing it to issue written guidance, such as private letter rulings and informational bulletins. The Commission has still not specified a collection date for remote sellers - the expected date, however, is 7/1/2020.</p>	1/1/2019 [on a voluntary basis - see comments regarding Bulletin 18-002]; On or before 7/1/2020 [see comments]
ME	\$100,000 in sales or 200 transactions	36 MRSA § 1951-B(3)	<p>Law technically went into effect 10/1/17 - Maine Revenue Services announced on August 9, 2018 that it would enforce the law with regard to sales occurring on or after July 1, 2018. State previously offered a settlement agreement with relief from interest and penalties for July 1 - September 30, for retailers that register and commence collection by October 1, 2018. The form of settlement agreement also made clear that there the retailer is not exposed to retroactive liability for periods prior to July 1, 2018. Maine Revenue Services has begun contacting retailers that did not enter into a settlement agreement (as described above), but instead simply registered and commenced collection later than July 1, 2018, notifying retailers that they are required to report sales tax for the period from July 1, 2018 until their commencement collection date. If you receive such a notice, please contact Brann & Isaacson.</p> <p>Governor Mills signed legislation amending various Maine tax laws, effective 10/1/19. The amendments reincorporate the existing economic nexus thresholds which are otherwise unchanged.</p>	07/01/18
MD	\$100,000 in sales or 200 transactions	Md. Code 11-701(b)(2)	<p>Change in statute was arguably required, but Comptroller's office asserted it would seek to enforce more broadly, to the full extent of the Constitution.</p> <p>The Comptroller has adopted emergency regulations that implement sales thresholds of \$100,000 in sales or 200 transactions effective October 1, 2018. The rule remains in effect until 03/30/19, although the Comptroller continues to enforce the sales thresholds.</p>	10/1/2018 [but see comments]

MA	"regularly or systematically soliciting orders ... for the sale of tangible personal property for delivery to destinations in the commonwealth; otherwise exploiting the retail sales market in the commonwealth through any means whatsoever..." / but limited to Internet sellers with \$500,000 in sales and 100 transactions under regulation for periods prior to 10/1/19; for periods after 10/1/19, threshold of \$100,000 in sales (no transactions threshold) applies	M.G.L. ch. 64, § 1 and 830 C.M.R. 64H.1.7 and 830 C.M.R. 64H.1.9	<p>Department states that it intends to enforce the Internet Vendor Rule from October 2017 through September 30, 2019. A Technical Information Release published 9/17/18 confirms the Department intends to hold fast to the 10/1/17 effective date of its regulation. Massachusetts has a Remote Seller FAQ website stating that only "sales over the Internet resulting in deliveries within MA" count toward determining whether the vendor exceeds the small seller thresholds. Once over the threshold, however, sales/use tax applies to all taxable sales, regardless of channel. HB4000 (signed 7/31/2019) enacts remote seller nexus and marketplace obligations effective October 1, 2019. It reduced the small seller thresholds from \$500,000 and 100 sales under the Internet Vendor Rule to only \$100,000 gross receipts in the current or prior taxable year under the statute. Note, when a MPF is collecting, remitting, and reporting the tax, the MP seller should not include the marketplace sales in calculating the seller's gross receipts in determining the seller's own nexus.</p> <p>09/2019: MA published a new remote sellers FAQ, reiterating that the new nexus standard of \$100,000 went into effect on 10/1/2019 for remote sellers and MPFs. According to the FAQ, MA intends to enforce the cookie-nexus Internet Vendor Rule through 09/30/19. The FAQs also confirm warehouse inventory of fulfillment organizations is and has been physical presence nexus not subject any economic nexus standard--these sellers should register the first month the inventory is in the warehouse and collect, remit, and report on all sales going forward. MPFs whose gross sales (direct and marketplace) exceed the threshold must register but need only report and remit on direct sales and those for which the MPF is not required to do so. Late 09/2019: The MA DOR published an emergency regulation, 830 CMR 64H.1.9, regarding the new remote seller and MPF provisions in the new budget bill, H. 4000, including the \$100,000 sales threshold.