



MULTISTATE TAX COMMISSION

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Nexus Program Director's Update on Significant Nexus Law Developments Since April 24, 2018

U.S. Supreme Court

South Dakota v. Wayfair, Inc., 585 U.S. ___ (2018)

In its 5-4 decision issued June 21, 2018, the U.S. Supreme Court determined that under SB 106's "economic nexus" provisions (\$100,000 sales/yr. or 200 transactions/yr.), the *Complete Auto* "substantial nexus" prong was satisfied as to the taxpayers, physical presence was not necessary to establish substantial nexus, overruled *Quill Corp.* and *Bellas Hess*, including the physical presence rule. The Court vacated the South Dakota Supreme Court order finding SB 106 unconstitutional, remanding the case for a determination of whether SB 106 was unconstitutional under any of the other three prongs of the *Complete Auto* test. The South Dakota Supreme Court is expected to rule favorably, possibly as soon as mid-August.

The following states have enacted economic nexus statutes similar to South Dakota's, and have announced enforcement as of the dates shown:

Hawaii (effective 7/1/18 for general excise tax)(Department announcement No. 2018-10 published 7/10/18)

Illinois (effective 10/1/18)

Indiana (litigation pending; IN DOR announced 7/19/18 intent to eff. 10/1/18)

Iowa (effective 1/1/19)

Kentucky (effective 7/1/18 with "soft" implementation)

Louisiana (effective 1/1/19)

Maine (legislation enacted effective 10/1/17)

New Jersey (effective 10/1/18)

North Dakota (effective 10/1/18—Tax Commissioner statement published 7/11/18)

Rhode Island (effective 8/17/17—option to notice/report or collect)

Utah (effective 1/1/19—on Governor's desk)

Vermont (effective 7/1/18)(Department announcement, CCH State Tax Today, 6/28/18)

Wyoming (litigation pending—Department announced intent to enforce 10/1/18)
Tripp Baltz, “Wyoming Aims for Oct. 1 Licensing Deadline for Remote Sellers,”
Bloomberg BNA Daily Tax Report (7/5/18)

The following states have enacted economic nexus statutes or regulations with thresholds different from South Dakota's:

Connecticut (\$250,000/yr. and 200 transactions threshold, effective 12/1/18)

Georgia (\$250,000/yr. or 200 transactions threshold, option to notice/report or collect, effective 1/1/19)

Mississippi (regulation--\$250,000/yr. threshold)(Department Statement dated 6/21/18 acknowledges regulation applies)

Ohio (in litigation, \$500,000/yr. threshold plus “cookie nexus,” effective 1/1/18)

Oklahoma (\$10,000/yr. threshold—option to notice/report or collect, effective 7/1/18)

Pennsylvania (\$10,000/yr. threshold—option to notice/report or collect, effective 3/1/18)

Washington (\$10,000/yr. threshold—option to notice/report or collect, effective 7/1/17)

The following states view their current nexus statutes or regulations, with the *Wayfair* decision, as requiring remote sellers to collect their sales/use taxes, and have announced prospective enforcement as of the dates shown:

Alabama (regulation--\$250,000/yr. threshold; effective 10/1/18; Department of Revenue statement published 7/3/18)

South Carolina (guidance using South Dakota thresholds to be published in a few weeks)

Tennessee (regulation--\$500,000/yr. threshold)(litigation pending)

Wisconsin (Wisconsin Department of Revenue statement published 7/5/18 indicating South Dakota thresholds to be applied prospectively, emergency rule being proposed)(effective 10/1/18)

Maryland Comptroller's Office has published a statement 7/17/18 referencing *Wayfair*, indicating the state "shall impose sales tax collection requirements as broadly as permitted under the U.S. Constitution.”

Massachusetts is enforcing its “cookie nexus” regulation 830 CMR 64H.1.7 (\$500,000/yr. threshold)(effective 10/1/17) (Massachusetts Department of Revenue Statement, 6/22/18).

