

National Conference of State Legislatures

Executive Committee on State and Local Taxation

Statement of Principles for State Sales Tax Collection and Administration

after *South Dakota v. Wayfair*

As NCSL's longest-running task force, the Executive Committee on State and Local Taxation has endeavored to promote state sovereignty while acknowledging the need for a state tax system that can work across all states.

We offer the following statement of principles to assist policymakers as they establish and refine laws and regulations to ensure full collection of state and local sales taxes in light of the ruling in *South Dakota v. Wayfair*—the landmark case in which the Supreme Court held that states may require out-of-state sellers to collect sales and use tax even if the sellers lack a physical presence in that state.

1. Preparation

- To adequately prepare for enforcement of new or revised sales tax laws on remote sellers and marketplace facilitators, states should thoroughly review and catalog existing laws to ensure that statutory authority exists. If enforcement authority is nonexistent or ambiguous, lawmakers should develop and enact legislation to ensure fairness and uniformity for all types of businesses.
- States with existing statutory authority to require remote sellers or marketplace facilitators to collect sales tax should issue clear guidance to businesses establishing the date by which the state expects remote sellers or marketplace facilitators to register and begin enforcing sales tax collection. States are also encouraged to:
 - Provide as much advance notice as practicable and consider requiring registration and collection by the first day of a calendar quarter;
 - Ensure that any existing or new legislation and regulations implementing sales and use tax collection responsibilities are clear and administrable;
 - Provide sufficient notice of changes, while making changes effective on the first day of the following calendar quarter, as is standard in SSUTA states; and
 - Avoid retroactive collection of taxes for periods prior to the adoption of new or updated collection responsibilities and should ensure sufficient legal protections for taxpayers for non-collection of sales taxes for prior periods.

2. Efficiency

- Simplicity and taxpayer compliance would be greatly furthered by additional states adopting the SSUTA. To ensure the most efficient administration of new or revised sales tax laws on remote sellers or marketplace facilitators, states that have not adopted the Streamlined Sales and Use Tax Agreement (SSUTA) should consider:

o Simplifying the Registration Process

- States should provide a unified mechanism for sellers who are required to register in multiple, if not all, states with a sales tax.
- As a body already exists, states should coordinate with the Streamlined Sales Tax Governing Board (SSTGB) to allow all sellers to register to collect tax via the Streamlined system at no charge to the seller, rather than through individual, state-by-state registrations.

o Centralizing the Certified Software Provider (CSP) process

- As technology can alleviate some of the burden potentially caused by additional collection obligations, states should collectively expand the certification process for CSPs beyond states that have adopted the SSUTA.
- States should consider implementing liability protections for sellers that use Certified Software Providers (CSPs).

3. Transparency

- The requirements for the development and enactment of any new or revised sales tax collection laws on remote sellers and marketplace facilitators should be transparent to all parties, including the general public. States should:
 - Provide a depository of materials that includes all of the information remote sellers need in order to comply with new, existing, or revised sales tax laws;
 - Provide a publicly-available taxability and exemption table which can be downloaded and accessed electronically. The taxability and exempt status of products and services should be regularly updated; and
 - Provide a rates and boundary database in an easily downloadable format, which is regularly updated.
- States should closely monitor the work of this Task Force and the Multistate Tax Commission (MTC), which are engaged in regular, cooperative dialogue with states and businesses to refine the standards for collection by marketplace facilitators.
- This Task Force has made available model statutory language which legislators and legislative staff may reference as they implement collection by marketplace facilitators. The Task Force will continue to collaborate with interested parties to revise this model language to ensure appropriate sales tax collection by new and emerging business models.

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