</p> <p>10/2019: MA DOR proposed a permanent version of its most recent remote retailer regulation, 830 CMR 64H.1.9. Additionally, the Department repealed the Internet Vendor Rule (830 CMR 64H.1.7), in light of new remote seller and MPF law, as of 10/01/19. New \$100,000 threshold applies to all remote sellers after that date.</p> <p>12/2019: MA finalized its remote retailer regulation, 830 CMR 64H.1.9. Among notable clarifications, the \$100k threshold is generally measured by sales during the prior calendar year and requires the retailer to begin collecting by 01/01 of the subsequent year with 3 exceptions: if the prior calendar year's sales exceed the threshold after 11/01, the retailer would be required to register and begin collection on the first day of the month two months after the month the threshold was exceeded; retailers exceeding the threshold within a calendar year are required to register and begin collecting on the first day of the month two months after the month the threshold was exceeded; and if a formerly remote retailer acquires physical presence, the retailer would be required to register and begin collection the date physical presence is established. Additionally, MPFs must certify to sellers that they are collecting on the seller's behalf.</p>	<p>10/1/2017 [under Internet Vendor Rule at \$500,000 plus 100 transactions];</p> <p>10/01/2019 [under new statute at \$100,000 gross receipts]</p>
MI	(Based on bills enacted in 2019 that track the Department's earlier administrative policy -) A remote seller is obligated to collect sales/use tax on all transactions after October 1, 2018 if the seller has at least \$100,000 in gross receipts or 200 transactions into the state.	H. 4542 and H. 4543	<p>According to Revenue Administrative Bulletin 2018-16 (Aug. 1, 2018), after September 30, 2018, a remote seller with sales into Michigan exceeding \$100,000 (taxable and non-taxable) or 200 or more transactions (taxable or non-taxable) in the previous calendar year, is required to remit sales or use tax. 10/2019: The Michigan legislature is moving to make existing regulatory standards of economic nexus part of Michigan's tax code. On October 16, 2019, the Michigan House of Representatives passed two bills, H. 4542 and H. 4543, that amend the sales tax code and use tax code to provide that a remote seller is obligated to collect sales/use tax on all transactions after October 1, 2018 (i.e., the date set in the Department of Treasury's earlier bulletin) if the seller has at least \$100,000 in gross receipts or 200 transactions into the state. A seller that makes only sales for resale is not subject to the thresholds. The bills now go to the Senate for action. 12/04/2019: Both houses of the MI legislature have passed identical H. 4542 and H. 4543 (signed 12/12/19) and identical H. 4540 and H. 4541 that codify remote seller and MPF obligations, respectively. Remote entities that operate exclusively as wholesalers are not required to obtain a license. Additionally, MPFs would be required to collect and remit on all marketplace sales, and the legislation includes protections against class actions targeting MPFs. The MPF provisions will go into effect on 01/01/2020. 12/23/2019: Michigan released a notice on the topics of its new nexus and MPF laws. The notice explains the contents of the new laws and provides definitions of terms and links to additional resources provided by the state.</p>	10/01/18
MN	\$100,000 or 200 transactions effective 10/01/2019	Minn. Stat. 297A.66, Subd. 3(d)		10/01/2018 [threshold change 10/01/2019]
MS	Purposefully and systematically soliciting sales and realizing \$250,000 in sales	Miss. Rule 35.IV.3.09		9/1/2018 [potentially July 1, 2018 for retailers that did not register by August 31, 2018]
MO	Tax collection limited to retailers with a physical presence	12 Mo. Code Reg. 10-114-100(1)	Pending legislation to enact Wayfair economic nexus sales levels. Legislation in prior years did not pass the House and Senate.	[No date yet established]
MT	[No sales tax]			
NE	\$100,000 in sales or 200 transactions	LB 284		04/01/19
NH	[No sales tax]			
