

Section 2. Tax Administration Practices					
<p>Disclosed Practice 8 – Collection and Remittance Laws related to Remote Sellers, Marketplace Sellers and Marketplace Facilitators From Appendix E of the SSUTA</p> <p>(These tax administration practices address how a member state administers its economic nexus and remote seller statutes. [The United States Supreme Court (SCOTUS) ruled in South Dakota v. Wayfair on June 21, 2018, that states can require sellers to collect and remit sales or use tax on sales delivered to locations within their state even if the seller does not have a physical presence in the state.])</p>		<p>Does Your State Follow this Practice?</p>		<p>If You Answered No, Describe the Difference Between the Practice as Adopted by the Governing Board and Your State's Treatment. Add Additional Comments if Desired.</p>	
Reference Number	Disclosed Practice 8.1- Remote sellers	Yes	No	Statute/Rule Cite	Comment
	Economic nexus laws/regulations – Compliance effective date				
A.1 – General Remote seller definition	<i>Who is a remote seller?</i> – For purposes of Disclosed Practice 8 and subject to A.1.a.and A.1.b., a “Remote Seller” is a seller that does not have any physical presence in a state (no property or employees) but who sells products or services for delivery into that state. (Note: A remote seller can include a “marketplace seller” that does not have a physical presence.)				
A.1.a. - Remote Seller Definition – Inventory in 3rd party warehouse	The State treats a seller whose <u>only</u> physical presence in the state is inventory owned by that seller that is located in a third party’s warehouse as a remote seller.				
A.1.b. - Remote Seller Definition – Non-retail sales employee in state	The State treats a seller whose <u>only</u> physical presence in the state is an employee that is not involved in making retail sales as a remote seller.				

Reference Number	Disclosed Practice 8.1.a - What is the State's Remote Seller Monetary Economic Nexus Threshold?	Yes	No	Statute/Rule Cite	Comment
A.2.a	The State's Remote Seller monetary economic nexus threshold is "\$100,000 or more" or "more than \$100,000" in sales (Definition of "sale" is addressed in XX) Note: If yes, indicate if a seller that has exactly \$100,000 in sales is considered to have met the State's monetary economic nexus threshold in the Comment column.				
A.2.b	If the answer to A.2.a. is "No" indicate the State's Remote Seller monetary economic nexus threshold in "Comment" column. If your State does not have a Remote Seller monetary economic nexus threshold, enter N/A in each column.				
Reference Number	Disclosed Practice 8.1.b. - How is a State's Remote Seller Monetary Economic Nexus Threshold Calculated? - Only one answer should be "yes".	Yes	No	Statute/Rule Cite	Comment
A.3.a - GROSS	The State's Remote Seller monetary economic nexus threshold is based on GROSS sales, gross revenue or gross receipts from ALL sales of products and services				
A.3.b - RETAIL	The State's Remote Seller monetary economic nexus threshold is based only on RETAIL sales of products and services (only excludes sales for resale)				
A.3.c - TAXABLE	The State's Remote Seller monetary economic nexus threshold is based only on TAXABLE sales of products and services (all sales and transactions that are or should be taxed)				
A.3.d. - OTHER	If no to A.3.a. through A.3.c., indicate in the comments section what your state's monetary economic nexus threshold is based on.				
Reference Number	Disclosed Practice 8.1.c. - What is the State's Remote Seller Transactional Economic Nexus Threshold?	Yes	No	Statute/Rule Cite	Comment

A.4.a.	The State's Remote Seller transactional economic nexus threshold is " 200 or more " or "more than 200" separate transactions (What constitutes a "transaction" is explained in XX) Note: If yes, indicate if a seller that has exactly 200 transactions is considered to have met the State's transactional economic nexus threshold in the Comment column.				
A.4.b	If the answer to A.4.a. is "No" indicate the State's Remote Seller transactional economic nexus threshold in "Comment" column. If your State does not have a Remote Seller transactional economic nexus threshold, enter N/A in each column.				
Reference Number	<i>Disclosed Practice 8.1.d. - How is a state's transactional economic nexus threshold calculated?</i>	Yes	No	Statute/Rule Cite	Comment
A.5.a.	The State's Remote Seller transactional economic nexus threshold is based on an invoice basis				
A.5.b.	The State's Remote Seller transactional economic nexus threshold is based on an individual item basis (each line item on a single invoice is considered a separate transaction)				
A.5.c.	The State's Remote Seller transactional economic nexus threshold is based on each order placed (i.e., if a single order is placed but it is delivered in three (3) separate shipments, it is considered one (1) transaction)				
A.5.d.	A lease or annual contract that requires multiple payments is considered one transaction for purposes of the State's Remote Seller transactional economic nexus threshold (i.e., each payment is not considered a separate transaction)				
Reference Number	<i>Disclosed Practice 8.1.e. - What period to time does a remote seller use to determine if it meets or exceeds a state's economic nexus threshold? - Only one answer should be yes</i>	Yes	No	Statute/Rule Cite	Comment

