

Nexus Law  
Update  
since  
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# MTC Nexus Committee

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# Administrative Publications Highlights

- State tax departments continue to publish sales/use tax compliance guidance for remote sellers and marketplace facilitators, particularly when additional excise taxes are to be collected by marketplace facilitators: Alabama, California, Colorado, Connecticut, Florida, Illinois, Kansas, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nevada, North Carolina, Ohio, Texas, Wisconsin.
- California FTB published Technical Advice Memorandum 2022-01 consistent with revised MTC Statement of Information Concerning Practices of Multistate Tax Commission and Supporting States Under Public Law 86-272.
- Delaware and South Carolina published guidance concerning remote worker nexus policies.
- Maine amended regulations to implement corporate income tax factor presence nexus and Rhode Island promulgated regulations providing corporate business tax nexus guidance.

# Rulings Highlights

- North Carolina published redacted PLR concerning whether an entity fit within its definition of “marketplace facilitator.”
- Washington Determination No. 20-1028 upheld B&O tax nexus on out-of-state wholesaler contending no “transactional nexus” because title passed to buyer upon delivery to third-party carrier.

# Legislation Highlights

- Colorado House Bill 22-1099: imposing information requirements on online marketplaces concerning high-volume sellers; Illinois House Bill 1091: imposing information requirements on online marketplaces concerning high-volume sellers and adding AG enforcement powers
- Idaho HB 677: prohibit other states (Oregon CAT) from taxing Idaho businesses on income from sales between an Idaho business and a nonresident who is physically present within the state of Idaho while engaging in the business transaction
- Utah SB 39: providing income tax exemption for temporary workers based on the Multistate Tax Commission Uniformity Project language

# Litigation highlights

- Marketplace seller litigation against CDTFA in federal court
- Chicago amusements tax on streaming services
- Federal court “*Pike* undue burden” challenge to Louisiana locally administered sales/use tax laws
- Maryland digital advertising tax litigation
- Massachusetts and New York City litigation: challenges to taxation of gain income of nonresident owner selling interest in pass-through entity doing business in the jurisdiction; 4/12/22 appellate court ruling for City
- New York and North Carolina sales tax litigation concerning out-of-state seller’s claim that title passed to buyer upon delivery to common carrier, so no sales tax transactional nexus
- Challenges to constitutionality of Ohio municipal income tax on remote workers’ income
- Nexus challenge to Oregon E-911 tax