

MTC Uniformity Committee *Wayfair*
Implementation and Marketplace Facilitator
Work Group Activities



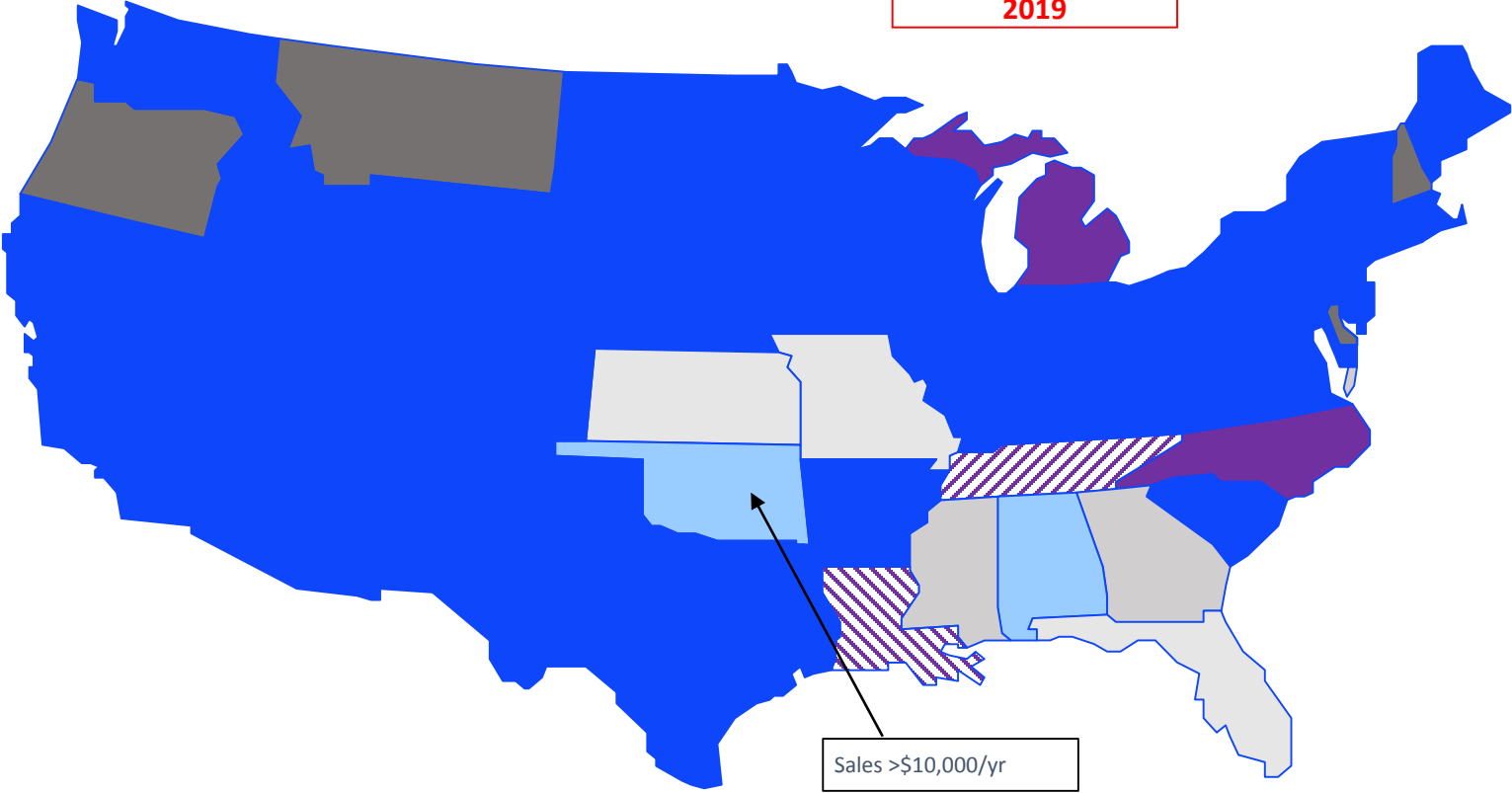
MULTISTATE TAX COMMISSION

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National Nexus Program Director