California views its nexus statute as requiring remote sellers to collect, but no post-*Wayfair* guidance has been published yet. Laura Mahoney, "California Mulls Actions, Guidance in Wake of *Wayfair*," Bloomberg BNA Daily Tax Report (7/13/18).

Utah is considering a special session to enact legislation adopting the South Dakota thresholds. Tripp Baltz, "State of *Wayfair*: Did California Just Show Its Hand?" BNA Bloomberg Electronic Commerce & Law Report (7/16/18).

The following states have indicated that future regulatory or statutory action is needed before requiring remote sellers to collect their sales/use taxes:

Texas (Texas Comptroller of Public Accounts Statement published 7/5/18)

State Legislation

Alabama

Alabama Department of Revenue published a notice dated 5/1/18 concerning H.B. 470, providing that by 1/1/2019, marketplace facilitators with sales into Alabama of \$250,000/yr. or more must either register to collect and remit simplified sellers use tax on retail sales made through the marketplace by or on behalf of a marketplace seller, whether by the marketplace facilitator or another person, or report such retail sales to the Department and provide customer notifications.

Connecticut

Connecticut enacted S.B. 417, effective 12/1/18, providing that remote sellers with annual sales of \$250,000 or more and 200 transactions or more required to collect sales/use tax. Marketplace facilitators are required to collect sales/use tax on marketplace seller sales. Marketplace referrers are required to comply with notice and reporting provisions. Lauren Loricchio, "Connecticut Enacts Marketplace legislation Ahead of *Wayfair*," Tax Analysts State Tax Today (6/18/18).

Iowa

Iowa enacted S.F. 2417, adopting South Dakota economic nexus standard (\$100,000/yr. sales or 200 transactions/yr. into state), including "cookie nexus," effective 1/1/19, and requiring remote sellers, marketplace facilitators, and referrers with \$100,000/yr. in sales or 200 transactions/yr. to collect and remit sales/use tax on sales into state. Referrers may comply with notice/reporting requirements in lieu of collecting tax. Iowa S. F. 2417 "cookie nexus" provisions require collection by remote sellers with \$100,000/yr. sales or 200 transactions/yr. threshold and use software downloaded to customers' computers to sell or lease tangible personal property or

services to consumers, or enter into an agreement with content distribution network service provider to accelerate or enhance delivery of seller's website to consumer.

Hawaii

Hawaii enacted S.B. 2514, effective 7/1/18, requiring remote retailers with annual sales of \$100,000 or more or 200 or more transactions to collect its general excise tax. Paul Jones, "Hawaii Governor Approves Remote Sales Tax Law," Tax Analysts State Tax Today (6/15/18).

Illinois

The Marketplace Fairness Act has been enacted in Illinois, similar to South Dakota's remote seller law. H.B. 3342, requires remote retailers with sales to Illinois customers of at least \$100,000/yr. or 200 transactions/yr. to collect sales/use tax, effective 10/1/18.

Louisiana

Louisiana enacted H.B. 17, requiring remote retailers with annual sales of \$100,000 or more or 200 transactions or more to collect sales/use tax. The legislation goes into effect after U.S. Supreme Court's ruling in *Wayfair*. The Department's goal is to implement it effective 1/1/19, with simplification procedures in place for local taxes.

New Hampshire

Governor Sununu has called a special session of the New Hampshire Legislature for 7/25/18 to consider enacting legislation to protect New Hampshire sellers from having to collect sales/use tax on out-of-state sales by requiring other states to notify the Attorney General and receive approval before attempting to enforce any collection obligation on a New Hampshire seller. Paige Jones, "New Hampshire Legislature to meet in Special Session to Navigate Post-*Wayfair* World," Tax Analysts State Tax Today (7/12/18).

New Jersey

New Jersey enacted A. 4261 (introduced the same day that *Wayfair* was decided), effective 10/1/18, requiring remote retailers with annual sales of \$100,000 or more or 200 transactions or more to collect sales/use tax, and including provisions requiring marketplace facilitators to collect. Leslie Pappas, "New Jersey Follows South Dakota Law for Online Sales Taxes," Bloomberg BNA Daily Tax Report (7/3/18).