A.6.a. - EITHER CURRENT or PREVIOUS YEAR	A Remote Seller has economic nexus in the state if it meets or exceeds the state's economic nexus threshold in either the previous calendar year or current calendar year				
A.6.b. - ONLY PREVIOUS YEAR	A Remote Seller has economic nexus in the state only if it meets or exceeds the economic nexus threshold in only the previous calendar year				
A.6.c. - ONLY CURRENT YEAR	A Remote Seller has economic nexus in the state only if it meets or exceeds the economic nexus threshold in only the current calendar year (DOES ANY STATE DO THIS or SHOULD WE CHANGE TO PREVIOUS 12 MONTHS or DELETE?)				
A.6.d. - OTHER	A Remote Seller has economic nexus in the state based on a different period of time (Provide the basis in the comment column)				
Reference Number	<i>Disclosed Practice 8.1.f. - When is a remote seller required to register and begin collecting the applicable sales or use tax? - Only one answer should be yes</i>	Yes	No	Statute/Rule Cite	Comment
A.7.a	A Remote Seller must register and begin collecting the applicable tax on the next transaction after meeting or exceeding the threshold				
A.7.b.	A Remote Seller must register and begin collecting the applicable tax by the first day of the month that is at least 30 days after meeting or exceeding the threshold				
A.7.c.	A Remote Seller must register and begin collecting the applicable tax by the first day of the month that is at least 60 days after meeting or exceeding the threshold				
A.7.d.	If the answer to A.7.a to A.7.c. is "no" note in the Comment column when a Remote Seller must register and begin collecting the applicable tax				
Reference Number	<i>Disclosed Practice 8.1.g. - When is a remote seller who falls below a state's economic nexus threshold allowed to stop collecting and remitting the applicable sales or use tax?</i>	Yes	No	Statute/Rule Cite	Comment

A.8.a.	A Remote Seller whose sales/revenue and number of transactions falls below the State's Remote Seller economic nexus threshold(s) during the measurement period may cancel its registration or request inactive status any time after the measurement period ends.				
A.8.b.	If the answer to A.8.a. is "no," indicate in the Comment column when a seller may cancel its registration or request inactive status (e.g. the State has trailing nexus)				
Reference Number	<i>Disclosed Practice 8.1.h. – Remote seller who makes sales through a marketplace facilitator</i>	Yes	No	Statute/Rule Cite	Comment
A.9.	A remote seller must include sales made through a Marketplace Facilitator when determining if it meets or exceeds the state's economic nexus threshold (CONSIDER MOVING TO ABOVE WHERE MONETARY AND TRANSACTION THRESHOLDS ARE CALCULATED)				
Reference Number	<i>Disclosed Practice 8.1.i. – What Type of Permit Does a Remote Seller Apply For? – (Only one answer should be "yes")</i>	Yes	No	Statute/Rule Cite	Comment
A.10.a.	Remote Sellers register for a sales tax permit				
A.10.b.	Remotes Sellers register for a use tax permit				
A.10.c.	Remotes Sellers may register for either a sales or use tax permit				
A.10.d.	OTHER - DO WE NEED THIS OPTION?				
Marketplace Seller Specific Questions					
B.1	<i>Marketplace Seller Registration When All Sales Are Made Through Marketplace Facilitators</i>				
B.1.a	A Marketplace Seller that does <u>not</u> have a physical presence in the State and sells exclusively through Marketplace Facilitators that are				