NV	"The imposition, collection and remittance of the sales tax apply to every retailer whose activities have a sufficient nexus with this State to satisfy the requirements of the United States Constitution."	Nev. Stat. 372.724(a)(1)	The Department of Taxation promulgated a regulation that received final approval on 9/27/18 creating a \$100,000 sales or 200 transactions threshold with a proposed collection start date to be set by the DOR. After initial confusion regarding the start date, the Department updated its remote seller website to indicate that, while the rule went into effect on 10/1/18, sellers have 30 days after date of first sale to begin collecting. It states: "If a remote seller has already met the threshold on 10/1/18, they must register and begin collecting sales tax on sales by November 1, 2018."	11/01/18
	[but see comments]			
NJ	\$100,000 in gross revenue or 200 separate transactions	AB 4261		11/01/18
NM	\$100,000 in gross receipts (see comment)	HB 6	<p>In a last minute compromise between house before adjournment of the legislature, the NM House and Senate on March 15 passed HB 6, comprehensive tax legislation that includes a requirement that remote sellers with at least \$100,000 in gross receipts in the previous calendar year must collect/pay New Mexico gross receipts (sales) tax, effective July 1, 2019.</p> <p>In response to an inquiry by Brann & Isaacson, the New Mexico Department of Taxation and Revenue has explained that the new law requires reporting of only the state level tax (at 5.125%) on all sales, but does not yet require remote sellers to apply local gross receipts starting July 2019. Instead, these provisions requiring local gross receipts will become effective July 1, 2021. Furthermore, the Department will provide a location-rate database that sets out tax rates applicable to locations within the state, and sellers who properly rely on this database shall not be liable for any additional tax due to the use of an incorrect rate. The Department claims this database will be fully operational well before July 1, 2021.</p>	7/1/2019 (for state level tax); 07/01/2021 (for the addition of local taxes)

NY	\$500,000 in sales and 100 transactions	S.B. 6615; N.Y. Tax Law § 1101(b)(8)(l, (iv) and Important Notice N-19-1	<p>The New York Department of Taxation and Finance (DTF) has announced a remote seller sales tax policy effective immediately. See Important Notice N-19-1. Pursuant to the policy, “[a] business that had no physical presence in New York but has both made more than \$300,000 in sales of tangible personal property delivered in the state and conducted more than 100 sales of tangible personal property delivered in the state in the immediately preceding four sales quarters is required to register as a sales tax vendor, and collect and timely remit the applicable state and local sales tax.” The notice indicates that vendors must register immediately once those thresholds are hit, and calls with the DTF confirm that this policy is effective immediately. The policy is based on a 1989 statutory provision that the DTF asserts "immediately became effective" when Wayfair was decided. The DTF has published a FAQ page. The FAQs state that NY’s nexus statute, Tax Law §§ 1101(b)(8), took effect on June 21, 2018, and that as of that date remote sellers were obligated to register, collect, and remit NY sales tax. The new FAQs repeat the language from Important Notice N-19-1 that remote sellers meeting the thresholds must register “immediately.” Neither the FAQs nor the January notice indicate whether NY will attempt to enforce its statute back to June 21, 2018.</p> <p>New York S.B. 6615 (signed by Governor Cuomo) raises the economic nexus threshold from \$300,000 to \$500,000, keeping the 100 sales threshold the same. The law makes explicit that the state deems the remote seller obligation to have been in full effect on or after June 21, 2018. In July 2019, an official from the New York Department of Taxation and Finance confirmed at a conference that the Department considers 6/21/18 as the effective date for the collection obligation (and not an earlier date).</p>	<p>06/21/2018 [according to new statutory provision]; [But announcement of post-<i>Wayfair</i> enforcement first made by NYDTR on 01/15/2019]</p>
