
Once a remote seller establishes economic nexus with a state, it must register with the state tax department and begin collecting, remitting, and filing sales tax as required by law. But what happens if that same seller's sales eventually fall beneath the state's economic nexus threshold? Can a business cancel its sales tax registration? If so, how soon?

Not surprisingly, the answer varies from state to state.

**Economic nexus recap**

Sales tax nexus is a connection between a state and a business that permits the state to impose a sales tax obligation on the business. One of the most common ways for a business to establish nexus is by having a physical presence in the state, such as employees, inventory, or an office. In some states, nexus can also be created through



Economic nexus thresholds are different in every state. For example:

- Florida's threshold is $100,000 in taxable sales of tangible personal property in the state in the previous calendar year
- New York's threshold is 100 transactions and $500,000 of cumulative total gross receipts from sales of tangible personal property in the state during the previous four sales tax quarters

Once a remote seller establishes economic nexus with a state, it must register for sales tax and comply with all applicable sales tax requirements. But for how long?

**Does economic nexus last forever?**

As noted above, a state can require a remote business to collect and remit sales tax only if the business has nexus with the state. States can also require a business to remain registered for a certain period after nexus has ceased. This is often referred to as "trailing nexus," and it can last for weeks, months, or more than a year.

Some states have clear trailing nexus rules and make them relatively easy to find. Other states have no clearly defined trailing nexus policy. Where they exist, trailing nexus rules are subject to change like all other sales tax rules. Texas eliminated its trailing nexus policy in 2015 — prior to that, an out-of-state seller with nexus was required to remain registered and collect and remit sales tax "for twelve months after it last engaged in business in Texas."

So no, economic nexus doesn't last forever if your sales drop beneath a state's economic nexus threshold, even if you continue to make sales in the state (provided they remain below the threshold). But your registration requirement could last longer than you think.

**Colorado.** In Colorado, a remote retailer "is subject to Colorado sales tax licensing and collection requirements for the entire calendar year" if its Colorado sales in the previous calendar year exceed the $100,000 economic nexus threshold. According to the Department of Revenue, "the retailer will be required to maintain a sales tax license and collect sales tax on all sales made in Colorado in the following year."

**Iowa.** Under Iowa Administrative Code 701-215.7, a remote retailer that establishes economic nexus in "year 1" must remain registered throughout "year 2." If that retailer doesn't meet or exceed Iowa's economic nexus threshold in year 2, it may cancel its sales tax permit and cease collecting and remitting Iowa sales tax as of January 1, year 3. It's important to note that a remote retailer must continue to collect and remit sales tax if it remains registered, even if selling under the economic nexus threshold, and it must register for a sales tax permit if it "meets or exceeds the sales threshold at any point thereafter."

**Maryland.** According to the Maryland Comptroller, an out-of-state vendor that doesn't meet the economic nexus criteria for the previous or current calendar year "will no longer have an economic nexus with Maryland and may discontinue collecting Maryland sales tax." However, such businesses must be sure to close their account and "maintain sales and related records that demonstrate that the criteria were not met."

**Michigan.** Michigan requires a remote retailer to remain registered "until a calendar year passes in which it does not meet either component of the economic nexus threshold." Thus, a seller that meets a threshold in 2018 but sells beneath the thresholds in 2019 may cancel its registration and cease collecting Michigan sales tax as of January 1, 2020.

**New York.** The New York State Department of Taxation and Finance states, "If you did not have more than $500,000 in gross receipts from sales in New York and more than 100 sales transactions into New York in the immediately preceding four



calendar year after the calendar year in which they stop doing business in Washington."

Some states have yet to give guidance on when a business whose sales drop beneath an economic nexus threshold can cancel their sales tax permit (assuming no other form of nexus exists). We'll update this list as more information becomes available.

**Don't deregister without taking all necessary steps**

Remember, you can't simply stop collecting and remitting sales tax and filing returns if you think you no longer have nexus with a state. You need to verify that all nexus-creating activity has ceased and that you no longer have a trailing sales tax obligation. You also need to alert the state in the manner prescribed, which varies by state and can include filing a final return or remitting additional forms.

Finally, if your sales can dip beneath an economic nexus threshold, they can also rise above one. The Avalara Sales Tax Risk Assessment can help you determine where you likely have economic nexus and an obligation to register and collect.

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