	required to collect and remit sales/use tax on behalf of the Marketplace Seller is not required to register with the State.				
B.1.b	A Marketplace Seller <u>with</u> a physical presence in the State that sells exclusively through Marketplace Facilitators that are required to collect and remit sales/use tax on behalf of the Marketplace Seller is not required to register with the State.				
B.2.	The Marketplace Seller should exclude sales^[FN1] made through a Marketplace Facilitator in determining its economic nexus threshold.				
B.3	A Marketplace Seller should exclude sales made through the Marketplace Facilitator from its direct sales on its sales tax return.				
B.4	A Marketplace Seller is required to maintain exemption documentation only for its direct sales, and not for sales made through a Marketplace Facilitator.				
B.5	A Marketplace Seller may rely upon a customer's exemption documentation for its direct sales, even where that exemption certificate is maintained by a Marketplace Facilitator (e.g., , Marketplace Seller has access to the Marketplace Facilitator's exemption documentation).				
B.6	<i>Marketplace Seller Liability</i>				
B.6.a	A Marketplace Seller is only liable for the tax on sales through a Marketplace Facilitator when the Marketplace Seller fails to provide correct and sufficient information.				
B.6.b	A Marketplace Seller may not be audited for Marketplace Facilitator sales unless the Marketplace Facilitator demonstrates that the Marketplace Seller did not provide correct and sufficient information.				
B.6.c	The state has a written policy on when and how a Marketplace Seller is liable for tax on sales made using Marketplace Facilitators (if yes, please reference location of the document).				

B.6.d	A Marketplace Seller is relieved of tax liability when a Marketplace Facilitator is required to collect sales tax (absent incorrect or insufficient information).				
B.7	Class action law suits are prohibited (and, if applicable, false claims act suits) against Marketplace Sellers				
Marketplace Facilitator Definition***	A Marketplace Facilitator/Provider generally is a person who owns, operates or otherwise controls a physical or electronic marketplace and facilitates the sale of a Marketplace Seller's products or services that directly or indirectly collects payment from the purchaser and transmits all or part of the payment to the Marketplace Seller.				
C.1	Please provide Marketplace Facilitator laws/regulations, including compliance effective dates				
C.2	"Marketplace Facilitator" is limited to i) a person that contracts with a seller to facilitate for consideration (regardless of whether fees are deducted from the transaction) the sale of products or services through a physical or electronic marketplace owned by the person and ii) that person directly or indirectly through an agreement with a seller collects and transmits all or part of a purchaser's payment to a seller.				
C.3	<i>Exceptions to Marketplace Facilitator Collection</i>				
C.3.a	"Marketplace Facilitator" excludes a person whose principal activity with respect to marketplace sales is to provide payment processing services between two parties.				
C.3.b	"Marketplace Facilitator" excludes a person whose only participation is connecting purchasers to Marketplace Sellers and the payment processor is responsible for disbursing funds to a Marketplace Seller.				
C.3.c	"Marketplace Facilitator" excludes a person providing a service that merely connects buyers and sellers and does not participate in the payment process.				
C.3.d	"Marketplace Facilitator" excludes a person exclusively providing advertising services.				

C.3.e	“Marketplace Facilitator” excludes a person that is registered with the Commodity Futures Trading Commission when using its platform services.				
C.3.f	The State will provide a waiver if substantially all of a marketplace facilitator’s sellers are registered with the State to collect and remit sales/use tax.				
C.3.g	The State allows a waiver if mutually agreed to by the Marketplace Facilitator and the marketplace seller and it is approved by the tax agency.				
C.3.h	If an Marketplace Facilitator and Marketplace Seller agree, and the threshold is met, a registered Marketplace Seller must notify the tax agency that it will be collecting the tax. If yes, please provide threshold amount in the comments.				
C.3.i	Marketplace Facilitators are only required to collect on the sales of tangible personal property, services are excluded.				
C.3.j	Are certain transactions excluded from Marketplace Facilitator collection (e.g., prepared food/grocery delivery services, hotel or travel intermediaries, car rental services, etc.)? If “yes,” please indicate exclusions in comments.				
C.4	The State’s Marketplace Facilitator monetary economic nexus threshold and calculation the same as Remote and Marketplace Sellers in Disclosed Practices A.2-A.3? If different, answer “no” and note threshold in the comments. ^[FN2]				
C.6	The State’s Marketplace Facilitator transactional economic nexus threshold and calculation the same as Remote and Marketplace Sellers in Disclosed Practices A.4-A.5? If different, please answer “no” and note threshold in comments.				
C.7	Is the State’s Economic Nexus Measurement Period ^[FN3] the same as Remote and Marketplace Sellers in Disclosed Practice A.6? If different, please answer “no” and note threshold in comments.				
C.8	<i>Exceptions to Physical Presence</i>				

