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## OCTOBER 1, 2019

A business must have nexus — a connection with a state — for the state to require the business to collect and remit sales tax. Before the Wayfair ruling, sales tax nexus was based solely on physical presence: States couldn't require an out-of-state ...

Sep. 23, 2019



New sales tax collection requirements for remote sellers and marketplace providers take effect October 1, 2019, in more than a dozen states — including Texas, the second most populous state in the nation. In fact, it's getting hard to sell across state lines *without* encountering economic nexus, the fallout from the United States Supreme Court's seminal sales tax decision in *South Dakota v. Wayfair, Inc.*

### **South Dakota v. Wayfair, Inc. recap**

The Supreme Court's ruling in [South Dakota v. Wayfair, Inc.](#) enables states to tax

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collect and remit sales tax based solely on their sales volume or transactions in the state, or both. This is economic nexus.

Of the 45 states that have a general sales tax, 43 have adopted an economic nexus law or rule since the June 2018 Wayfair ruling. Most of those laws or rules are already being enforced, but not all: Economic nexus comes online in five states on October 1, 2019 (and is amended in two states).

Economic nexus laws enforced as of October 1, 2019

The following states will enforce economic nexus as of October 1, 2019:

- Arizona
- Kansas
- Maryland (broadening existing law)
- Massachusetts
- Minnesota (changing existing economic nexus threshold)
- Tennessee
- Texas

Each state's policy is unique, though three stand out for being particularly so: Arizona, Kansas, and Texas.

## Arizona

[Arizona is easing remote sellers into sales tax collection.](#) Like most states, it provides a small seller exception; unlike most states, Arizona's small seller exception will change over time. In 2019, the sales threshold for the current or previous calendar year is \$200,000. The threshold decreases to \$150,000 in 2020, and to \$100,000 in 2021.

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There's a high economic nexus threshold in Texas (\$500,000). Remote sellers who are required to collect and remit tax in the Lone Star State have the option of collecting a [single local use tax rate](#) for all sales into the state, rather than the actual rate in effect at each location. This could prove extremely useful, since Texas has more than 1,500 different local sales and use tax jurisdictions.

For 2019, the single local use tax rate in Texas is 1.75 percent, and the total (state and local) rate is 8 percent.

### Tennessee callout

There's nothing particularly unusual about the economic nexus law set to take effect in Tennessee, but it nonetheless deserves a special mention.

Tennessee was one of the first states in the country to [adopt economic nexus](#), which it did well before the Supreme Court overruled the physical presence rule. A deeply divided state, the Tennessee Legislature then [prohibited](#) the Tennessee Department of Revenue from enforcing economic nexus.

Almost a year after Wayfair was decided, the legislature [enacted an economic nexus law](#). Enforcement was set to start July 1, 2019, but the date was pushed back to October 1, 2019. Many in the state will likely exhale once remote sales tax collection finally starts.

### Maryland, Massachusetts, and Minnesota

The remaining three states on the above list, Maryland, Massachusetts, and Minnesota, are amending remote seller sales tax laws as of October 1, 2019. Maryland will extend economic nexus to certain tobacco taxes; Minnesota is changing its economic nexus small seller exception to be more in line with the threshold in South Dakota (of *South Dakota v. Wayfair, Inc.* fame): 100,000 in sales or 200 transactions.

Massachusetts currently enforces cookie nexus, which is like economic nexus for

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October 1, 2019, new sales tax collection requirements for marketplace facilitators take effect in the following states:

- Arizona
- California
- Colorado
- Maine
- Maryland
- Massachusetts
- Minnesota (amending existing law)
- Nevada
- North Dakota
- Texas
- Utah
- Wisconsin

Marketplace facilitator sales tax laws are often linked with economic nexus laws (note that several states made both lists). They typically require in-state marketplaces and out-of-state marketplaces doing a certain amount of business in the state to collect and remit the tax due on all sales made through the marketplace — their own sales and sales by third-party sellers.

Of course, each state's law is unique. One of the most significant ways these laws can differ is in their registration requirements for marketplace sellers.

For example, all marketplace sellers with physical presence or economic nexus in Connecticut are required to register with the Connecticut Department of Revenue Services, even if they only sell through a marketplace that handles sales tax on their behalf.

However, Wyoming doesn't require all marketplace sellers to register. While

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THIS ISN'T THE LAST OF IT.

- A new economic nexus law will take effect in Oklahoma on November 1, 2019.
- New requirements and amendments to existing requirements will take effect in several states on January 1, 2020.
- Louisiana will enforce economic nexus no later than July 1, 2020.

Finally, something is bound to happen in Florida and Missouri, the only two states that have a general sales tax and haven't adopted economic nexus. In fact, a [bill](#) that would establish economic nexus and make marketplace facilitators liable for sales tax was introduced in Florida just last week.

When so many sales tax changes take effect on the same date, businesses that sell across state lines need to be extra vigilant and ready to act. [Automating sales tax management](#) can help businesses of all sizes manage sales tax more effectively, from determining nexus to filing returns, and all steps in between.

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*Gail Cole began researching and writing about sales tax for Avalara in 2012 and has been fascinated with it ever since. She has a penchant for uncovering unusual tax facts, and endeavors to make complex sales tax laws more digestible for both experts and laypeople.*

Sales Tax

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