Streamlined Sales Tax Governing Board, Inc.
Meeting
Charleston, West Virginia
October 2, 2019

Marketplace Collection Requirements... So far

As of September 23, 2019



- Marketplace collection requirement
- Proposed legislation
- Collect-or-report
- No Sales Tax

- State policy pending
- Policy/Lawsuit and Proposed legislation

Alaska
Hawaii
District of Columbia

Sales >\$10,000/yr

Marketplace
facilitator as
collector/reporter
laws

Enacted in 2018 pre-*Wayfair*:

- **Alabama** (HB 470 collect if sales/yr >\$250,000 or report eff. 1/1/19)
- **Oklahoma** (HB 1019XX collect if sales/yr >\$10,000 or report eff. 7/1/18)

Enacted in 2017 (subsequent legislation enacted in 2019 requiring collection, eliminating option to report):

Minnesota, Pennsylvania, Rhode Island, Washington

Marketplace facilitator as collector laws

Enacted in 2018:

New Jersey (A. 4496) eff. 11/1/18; **Connecticut** (SB 417) eff. 12/1/18

Iowa (SF 2417) eff. 1/1/19; **South Dakota** (SB 2) eff. 3/1/19

DC (B22-1070) eff. 4/1/19

Enacted in 2019:

Nebraska (LB 284) eff. 4/1/19

South Carolina (SB 214) eff. 4/26/19

Idaho (HB 259) **New York** (S. 1509, part G) **Vermont** (HB 536) eff. 6/1/19

Arkansas (SB 576, including OTC collection) **Indiana** (HB 1001) **Kentucky** (HB 354) **New Mexico** (HB 6) **Pennsylvania** (HB 262) **Rhode Island** (H. 5278 Sub A, S. 251 Sub A) **Virginia** (HB 1722, SB 1083) **West Virginia** (HB 2813) **Wyoming** (HB 69) eff. 7/1/19

Ohio (HB 166) eff. 8/1/19

Arizona (HB 2757) **California** (AB 147) **Colorado** (HB 19-1240) **Maine** (LD 1452/ HP 1064) **Maryland** (HB 1301) **Massachusetts** (H 4000) **Minnesota** (HF 5) **Nevada** (AB 445) **North Dakota** (SB 2338) **Texas** (HB 1525) **Utah** (SB 168) **Washington** (HB 5581) **Wisconsin** (AB 251) eff. 10/1/19

Hawaii (SB 396/SD 1) **Illinois** (SB 689) eff. 1/1/20

MTC Wayfair Implementation and Marketplace Facilitator Work Group Objective

Seek feedback from state tax agencies and the business community to prepare a “white paper” for presentation to the MTC Uniformity Committee at its upcoming meeting in San Antonio, TX on November 6, 2019. The “white paper” will identify issues arising from states’ adoption of sales/use tax economic nexus laws and marketplace facilitator collection requirements following *Wayfair* and make possible recommendations. It should be available to state tax agencies and legislatures by commencement of 2020 state legislative sessions.

Coordinate with the NCSL SALT Task Force.

MTC Wayfair Implementation and Marketplace Facilitator Work Group issues

- Marketplace facilitator definition: narrow vs. broad and need for exclusions?
- Is marketplace facilitator the seller?
- Extent of marketplace facilitator/seller audit exposure, recordkeeping, liability protection?
- Information requirements between marketplace facilitator and marketplace seller?
- Should marketplace collection requirement be subject to waiver or negotiation, apply to services or other taxes?
- Economic nexus threshold calculation for remote sellers and marketplace sellers?

MTC Wayfair Implementation and Marketplace Facilitator Work Group issues (continued)

- Certification requirement?
- Information sharing among states?
- Should states provide information to make taxability determinations easier for remote sellers?
- Can returns for marketplace sellers and facilitators be simplified?
- Compliance enforcement for foreign sellers?
- Local sales/use tax simplification?