



SALT: Sales & Use Tax Service Offerings

Wayfair's Impact on Sales Tax Nexus

How the Biggest Sales Tax Change in 25 Years Impacts Your Company

In 2018, sales tax experienced a momentous change. The Supreme Court overturned the physical presence requirement of nexus and states charged out of the gates with new sales tax laws. Now, more states are joining the race to collect sales tax from out-of-state sellers with no physical presence or connection to the state. Suddenly, these remote sellers, who range from individuals to large businesses, are faced with monitoring sales, registering with states, and collecting and remitting sales tax to multiple jurisdictions. Ignoring these obligations could put your company at risk of financial penalties, escalating interest and audit nightmares.

Nexus Chart

Find out which states enforce economic nexus and threshold requirements by state with Cherry Bekaert's complimentary Nexus Chart.

Visit [CherryBekaertSalesTax.com](https://www.cherrybeekaert.com/sales-tax).

What Creates Nexus Today?

Physical presence in a state creates nexus. States define physical presence differently. Remote employees, salesperson visits, deliveries and third parties working on your company's behalf are just a few examples of physical presence in many states.

Previously, remote sellers with no physical presence in a state were under no obligation to collect and remit sales tax to that state. The responsibility fell on the buyer living in the state.

In June 2018, the biggest sales tax change in 25 years occurred with the Wayfair ruling by the U.S. Supreme Court. Economic nexus became legal. Now, even without physical presence, many remote sellers are establishing nexus simply based on the number of transactions or total sales made in a state. These economic thresholds are surprisingly low. The penalties for non-compliance are remarkably high.

Companies Most Impacted

Four types of businesses are particularly impacted by today's sales tax nexus obligations:

- ▶ **Multi-State and eCommerce Sellers** - Any person or business engaged in selling taxable products or services into multiple states must comply with the nexus laws. These sales tax obligations impact all remote sellers from multi-state corporations to mom-and-pop eCommerce stores. Thresholds are set to protect small businesses but sales and transactions add up quickly. The challenge is finding the time to monitor activities in multiple states and navigate the registration guidelines.
- ▶ **Industrial/Manufacturing Businesses** - Manufacturers and other industrial sector businesses are impacted on both the sales and purchasing sides of business. The burden of collecting sales tax from customers will grow and managing customer exemption certificates in a multi-state environment is critical. Understanding sales tax laws in your state AND knowing how these laws apply to your purchases is required. Why? Because more of your suppliers are charging sales tax to comply with new nexus standards. Tools and resources are needed to identify taxability errors. Not taking advantage of manufacturing exemptions is a costly mistake.
- ▶ **Technology and Software Companies** - Businesses involved with the sale of electronically downloaded software, SaaS, digital goods, or information/data processing services must now understand the taxability of these products and services in more states. The challenge of sourcing the transactions to the proper tax jurisdiction is becoming an increased burden as well.

- ▶ **International Sellers** - If an international seller meets any of the sales tax nexus criteria and does collect and remit sales tax to those states, the states have the authority to assess tax, and collect penalties and interest on uncollected tax. If an international seller is from a country with treaty protections, the treaty does not protect the company from sales tax obligations or state income tax obligations.

Strategic Planning is Necessary

Get a clear picture of your nexus footprint and develop a plan to comply with sales tax obligations.

- ▶ Conduct a Nexus Review to determine if the Wayfair decision impacts your company.
- ▶ Complete a Taxability Study to understand which of your sales and purchases are taxable, nontaxable and exempt.
- ▶ If unidentified nexus is discovered, quantify the oversight and plan next steps.
- ▶ Register and start collecting sales tax, as needed.
- ▶ Devise a plan to ensure sales tax returns are filed on time. Consider outsourcing sales tax compliance.
- ▶ Keep an eye on your sales tax obligations. The world of sales tax is rapidly changing.

Cherry Bekaert is ready to implement a proactive plan to navigate you through these new sales tax obligations. Our sales tax experts have the tools and resources to complete any or all of these steps.

Let us be your guide forward

For more information, visit the Cherry Bekaert sales and use tax website at CherryBekaertSalesTax.com. If you have questions or want more information about the new economic nexus standards, contact:



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