

Hello. It looks like you're using an ad blocker that may prevent our website from working properly. To receive the best experience possible, please make sure any blockers are switched off and refresh the page.

If you have any questions or need help you can email us

are required to register with the Department of Revenue and collect and remit Kansas sales or use tax.

Gail Cole • Sep. 03, 2019



As of October 1, 2019, ALL out-of-state sellers making sales for delivery into Kansas are required to register with the Department of Revenue and collect and remit Kansas sales or use tax.

According to Department of Revenue [Notice 19-04](#), “Kansas imposes its sales and use tax collection requirements to the fullest extent permitted by law.” Until the middle of last year, it could only require businesses with a physical presence in the state to collect and remit sales tax. The same was true for all states.

However, the Supreme Court of the United States found the physical presence rule to

Hello. It looks like you're using an ad blocker that may prevent our website from working properly. To receive the best experience possible, please make sure any blockers are switched off and refresh the page.

If you have any questions or need help you can email us

this state to require the retailer to collect and remit tax under the provisions of the constitution and laws of the United States.”

This is significant.

No small-seller exception

Most states have closely followed South Dakota's lead to minimize the risk of a legal challenge. Thus, most are enforcing economic nexus on a prospective basis only, and most allow an exception for small sellers. In South Dakota, the economic nexus threshold is more than \$100,000 in sales or at least 200 separate transactions in the state annually. You can find details about each state's economic nexus law [here](#).

Kansas will tax remote sellers prospectively, starting October 1, 2019. However, it isn't providing a small-seller exception.

The Kansas Department of Revenue has decided Wayfair gives it the authority to enforce K.S.A. 79-3702(h)(1)(F), but not to establish an exception for small sellers. For that to happen, the Kansas Legislature would have to get involved; it reconvenes in January 2020.

Three states view old law through new lens

Though it's uncommon, Kansas isn't the only state to base a remote sales tax collection obligation on a new interpretation of an old statute: California, New York, and Wisconsin did the same. However, the tax departments in these three states interpreted the law to allow them to establish a small-seller exception.

California originally adopted the same \$100,000 sales/200 transactions threshold as South Dakota. Like the Kansas Department of Revenue, the California Department of Tax and Fee Administration (CDTFA) believed it lacked the authority to change the

threshold accepted by the Supreme Court in Wayfair. The rule took effect April 1,

Hello. It looks like you're using an ad blocker that may prevent our website from working properly. To receive the best experience possible, please make sure any blockers are switched off and refresh the page.

If you have any questions or need help you can email us

solicitation to mean a remote vendor with more than \$300,000 in sales and at least 100 transactions in the state in the preceding four quarterly sales tax quarters. [More details.](#)

Finally, a law predating Wayfair authorized Wisconsin to tax remote sales to the full extent of federal law. Shortly after the Wayfair ruling, the Wisconsin Department of Revenue adopted an [emergency rule](#) to codify the small-seller exception “consistent with the Court’s decision in Wayfair.” [More details.](#)

Back to Kansas

For now, the Kansas Department of Revenue maintains it lacks the authority to establish a small-seller exception. Unless that stance changes, or the Kansas Legislature intervenes, all remote sellers that make any amount of sales into Kansas will have to register with the department and start collecting and remitting sales tax as of October 1, 2019.

Similarly, the department doesn’t believe existing law enables it to force marketplace facilitators to collect on behalf of third-party sellers. Thus, marketplace facilitators are invited to consider entering into a voluntary compliance agreement with the department. Additional information is available in [Notice 19-04](#).

Next step for remote sellers

Kansas is a Streamlined Sales Tax (SST) state, so remote retailers can register through the [Streamlined Sales Tax Registration System](#) and use a [Certified Service Provider](#) (CSP) to fulfill most sales and use tax obligations. Businesses that qualify as a “voluntary seller” in Kansas may be eligible to receive those services at a significantly reduced cost. Learn more about the [SST and why you should care about it](#).

=====

Hello. It looks like you're using an ad blocker that may prevent our website from working properly. To receive the best experience possible, please make sure any blockers are switched off and refresh the page.

If you have any questions or need help you can email us

CPA Practice Advisor is registered with the National Association of State Boards of Accountancy (NASBA) as a sponsor of continuing professional education on the National Registry of CPE Sponsors.

© 2024 Firmworks, LLC. All rights reserved