

SALT INSIGHTS

Jurisdiction: New York
Tax Type: Sales And Use Tax
Issue: Wayfair Update - New York Responds
Date: January 21, 2019

SYNOPSIS:

The New York Department of Taxation and Finance ("Department of Taxation and Finance") has issued an Important Notice ("N-Notice") in response to the U.S. Supreme Court's June 2018 decision in *South Dakota v. Wayfair* ("*Wayfair*"), which abandoned the physical presence requirement for imposing sales tax collection responsibilities on remote sellers. The Department of Taxation and Finance has stated that as a result of the decision in *Wayfair*, "certain existing provisions in the New York State Tax Law that define a sales tax vendor immediately became effective."¹

Specifically, effective immediately, the Department of Taxation and Finance has emphasized current provisions whereby sellers who lack a physical presence in the state and who have sales of more than \$300,000 of tangible personal property into New York **and** more than 100 transactions resulting in sales of tangible personal property for delivery into New York in the immediately preceding four sales quarters, must register as a sales tax vendor and collect and remit the applicable state and local sales tax. .

INSIGHT:

Remote sellers should take immediate note and monitor their sales into New York and where they have met both of the threshold requirements, they are required to register as a sales tax vendor with the Department of Taxation and Finance that will permit in order to collect and remit the applicable sales tax and/ or accept sales tax exemption certificates. New York remote seller thresholds are more advantageous to remote sellers verse other state's requirements. These complex state and local tax issues should be discussed with state and local tax professionals. Contact SimekScott.

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¹ New York State Department of Taxation and Finance Important Notice No. N-19-1, 01/01/2019.