Utah

The Utah Legislature passed S.B. 2001 in a one-day special session on 7/18/18 (now on the way to the Governor), effective 1/1/19, requiring remote retailers with annual Utah sales of \$100,000 or more or 200 transactions or more to collect sales/use tax. Tripp Baltz, "State of Wayfair: eBay 'OK', No Material Impact," Bloomberg BNA Daily Tax Report (7/20/18).

Rulings or Other Administrative Actions

California

The California Department of Tax and Fee Administration (DTFA) has recently contacted over 2,500 remote retailers regarding their obligations to collect California sales/use tax on their sales to California customers. The DTFA is focusing its efforts on online marketplace sellers with nexus resulting from having inventory in the state. Laura Mahoney, "California Targeting Online Marketplace Vendors for Sales Tax," Bloomberg BNA Daily Tax Report (4/6/18).

Massachusetts

Massachusetts Department of Revenue has promulgated Reg 830 CMR 64 H.1.7, replacing its withdrawn Directive 17-1, providing that effective October 1, 2017, remote retailers with over \$500,000 in Massachusetts sales or over 100 transactions in Massachusetts in prior year are required to register and collect Massachusetts sales/use tax, based on nexus through cookies or other software placed on Massachusetts' customers' computers or smartphones, and use of content distribution networks or marketplace providers located in the state. On October 24, 2017, Crutchfield Corp., a remote retailer of electronic goods based in Virginia, challenged the regulation in Virginia Circuit Court (*Crutchfield Corp. v. Harding*, No. CL 1700145-00), alleging that the regulation violates the Commerce Clause and the Internet Tax Freedom Act. Aaron Nicodemus, "Massachusetts Online 'Cookies' Tax Rule Faces Legal Fight," Bloomberg BNA Daily Tax Report (10/26/17); Matthew Schaefer and George Isaacson, "Saving E-Commerce from 'Virtual Nexus' Predators: ITFA to the Rescue," State Tax Notes (9/4/17). The Department has filed a motion to dismiss for lack of jurisdiction, which is pending. Aaron Nicodemus, "Cookie Tax' Suit Should Crumble: Mass. Officials," Bloomberg BNA Daily Tax Report (2/27/18).

New York

Amazon is complying with New York State Department of Taxation and Finance request for data on its marketplace sellers. Amazon has complied with a similar request from Massachusetts. "Amazon to Disclose Third Party Seller Data to New York," Tax Analysts State Tax Today (5/18/18).

Cases

Alabama

Newegg, et al v. Alabama Department of Revenue, Alabama Tax Tribunal, challenge to assessment under anti-Quill regulation requiring remote sellers with over \$250,000 in sales/yr. to Alabama to collect use tax, has been dismissed. Alabama Tax Tribunal voided Department's assessment against Newegg, Inc. under its "economic nexus" regulation on 6/14/18. Chris Marr, "Alabama Concedes Online Sales Tax Fight With Newegg, for Now," Bloomberg BNA Daily Tax Report (6/18/18).

Chicago, Illinois

In *Labell v. City of Chicago*, Circuit Court of Cook County, Illinois, the taxpayer challenged Chicago's amusement tax extension to streaming services as illegal and in violation of the commerce clause of the U.S. Constitution, the uniformity clause of the state constitution, and the Internet Tax Freedom Act. The court upheld the tax against all challenges on 5/24/18. Regarding the ITFA challenge, the court determined that on-line streaming service is different from a live performance, so taxing streaming at a higher rate than a live performance did not violate ITFA. Andrea Muse, "Chicago Tax on Streaming Services Ruled Constitutional," Tax Analysts State Tax Today (5/30/18).

Florida

Manatee County, Florida has sued Airbnb in circuit court to require Airbnb to collect its bed tax on short term rentals, and also to require Airbnb to submit to an audit. Airbnb has entered into an agreement to collect with Florida and 40 other counties, but Manatee County declined. Andrea Muse, "Florida County Sues Airbnb Over Transient Occupancy Tax, Seeks Audit," Tax Analysts State Tax Today (5/3/18).