NC	\$100,000 in sales or 200 transactions	Directive SD-18-6 (Aug. 7, 2018); SB 56		11/1/18 (or 60 days after seller meets threshold, whichever is later)
ND	\$100,000 in sales	N.D.C.C. § 57-39.2-02.1 and .2 and SB 2191		10/01/18
OH	\$100,000 in sales or 200 transactions	Ohio Rev. Code 5741.01(l)(1)	<p>H.B.166 (signed 7/18/19) enacts remote seller nexus “Substantial Nexus” is revised to include a seller that has gross receipts in excess of \$100,000 in the current or preceding calendar year from the sale of TPP or from providing services where the benefit is received in state or makes 200 or more separate sales into the state. The bill also repeals click-through nexus. Both the House and the Senate have now agreed to the Conference Committee's final version of HB 166. The agreed upon version includes the amendments introduced in the House substitute bill regarding remote seller nexus (\$100,000 sales / 200 transactions). The amendments take effect immediately.</p> <p>Based on guidance contained in an Ohio Department of Taxation alert, effective 8/1/19 remote sellers must collect and remit sales tax on all sales delivered to Ohio customers. For remote sellers who are unable to begin collection on August 1, the Department takes the position it is not authorized to offer any amnesty but instead directs remote sellers to its Voluntary Disclosure program.</p> <p>11/2019: OH updated its Use Tax Nexus Standards Information Release to incorporate the terms of H.B. 166. Companies will be required to register, collect, and remit tax from the first day of the month that contains the day the company exceeded the economic nexus thresholds of \$100,000 or 200 transactions (e.g., if a company exceeded the threshold on September 8, tax for the entire month of September would be due). Additionally, if a company falls below the small seller threshold and cancels its license but then reestablishes nexus in the next 12 months, taxes would be due for the entire 12-month period (even when the registration was canceled). Finally, for sellers below the economic thresholds, a list of safe harbors is provided based on limited physical presence, including one for a company with no more than seven instances of nexus-creating activities in the state within a calendar year that also derives \$25,000 in gross receipts. (Sellers above the thresholds must collect sales tax.)</p>	08/01/19
OK	\$100,000 in sales (effective 11/01/2019); Sellers with \$10,000 in sales or greater will, as of July 1, 2018, be permitted to elect between tax collection and notice and reporting [but see comments]	H.B. 1019	<p>Retailer need not register if it elects to comply with notice and reporting; otherwise, collection obligation would commence 7/1/18. The Oklahoma Tax Commission published an 8/31/18 release reaffirming that remote sellers must collect sales and use tax or comply with notice and reporting requirements by 7/1/2018.</p> <p>Oklahoma SB 513 eliminated the notice and reporting regime for remote sellers and required sales tax collection by remote sellers with sales over a \$100,000 threshold, with an effective date of November 1, 2019.</p>	<p>7/1/2018 (notice and reporting--see comments)</p> <p>effective 11/1/2019 (mandatory remote seller collection)</p>
OR	[No sales tax]			
PA	\$100,000 in sales	PA HB 262 / Act No. 13		07/01/19
RI	Rhode Island General Laws requires \$100,000 in gross revenues from sales or 200 or more transactions to register for a Rhode Island sales tax permit and collect.	HB 5278		07/01/19
SC	\$100,000 in sales	S.C. Code An. 12-36-1340(4)		11/01/18
SD	\$100,000 in sales or 200 transactions	SDCL § 10-64-2	On September 12, 2018, Gov. Daugaard signed legislation, from a special legislative session called for the purpose of responding to the Wayfair decision, and lifting the injunction barring enforcement with respect to all affected retailers other than the defendants in <i>Wayfair</i> . This change allows the state to begin requiring sales tax collection by remote sellers prospectively as of November 1, 2018 . As of 11/1/18, the <i>Wayfair</i> defendants settled the action against them and entered a stipulation of dismissal. There will be no further proceedings in the case.	11/01/18

