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## PRODUCT & SERVICE GUIDE

# Wayfair Dustup in Kansas Ends with New Economic Nexus Threshold and Marketplace Facilitator Law

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**Gail Cole** • May. 03, 2021



Lawmakers in Kansas gathered May 3, 2021, to start finalizing the state budget and attempt to override several gubernatorial vetoes. Shortly after convening, they succeeded in overriding the veto on Senate Bill 50, which requires marketplace facilitators to collect and remit sales and use tax, establishes an economic nexus threshold, and removes click-through nexus provisions. These changes take effect July 1, 2021.

### **Safe harbor for small sellers**

Under the [existing remote seller provision](#), any amount of business in the state by an out-of-state seller could conceivably create an obligation to register with the Kansas Department of Revenue then collect and remit sales tax.

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.

To learn more about the mixed-up journey of SB 50, please read [Kansas governor vetoes sales threshold for out-of-state sellers](#).

For state specific details about nexus and marketplace facilitator laws, see our [seller’s guide to nexus laws and sales tax collection requirements](#).

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Gail Cole has been researching, writing, and reporting tax news for Avalara since 2012. She’s on a mission to uncover unusual tax facts and make complex laws and legislation more digestible for accounting and business professionals — or anyone interested in learning about tax compliance. [Get more sales tax news from the Avalara blog](#).

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