Indiana

NetChoice and American Catalog Mailers Association suit filed in Indiana seeking a declaratory judgement that Indiana Act No. 1129 (which was to go into effect on July 1, 2017), anti-*Quill* legislation similar to South Dakota's, be declared unconstitutional, and that it be enjoined from enforcement, remains pending, but likely will be disposed of, in light of *Wayfair*.

Minnesota

In *Fielding v. Commissioner of Revenue*, the Minnesota Supreme Court held that it was a violation of due process for the state to tax the entire gain on the sale of stock in a

Minnesota S corporation owned by 4 trusts, based on their classification as resident trusts, although the state could tax them as nonresident trusts and an apportioned share of that income. The trusts were established *inter vivos* by a Minnesota grantor. By statute, they were classified as resident trusts, due to the grantor having been a resident. The grantor later gave up control of the trusts, and they became irrevocable. Thereafter, in 2014, the trustee, a Texas resident, sold the shares on behalf of the trusts, taking the position that Minnesota could only tax the trusts as nonresident trusts, so only a portion of the gain would be taxable, not the entire gain, due to the tenuous contacts between the state and the trusts. The trusts had filed Minnesota resident returns in prior years. The court agreed with the trustee, determining that contacts with the state and the trusts prior to the 2014 sale were irrelevant. Andrea Muse, "Minnesota High Court Holds Trust Not Resident, Lacks Sufficient Contacts, Tax Analysts State Tax Today (7/19/18).

Ohio

In *American Catalog Merchants Association v. Testa*, American Catalog Merchants Association has filed suit 12/29/17 in Ohio district court challenging the constitutionality of the Ohio Rev. Code 5741.01(I)(2)(i) provisions for "cookie nexus", claiming violations of due process, Commerce Clause, and the Internet Tax Freedom Act. The Ohio AG is seeking dismissal. "Alex Ebert, "Ohio AG Seeks to Dismiss, Stay 'Cookie' Sales Tax Dispute," Bloomberg BNA Daily Tax Report (4/6/18).

Oregon

In *Ooma, Inc. v. Oregon Department of Revenue*, TC-MD 160375G, the Oregon Tax Court ruled on 4/13/18 that the "physical presence" nexus rule in *Quill* did not apply to Oregon's 911 tax, and an out-of-state telecommunications service (VOIP) provider was required to collect the monthly \$.75/line fee from its Oregon customers, determining that the collection obligation withstood constitutional scrutiny under both the Due Process and Commerce Clauses, even though the parties stipulated that Ooma, Inc. had no physical presence in the state. Andrea Muse, "Oregon Tax Court Says No Physical Presence Needed for 911 Tax," State Tax Notes (4/19/18).

South Carolina

The South Carolina Department of Revenue issued a sales/use tax assessment of \$12.5 million assessment against Amazon Services LLC for uncollected tax on sales on its website for its marketplace sellers since January 1, 2016. Amazon sought a contested hearing in July 2017. Amy Hamilton, "Amazon Market Place Case Reassigned to South Carolina Chief ALJ," Tax Notes (9/5/17). The Department filed

a motion for preliminary injunction to compel Amazon to commence placing in trust tax collections on its third-party sellers' sells, alleging irreparable harm for failure to collect. However, the administrative law judge denied the motion, and the case remains pending. Andrew Ballard, "Amazon Avoids Collecting South Carolina Marketplace Taxes," Bloomberg BNA Daily Tax Report (1/31/18). The Department filed a motion on April 2, 2018 to require Amazon to turn over its list of third-party sellers. Amazon asserts that if the court orders that, a protective order be entered prohibiting the Department from using any of that information for future enforcement efforts. Amy Hamilton, "Amazon, State Fight over Third-Party Seller Data," Tax Analysts State Tax Notes (4/16/18); Amy Hamilton, "Drama Over Amazon Third-Party Data," Tax Analysts State Tax Today (6/19/18).

The Department is now accepting registration applications from Amazon's third-party sellers during the pending litigation. "Andrew Ballard, "South Carolina Seeks Collection from Amazon Marketplace Sellers," Bloomberg BNA Daily Tax Report (2/23/18).

