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States

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Gail Cole • Jan. 18, 2022

On January 10, 2022, the Tennessee Department of Revenue started accepting exemption and resale certificates issued by other states. This should streamline sales and use tax compliance for businesses that use Tennessee drop shippers to expedite sales to Tennessee consumers.

The policy change results from the repeal of Tennessee's Sales and Use Tax Rule 96, which required Tennessee suppliers to collect Tennessee sales tax on products sold to out-of-state dealers unless such dealers provided a *Tennessee* resale certificate (or a [Streamlined Sales Tax Agreement Certificate of Exemption](#) with a *Tennessee sales tax ID number*). In other words, to make exempt purchases from Tennessee suppliers, remote businesses had to register with the Tennessee Department of Revenue.

“With the rise in the number of states sellers must register in due to [economic nexus laws](#), the new policy will make it much easier for out-of-state sellers to do business in Tennessee and remain compliant with Tennessee laws,” says Maria Tringali, senior solutions consultant at Avalara.

States won the authority to enforce economic nexus when the Supreme Court of the United States decided in favor of the state in *South Dakota v. Wayfair, Inc.* (June 21, 2018). Prior to the Wayfair decision, states couldn't impose a sales tax collection obligation on businesses with no physical presence in the state. [Economic nexus took effect in Tennessee](#) on July 1, 2019.

Drop shipping from Tennessee suppliers just got a whole lot easier

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Out-of-state sellers registered for sales tax in another state can now provide Tennessee suppliers with a resale certificate issued by their home state. Alternatively, they can provide a Streamlined Sales and Use Tax Agreement Certificate of Exemption containing another state's sales tax ID number.

Out-of-state businesses not registered for sales tax in any state can provide Tennessee suppliers with a Streamlined Sales and Use Tax Agreement Certificate of Exemption containing a tax ID number for any other tax type issued by its home state. This is perhaps most useful for businesses based in a state with no state sales tax: Alaska, Delaware, Montana, New Hampshire, or Oregon.

Foreign sellers can also use the Streamlined Sales and Use Tax Agreement Certificate of Exemption to make exempt purchases in Tennessee. A foreign seller not registered for sales tax in any U.S. state may provide a tax ID number issued by its home country.

Though Tennessee has changed its policy, five other states (plus Washington, D.C.) still don't accept certificates from other states: California, Connecticut, Hawaii, Maryland, and Massachusetts. Peterson says about half of these require the drop shipper to collect tax based on the sales price charged to the reseller. The other half require the drop shipper to collect tax based on the sales price to the ultimate consumer — even though drop shippers typically aren't privy to that sale.

“Drop shippers are manufacturers or wholesalers and their sales are legitimate sales for resale,” he explains. “They should not have to collect sales tax.”

How the policy change affects marketplace sellers

The new exemption certificate policy affects [marketplace sellers](#) the same way it affects direct sellers.

When purchasing products to resell through a marketplace facilitator, an out-of-

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Accepting exemption certificates from other states brings Tennessee one step closer to full compliance with the Streamlined Sales and Use Tax Agreement (aka, Streamlined Sales Tax, or SST).

[SST was created to reduce the burden and cost of sales tax compliance](#) for all businesses, especially out-of-state businesses. Twenty-three states are full members of SST; Tennessee is an associate member.

To become a full member of SST, a state must have:

- A central, electronic registration system for sales and use tax
- Consumer privacy protection
- Simplified administration of exemptions
- Simplified state and local tax rates
- Simplified tax remittances and returns
- State administration of sales and use tax collections (no self-collecting local jurisdictions)
- Uniform state and local tax bases
- Uniform sourcing rules for all taxable transactions
- Uniform tax base definitions and rules

Requiring states to have a Tennessee exemption certificate (or a Tennessee tax ID number on an SST exemption certificate) doesn't comply with the requirement to "simplify administration of exemptions," so it's one reason Tennessee is an associate member of SST rather than a full member. Tennessee's new policy would therefore bring the state one step closer to obtaining full-member status.

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