

SALT INSIGHTS

Jurisdiction: Illinois
Tax Type: Sales and Use Tax
Issue: Wayfair Update - Illinois Responds
Date: September 21, 2018

SYNOPSIS:

In light of the *Wayfair* decision, states are continuing to refine their specific nexus standards. The latest to pass sales tax legislation related to remote sellers is Illinois. Consistent with *Wayfair*, effective beginning October 1, 2018, Illinois enacted selling thresholds requiring retailers with no physical presence in Illinois to register, collect and remit sales and use tax if the cumulative gross receipts from sales of tangible personal property to purchasers in Illinois are \$100,000 or more, or the retailer enters into 200 or more separate transactions for the sale of tangible personal property to purchasers in Illinois. Prior to the October 1, 2018, remote retailers had to have a physical presence in Illinois before they were required to collect Use Tax.

Supreme Court's decision, in *South Dakota v. Wayfair*, 17-494 (06/21/2018) established that a seller can create substantial nexus with a taxing state through economic and virtual contacts.

In order to determine if an entity is required to begin collecting sales and use tax on October 1, 2018 for sales made on and after October 1, 2018, a remote retailer should examine its selling activities for the period September 1, 2017 through August 31, 2018.

Exceptions to the “economic” nexus rule are sales for resale, sales of tangible personal property that are required to be registered with an agency in Illinois, including sales of motor vehicles, watercraft, aircraft, and trailers, that are made from locations outside Illinois sold to Illinois purchasers, occasional sales, and sales made by remote sellers that are subject to the Illinois Retailers’ Occupation Tax.

INSIGHT:

Remote sellers should note if they have \$100,000 or more of sales, or 200 or more separate transactions, to Illinois residents, they are required to collect and remit sales tax to Illinois effective October 1, 2018. There are further states which have not yet responded to *Wayfair*. Contact SimekScott to discuss.

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