TN	Regular and systematic solicitation plus \$500,000 in sales (see comments)	Tenn. Rule 1320-5-1-.129(2); Sales and Use Tax Notices #19-04 and #19-05	<p>DOR Notice 18-11 reiterated that collection would not be required until after the legislature reviews the <i>Wayfair</i> decision in 2019 and will not be retroactive. In addition, the settlement of the ACMA/NetChoice suit precludes enforcement until after the Department issued guidance on enforcement in 2019. By the terms of the agreed order, enforcement will not be retroactive. The Chancery Court has signed and entered the agreed order ensuring no enforcement until after further guidance issues in 2019.</p> <p>The Tennessee legislature passed HB 667 (signed 05/21/19), which includes the phrase: "beginning July 1, 2019, the Department of Revenue (DOR) is no longer prohibited from collecting sales and use tax on internet sales, pursuant to DOR rule 1320-05-01-.129(2)." This will allow for the promulgation of economic nexus thresholds for remote sellers. In response to this authorization, the Tennessee Department of Revenue issued two new bulletins, Sales and Use Tax Notices #19-04 and #19-05 (June 2019). Together, the notices provide that remote sellers with at least \$500,000 in sales over the prior 12 months as of July 31, 2019, must begin collecting state and local sales tax as of October 1, 2019. A retailer that exceeds the 12-month threshold <i>after</i> July 31 must begin collecting on the first day of the third month following the month it exceeds the threshold. Notice #19-04 further states that the Department will not seek to collect retroactively for periods before October 1, 2019. Notice #19-05 provides that any retailer that was already collecting and taking advantage of the uniform local rate option of 2.25% will no longer be able to use it.</p>	10/1/2019
TX	\$500,000 in sales	34 TAC §3.286; see also HB 2153		10/1/2019 (or 4 months after exceeding threshold)
UT	\$100,000 in sales or 200 transactions (eff. 1/1/19)	2018 Utah SB 2001, (2018 second special session)		01/01/19
VT	\$100,000 in sales or 200 transactions	32 Vt. Stat. Ann. § 9701(9)(F)	For retailers who were not subject to nexus as of 7/1/18, the retailer must register and begin collecting and remitting effective beginning the first day of the first quarter after a controlling court decision or federal legislation abrogates the physical presence requirement of Quill v. North Dakota. Collection requirement kicks in 7/1/18, according to the DOT.	07/01/18
VA	\$100,000 in sales or 200 transactions	HB 1722 / SB 1083	Virginia published a new FAQ website for remote sellers in the wake of legislation adopting remote seller nexus. The FAQs clarify that remote sellers who also sell on a marketplace should base their determination of whether or not their sales exceed the small seller threshold solely on direct sales made by the remote seller (i.e., not to include marketplace sales in the calculations). Remote sellers who sell exclusively through a marketplace are instructed to file Form R-3 to close their sales tax account.	07/01/19
WA	\$100,000 (or 200 transactions until 1/1/20).	RCW 82.08.020, RCW 82.08.053, and 82.08.050	Virginia issued guidelines on the economic nexus legislation which become effective June 27, 2019. They define terms and discuss implementation of the new law.	10/01/18
WV	Remote sellers making \$100,000 in gross sales or 200 transactions must collect sales tax.	W.V. Code Ann. § 11-15A-1, 6b;	<p>The West Virginia State Tax Department website indicates remotes sellers are required to collect WV municipal sales or use taxes that are levied by cities under WV's Home Rule Pilot Program. There are currently 43 municipal sales and use taxes, all collected by the state.</p> <p><u>01/2020</u>: WV released a publication regarding the taxability of tangible personal property and services for remote sellers with no physical presence in WV. The publication reiterated old news -- that remote sellers who met the small seller threshold in 2018 are required to collect and remit the tax beginning on January 1, 2019. It also provided that tax returns and payments are generally due on the 20th day of the month and that sale sourcing is based on the location of where the purchaser takes the delivery or results of the taxable service.</p>	1/1/2019 [by administrative announcement]; 6/6/2019 [by statute]
WI	\$100,000 sales or 200 transactions	2017 Wisconsin Act 368 (2018)		10/01/18
WY	\$100,000 sales or 200 transactions			02/01/19