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game-changing decision on South Dakota v. Wayfair, Inc. Businesses are still learning how to manage the aftereffects of this groundbreaking event, even as they navigate the ...

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It's been three years since the Supreme Court of the United States issued the game-changing decision on South Dakota v. Wayfair, Inc. Businesses are still learning how to manage the aftereffects of this groundbreaking event, even as they navigate the challenges of a pandemic.

Before the seminal ruling on June 21, 2018, states could require a business to register with the tax department then collect and remit sales tax only if the business had a

physical tie to the state. Nexus — the connection that gives a state taxing authority

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[terms with their newfound authority to tax remote sales](#). All but two states (plus Washington, D.C., and parts of Alaska) were taxing remote sales by Wayfair's second anniversary on June 21, 2020, but [many businesses remained unaware of the ruling or its possible impact on them](#).

On the eve of the decision's third birthday, [Florida is preparing to enforce economic nexus](#) and [Missouri](#) is on the cusp of enacting it; but according to an informal poll conducted during Avalara's annual CRUSH conference in May 2021, many businesses continue to struggle with compliance.

Economic nexus requirements boost sales tax collections during pandemic

When states temporarily shuttered or placed capacity caps on brick-and-mortar businesses to try to slow the spread of COVID-19, consumers took to internet shopping in droves. [Digital Commerce 360](#) estimated that "consumers spent \$861.12 billion online with U.S. merchants in 2020, up an incredible 44.0% year over year."

Online sales tax collections helped states stay afloat during these difficult times, as the Texas Comptroller noted when announcing [May 2020 sales tax revenue](#): "The business closures and restrictions and stay-at-home orders due to the COVID-19 pandemic spurred deep drops in collections from restaurants, amusement and recreation services, and physical retail stores. These declines were offset in part by increases from ... online retailers ..."

Sales tax collections took a noticeable hit in Florida and Missouri, the only two states with a sales tax that didn't tax remote sales in 2020. Florida saw year-over-year sales tax collections drop April through September (see [Taxes Collected CY 2018 & 2019 and CY 2020 & 2021](#)). And in May 2020 alone, [Missouri sales and use tax collections decreased by 10.3%](#).

For states, the consequences of Wayfair have been overwhelmingly positive;

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[sales channels](#) to meet changes in demand. Restaurants expanded delivery and takeout services and took advantage of new opportunities to sell beer, wine, and cocktails to go. Brick-and-mortar retailers encouraged consumers to buy online pickup in store. Online sellers explored new ways to connect with consumers, finding them on marketplaces and social media platforms and advising them via chat.

Developing new sales channels and entering new markets brings retailers face-to-face with economic nexus laws. All states that tax remote sales via economic nexus provide an exception for the smallest sellers, but it doesn't take much to trigger a sales tax collection obligation in most states: Depending on the [economic nexus threshold](#), which varies by state, it can be as little as \$100,000 in annual sales or 200 separate sales transactions.

And in fact, many of the people polled during Avalara's 2021 CRUSH Virtual conference said they have new tax obligations. Although just 28% of individuals polled (48/174) introduced new online sales channels during the pandemic, 83% of respondents (205/247) said their tax obligations increased over the past year.

This growth is likely affecting their sales tax compliance. When asked, "How confident are you that you are fully compliant today?":

- 39% said they were confident (67/173)
- 34% said they were neutral (58/173)
- 27% said they were not confident (47/173)
- One individual did not answer

This response is sobering, especially since attendees had enough awareness of tax to sign up for a conference centered on tax compliance. Fortunately, respondents see a path forward. As they grapple with new tax obligations and sales channels, more companies than not are turning to technology for help. In response to the question,

“Did the pandemic prompt your company to adopt new technologies?": 67%

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Other states will likely continue to refine economic nexus laws and the [marketplace facilitator laws](#) that make marketplaces responsible for collecting and remitting the tax due on third-party sales. Already, some states are trying to [expand economic nexus and marketplace provisions to other types of taxes](#), beyond sales and use tax.

A lot has changed for states and businesses in just three years. Learn more about the tax compliance issues facing businesses across all industries today at [Avalara CRUSH virtual](#), available on demand through June 30, 2021.

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