South Dakota

See *Wayfair, Inc.* decision (above)

Tennessee

NetChoice and American Catalog Mailers Association challenged in Tennessee chancery court the constitutionality of Tennessee's Rule 129, which would require remote retailers with Tennessee sales exceeding \$500,000 to commence collection of Tennessee sales/use tax. The case remained on hold, pending *Wayfair*, which should now dispose of the matter. Ryan Prete, "Tennessee Court Puts Digital Sales Tax Lawsuit on Hold," Bloomberg BNA Daily Tax Report (3/9/18).

Washington

In Det. No. 17-0277, 37 STD 136 (2018), the Washington Department of Revenue determined that in-state affiliate solicitation activities to enroll merchants created and maintained a network for taxpayer's credit cards and created nexus for B&O tax. The taxpayer is an out-of-state commercial bank issuing and servicing credit cards.

In Det. No. 17-0243, 37 WTD 112 (2018), the Washington Department of Revenue determined that an out-of-state manufacturer and seller of whole carrots and baby carrots making wholesale and retail sales into Washington, had nexus for purposes of its B&O tax, and the taxpayer could not dissociate sales to certain customers that it claimed not to have nexus with from other sales to other customers that it

acknowledged having nexus with. The taxpayer sent sales representatives into the state to visit certain customers, but did not make physical visits into the state as to other customers.

Wyoming

Two lawsuits remain pending in state district court concerning HB 19, Wyoming's anti-*Quill* legislation: *Wyoming v. Newegg, Inc.*, No. 34238 (7/7/17) (filed by AG seeking declaratory judgment that HB 19 is constitutional) and *Am. Catalog Mailers Ass'n v. Noble*, No. 188-137 (6/28/17) (seeking determination that HB 19 is unconstitutional). Michael Bologna, "Wyoming Boots Up Online Sales Tax Lawsuit, Joins Four Others," Bloomberg BNA Daily Tax Report (7/11/17). The *Wayfair* decision should dispose of those matters.

Amnesty

Alabama

Alabama has enacted a tax amnesty program for corporate, individual and trust income taxes, and sales/use taxes. "Alabama Enacts 2018 Tax Delinquency Amnesty Act," Bloomberg BNA Daily Tax Report (3/12/18). The application period is 7/1/18 to 9/30/18 and will have a 3-year lookback period. "Tax Amnesty Program Enacted," CCH State Tax Day (3/18/18).

Connecticut

Connecticut has enacted a "Fresh Start" program that will allow taxpayers to pay back taxes owed with no penalties, 50% interest, and limited lookback period. The program will end 11/30/18. Aaron Nicodemus, "Connecticut Lawmakers 'Fresh Start' Compliance Initiative," Bloomberg BNA Daily Tax Report (12/18/17).

Indiana

Indiana is offering a one-time initiative (expires on 12/31/18) for online marketplace sellers with inventory in the state to come forward, register, and receive waiver of sales/use and income/franchise back taxes, interest and penalties, except for a one-year lookback period. CCH State Tax Day (5/3/18).

New Jersey

The New Jersey Legislature enacted A. 3438 requiring that a 90-day amnesty period be established, to end not later than 1/15/19, allowing payment of back taxes plus one-half of the interest due and waiver of penalties for certain taxes. Bloomberg BNA Daily Tax Report (7/4/18).

Congress and Other Federal Activities

There is no activity to report concerning S. 276, the Marketplace Fairness Act of 2017, and H.R. 2193, the Remote Transactions Parity Act of 2017, introduced April 27, 2017 in the 115th Congress. These are similar to the bills introduced in prior years, providing Congressional authorization for states to require certain remote sellers to collect use tax on remote sales, when certain conditions are met.

There is no further activity to report concerning No Regulation Without Representation Act (2017 H.R. 2887), codifying physical presence nexus, following the July 25, 2017 hearing before the Subcommittee on Regulatory Reform, Commercial and Antitrust Law Committee.