C.8,a	A Marketplace Facilitator's physical presence is based solely on its presence and not on the presence of a Marketplace Seller.				
C.8.b	A Marketplace Facilitator's who is below the state's economic nexus threshold(s) is excluded from collecting and remitting the state's sales/use tax if the seller only has employees located in the state that are not engaged in making retail sales (if applicable, please note any thresholds).				
C.9	A "Marketplace Facilitator" whose sales/revenue falls below the State's Marketplace Facilitator economic nexus threshold during the measurement period may cancel its registration in the same manner as a Remote and Marketplace Seller in Disclosed Practice A.8. [FN4] If different, please answer no and note differences in comments.				
C.10	The State's type of registration for Marketplace Facilitators is the same as the same as for Remote and Marketplace Sellers in Disclosed Practice A.7? If different, please answer "no" and note type of registration in comments.				
C.11	<i>Registration and Reporting Marketplace Facilitator and its Marketplace Seller Sales</i>				
C11.a	A Marketplace Facilitator is only required to obtain a single registration and file a single return covering its own sales and those made on behalf of Marketplace Sellers				
C.11.b	A Marketplace Facilitator may register and file separate returns for its own sales and those made on behalf of Marketplace Sellers				
C.11 c	A Marketplace Facilitator must register and file separate returns for its own sales and those made on behalf of Marketplace Sellers				
C.12	A person that does not meet the State's definition of "Marketplace Facilitator" may still voluntarily register and collect the tax as such for its marketplace seller sales.				
C.13	<i>Marketplace Facilitator Notification Requirements</i>				

C.13.a	Is a "Marketplace Facilitator" required to provide notification or certification to its marketplace sellers? (if yes, describe the method)				
C.13.b	Is a "Marketplace Facilitator" required to provide notification or certification to the state tax agency? (if yes, describe the methods)				
C.14	<i>Marketplace Facilitator Treatment as a Seller - A Marketplace Facilitator is treated as the seller for the following:</i>				
C.14.a	<ul style="list-style-type: none"> Refunds – Marketplace Facilitator may request a refund from the state 				
C.14.b	<ul style="list-style-type: none"> Timely filing/payment discounts/vendor allowances – applies to Marketplace Facilitators in same manner as a seller/retailer 				
C.14.c	<ul style="list-style-type: none"> Exemption Documentation – sales made by Marketplace Facilitator are exempt based on Facilitator having access to exemption documentation maintained by either the Marketplace Facilitator or Marketplace Seller. 				
C.14.d	<ul style="list-style-type: none"> Coupons, whether issued by a Marketplace Facilitator or a marketplace seller will be deemed to be a retailer's coupon/discount 				
C.14.e	<ul style="list-style-type: none"> Bad Debts – Bad debt deduction is based on the party that is able to claim the federal tax deduction under IRC 166, regardless of which party remitted the sales tax 				
C.15	<i>Shifting of Liability to Marketplace Seller</i>				
C.15.a	A Marketplace Facilitator is required to collect sales tax and liability only shifts to a Marketplace Seller if such Seller provided incorrect or insufficient information				

C.15.b	The state has a written policy on what reasonable steps a Marketplace Facilitator must take to obtain correct and sufficient information from a Marketplace Seller to shift the liability of the tax to the Marketplace Seller if the information is subsequently found to be incorrect or insufficient (if "yes," please reference location of the document).				
C.16	A Marketplace Facilitator is absolved of tax, interest, and penalty if it can show that a Marketplace Seller or the purchaser already paid tax on the transaction				
C.17	<i>Marketplace Facilitator Collection of Non-Sales/Use Taxes and Fees</i>				
C.17.a	A Marketplace Facilitator is required to collect and remit other taxes and fees that are also directly imposed on the consumer at the time of the sale. If yes, please provide fees and taxes in comments along with legal authority.				
C.17.b	A Marketplace Facilitator is required to collect and remit other taxes and fees that are not directly imposed on the consumer at the time of the sale. If yes, please provide fees and taxes in comments along with legal authority.				
C.18	Class action law suits are prohibited (and, if applicable, false claims act suits) against Marketplace Facilitators				