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Marketplace Facilitator Law

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Gail Cole • May. 03, 2021



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Every other state's economic nexus law provides safe harbor for small remote businesses. Starting July 1, 2021, the law in Kansas will do the same. An out-of-state seller will be required to register, collect, and remit only if the retailer had:

- More than \$100,000 of cumulative gross receipts from sales to customers in the state for the period of January 1, 2021, through June 30, 2021; *or*
- More than \$100,000 of cumulative gross receipts from sales to customers in the state during the current or immediately preceding calendar year.

SB 50 specifies that a remote seller meeting the economic nexus threshold “shall not be required to collect and remit any taxes from sales occurring prior to July 1, 2021.”

Marketplace facilitators responsible for the tax on third-party sales

The measure also brings Kansas in line with other states by making marketplace facilitators responsible for collecting and remitting the tax due on third-party sales. This applies to marketplace facilitators with a physical presence in Kansas as well as remote marketplaces with economic nexus.

When calculating the threshold, a marketplace should include both direct and indirect (i.e., third-party) sales.

Marketplace facilitators are liable for sales and use tax and transient guest taxes starting July 1, 2021. Beginning April 1, 2022, they'll also be responsible for collecting and remitting prepaid wireless 911 fees.

The end of click-through nexus

Finally, SB 50 repeals the state's click-through nexus provision for affiliated persons. States are finding it more expedient to focus on economic nexus and marketplace

facilitator provisions.

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