The National Association of Self-Employed has called for Congressional action in response to *Wayfair*, in its statement published 6/26/18. eBay has also urged such Congressional action. Paige Jones, "Large Online Retailers Push Congress on Remote Sales Taxation," Tax Analysts State Tax Today (6/26/18).

Senators Tester (MT), Merkley (OR), Hassan (NH), and Shaheen (NH) introduced in the U.S. Senate on June 28, 2018 S. 3180, the "Stop Taxing Our Potential Act of 2018," which would essentially codify *Quill*. The senators represent states that do not impose sales tax.

The Congressional Internet Caucus Academy held a meeting in the Rayburn Building in Washington, D.C. on July 10, 2018, at which George Isaacson, counsel for *Wayfair*, and Mike Dabbs, representative from eBay, urged Congress to enact legislation to protect internet sellers, post-*Wayfair*.

Chairman Goodlatte has scheduled a Judiciary Committee hearing on July 24, 2018 at 10am EDT to consider post-*Wayfair* issues.

UPDATE ON SALES/USE TAX NEXUS LAW CHANGES



Richard Cram
National Nexus Program Director

Nexus Committee
July 23, 2018

SOUTH DAKOTA V. WAYFAIR DECISION (5-4) ON 6/21/18

Under SB 106's "economic nexus" provisions (\$100,000 sales/yr. or 200 transactions/yr.), "substantial nexus" exists for remote sellers Wayfair, Overstock.com, Newegg; physical presence is not necessary, overruling *Quill* and *Bellas Hess*, remanding for determination if SB 106 is constitutional under *Complete Auto* test. The South Dakota Supreme Court expected to rule favorably by mid-August. Dissent --leave *Quill* in place, look to Congress to resolve.

WAYFAIR DECISION: SOUTH DAKOTA SB 106 FEATURES

- “safe harbor” for small sellers (\$200,000 sales/yr. or 200 transactions/yr.)
- No retroactive liability
- South Dakota is a member state in the Streamlined Sales and Use Tax Agreement (state level administration, uniform definitions of products and services, simplified tax rate structures, access to software paid for by the state, liability protection for sellers relying on state software)

SOUTH DAKOTA-STYLE ECONOMIC NEXUS STATUTES

- Indiana (litigation pending—Dept. intent to enforce eff. 10/1/18)
- Maine
- North Dakota (eff. 10/1/18—Dept. announcement)
- Vermont (eff. 7/1/18—Dept. announcement)
- Wyoming (litigation pending)
- **Louisiana (HB 17 eff. 1/1/19--Dept. announcement)**
- **Illinois (HB 3342 eff. 10/1/18)**
- **Hawaii—general excise tax (SB 2542 eff. 7/1/18)**
- **Iowa (SF 2417 eff. 1/1/19)**
- **Kentucky (HB 366 eff. 7/1/18)**
- **New Jersey (A.4261 eff. 10/1/18)**
- **Utah (S.B. 2001 eff. 1/1/19)**
- Threshold: \$100,000 in sales/yr. or 200 transactions/yr.
- **Connecticut (SB 417 \$250,000 and 200 transactions/yr. eff. 12/1/18)**

ECONOMIC NEXUS REGULATIONS

- Alabama reg (\$250,000 sales/yr)(Department statement dated 7/3/18 indicates intent to enforce prospectively starting 10/1/18)
- Tennessee reg (\$500,000 sales/yr—litigation pending)
- Mississippi reg (\$250,000 sales/yr, effective 6/21/18-- statement)

OTHER STATES REQUIRING REMOTE SELLER COLLECTION AFTER WAYFAIR

- South Carolina (guidance using South Dakota thresholds to be published in a few weeks)
- Wisconsin (Wisconsin Department of Revenue statement published 7/5/18 indicating South Dakota thresholds to be applied prospectively, emergency rule being proposed)(effective 10/1/18)
- Maryland (Comptroller's Office statement published 7/17/18 referencing *Wayfair*, indicating the state "shall impose sales tax collection requirements as broadly as permitted under the U.S. Constitution")

REACTIONS

- Governor Sununu called a special session of the New Hampshire Legislature for 7/25/18 to consider enacting legislation to protect New Hampshire sellers from having to collect sales/use tax on out-of-state sales by requiring other states to notify the Attorney General and receive approval before attempting to enforce any collection obligation on a New Hampshire seller. New Hampshire does not impose sales tax.
- Some OR, MT, NH U.S. Senators introduced S. 3180, the "STOP Act," on 6/28/18 to codify *Quill*.
- Judiciary Committee hearing scheduled 7/24/18

COLORADO-STYLE NOTICE AND REPORTING LAWS

- Colorado
- **Georgia (HB 61 collect if \$250,000 sales/200 trans. or report eff. 1/1/19)**
- Kentucky (notice only)
- Louisiana
- Minnesota
- **Oklahoma (HB 1019XX remote sellers, referrers, marketplaces collect if \$10,000 sales or report eff. 7/1/18)**
- Pennsylvania (notice only)
- Rhode Island (collect if \$100,000 sales/200 trans. or report eff. 8/17/17)
- Tennessee (notice only)
- Vermont
- Washington
- Various thresholds

CLICK-THROUGH NEXUS STATES

- AR CA CO CT GA IL KS LA ME MI MN MO NC NV NY
OH PA RI TN VT WA
- **New: ID (HB 578 \$10,000 sales threshold)**
- Various thresholds (most use \$10,000 or more in annual sales to customers in the state)

MARKETPLACE FACILITATOR AS COLLECTOR/REPORTER LAWS

- Washington (collect eff. 1/1/18)
- Minnesota (collect eff. 7/1/19 or constitutional, if sooner)
- **Connecticut (SB 417 collect/referrer report if sales/yr \$250,000 + 200 trans eff. 12/1/18)**
- Pennsylvania (collect or report)
- Rhode Island (collect or report if sales/yr \$100,000/200 trans)
- **Iowa (SF 2417 collect/referrer report if sales/yr \$100,000/200 trans eff. 1/1/19)**
- **Oklahoma (HB 1019XX collect if sales/yr \$10,000 or report eff. 7/1/18)**
- **Alabama (HB 470 collect if sales/yr \$250,000 or report eff. 1/1/19)**
- **New Jersey (A. 4261 collect if sales/yr \$100,000/200 trans eff. 10/1/18)**

MARKETPLACE FACILITATOR COLLECTING IN WA, PA

- Amazon commenced collection of sales/use tax on behalf of its third-party sellers on sales to Washington, pursuant to H.B. 2163. Amazon also commenced collecting on behalf of third-party sellers on sales to Pennsylvania, in response to its legislation.
- Marketplace provider Etsy is collecting tax on sales made into Pennsylvania and Washington.

CALIFORNIA PURSUING ONLINE MARKETPLACE SELLERS

The California Department of Tax and Fee Administration (DTFA) has recently contacted over 2,500 remote retailers regarding their obligations to collect California sales/use tax on their sales to California customers. The DTFA is focusing its efforts on online marketplace sellers with nexus resulting from having inventory in the state.

NY/MA/RI/SC REQUESTS FOR AMAZON MARKETPLACE SELLER DATA

- Amazon is complying with New York State Department of Taxation and Finance request for data on its marketplace sellers.
- Amazon has complied with a similar request from Massachusetts.
- Amazon is providing to Rhode Island marketplace seller identification data, pursuant to its 2017 legislation.
- In *Amazon Services LLC v. South Carolina Department of Revenue*, the Department is seeking a list of Amazon's online marketplace sellers, and Amazon is in the process of producing that list.

COOKIE NEXUS

Massachusetts Reg 830 CMR 64 H.1.7 \$500,000 sales threshold eff. 10/1/17; challenge pending in Virginia Circuit Court (*Crutchfield Corp. v. Harding*, No. CL 1700145-00)

Ohio Rev. Code § 5741.01(I)(2)(i) \$500,000 sales threshold; challenge pending in *American Catalog Merchants Association v. Testa*, Ohio district court

Iowa S. F. 2417 \$100,000/yr. sales or 200 trans./yr. eff. 1/1/19