



Wayfair Impacts for Minnesota Sellers Webinar: November 2019

***Disclaimer:** Information in this document is based on the laws in effect when it was written. It does not supersede or alter any provision of Minnesota laws, administrative rules, court cases, or revenue notices. It does not provide tax advice.*

About the Webinar

Welcome to the Minnesota Department of Revenue's Wayfair Impacts for Minnesota Sellers Webinar. My name is Heidi Sigsworth and I will be your presenter today. On June 21, 2018 the United States Supreme Court ruled in the case of South Dakota v. Wayfair. The ruling means that sellers can be required to collect sales taxes in states where the sellers do not have a physical presence. This case overruled the 1992 case of Quill v North Dakota.

Before we get started on the impacts of this decision for Minnesota sellers, we must first go over the procedures for the webinar. We will be accepting questions from today's webinar, if we are able to answer the questions immediately, we will do so. However, there may be questions that we will need to collect and answer later. We ask that you use the Q&A feature within WebEx to ask these questions. To do that we must first open up two panels.

Slide your mouse pointer to the blue-rectangular shape at the top middle section of your screen. A dropdown menu should appear. Once you see the dropdown menu, click the "Participants" icon. The participants' panel will appear to the right of your screen. You can move and size the panel. Let's take a closer look at this panel. At the top of the panel, you'll see the host, presenter, and panelists' names. For privacy purposes, you only see your name in the attendee section.

We need to add one more panel to your screen. Bring your mouse back to the dropdown menu at the top of your screen. Click the "Q&A" icon. The Q&A panel will appear at the right side of your screen. The Q&A panel is a tool for you to ask panelists questions throughout the class. The Q&A panel is not a chat feature. When you ask a question, please be sure the "send to" option is set to "All panelists". If you send your question to the host or presenter, we might not see those questions until after the class.

To ask a Q & A question, click inside the lower box to type. A panelist will respond to your question as soon as they can. The response time depends on a few variables, including the number of questions being asked and whether or not we need more information. Again, we may take down your question and answer them at a later time. Please remember not to use the "Chat" feature, these will not be shown during the presentation, therefore those questions will not be answered.

Disclaimer

This presentation is for educational purposes only. It is meant to accompany an oral presentation and not to be used as a standalone document. This presentation is based on the facts and circumstances being discussed, and on the laws in effect when it is presented. It does not supersede or alter any provisions of Minnesota laws, administrative rules, court cases, or revenue notices.

Course Objectives

After completing this course you will be able to:

- Explain the changes based on the U.S. Supreme Court ruling in *South Dakota v. Wayfair*
- Recall taxable products and services in Minnesota
- Recognize how to handle sales shipped to local jurisdictions, and
- Identify resources and tools on the department website

Introduction

On June 21, 2018, the U.S. Supreme Court ruled in *South Dakota v. Wayfair* that physical presence is not required for sellers to be responsible for sales tax collection. This means that all Minnesota sellers must collect Minnesota state and local taxes based on the location where the sales is sourced. We will go over sourcing in detail later in the presentation.

This ruling impacts Minnesota sellers in three main ways.

1. Minnesota sellers must collect Minnesota state and local taxes based on the location where the sales is sourced.
2. Minnesota sellers who use a marketplace provider can enter into an agreement with the marketplace, for the marketplace to collect and remit sales tax for sales made through the marketplace.
3. Minnesota sellers that make sales into other states may need to collect tax in those other states. Sellers will need to verify what their responsibilities are to each state.

We will explain these changes and the impact they have on Minnesota sellers. We will also give you several resources to help you meet your sales and use tax obligations in Minnesota.

This course was developed to explain the impacts of the *Wayfair* decision on Minnesota sellers, and how sales within Minnesota should be handled. If you are selling items into other states as well, you will need to research the obligations you have to those states. We are not able to advise on other state's sales and use tax laws. However, a good starting point for researching other states' sales and use tax laws after *Wayfair* is to go to the Streamlined Sales and Use Tax website. This webpage provides information on each states' laws affected by the *Wayfair* decision. We will show you how to get to this website later in the presentation.

Sales and Use Tax Basics

In Minnesota, we classify sales into five categories: Real Property, Intangible Property, Services, Tangible Personal Property, and Digital Products. All sales can be grouped into one of these five categories.

As a general rule, Minnesota:

- taxes broadly on tangible personal property
- specifically on services and digital products, and
- does not tax items that fall under real property or intangible property.

The following definitions explain the various categories in Minnesota:

- Real property includes land, buildings, and items incorporated into the building. Real property is not taxable for sales and use tax purposes.
- Intangible property would be such things as stocks, bonds, mutual funds, copyrights, patents, trademarks, and Internet domain names. These are presumed not taxable for sales and use tax purposes.
- Services include legal and accounting services, building cleaning and maintenance, lawn maintenance, snow removal, massage therapy, and haircuts. Taxable services are specifically stated in the statutes, therefore unless it is specifically stated you can presume it is not taxable.
- Tangible personal property is anything that you can touch, feel, or move. We often refer to tangible personal property as simply TPP. Examples of TPP are tables, chairs, office supplies, computer software, food, and clothing. TPP is taxable unless it qualifies for an exemption.
- Digital Products are goods that exist only in digital form, which means you can access them on a computer, tablet, or cellphone, but you cannot actually hold, touch, or feel them. Examples of taxable digital products include digital books, digital photos, online and electronic games, and digital media. Unless an item is listed in statute as taxable, you can assume it is not taxable.

What is included in the sales price? The sales price is the total of all charges that are the condition of the sale. All of the items listed here are considered part of the sales price, fabrication labor, installation labor, retail price of a good or service, service charges, taxes that are the obligation of the seller, shipping charges, and any and all charges that are a condition of the sale.

What is **not** included in the sales price? Credit allowed for trade in, term discounts, cash discounts, coupons unless reimbursed by a 3rd party, taxes legally imposed on a consumer, interest charges, and finance charges from an extension of credit. Any of these would not be included in the sales price for sales tax purposes.

Sourcing determines where a sale takes place and which taxes are imposed on the sale. There is a hierarchy in sourcing rules, which means you should start with number 1, and if that does not apply go to number 2, and so on. The majority of sales will fall into one of the first two categories.

The first rule states that if possession of the item takes place at the seller's address, or if the service was performed at the seller's address, you would use the tax rate applicable to the seller's location. If the item is shipped or delivered to the customer, or that is where the service is performed, you would use the address where the items was delivered, or service was performed, to calculate the tax due.

If both 1 and 2 fail, and the only thing you have in your records is the billing address, you would use the billing address to calculate tax due. If you have a sale that does not fit into any of these categories, you can reference Minnesota Statutes 297A.668 and 297A.669 for additional information and scenarios.

Who Needs to Register?

You must register to collect Minnesota sales tax if you make taxable retail sales into Minnesota. All businesses with a physical presence in Minnesota, including all sellers outside of Minnesota who have a physical presence in Minnesota, are required to register. We will cover physical presence nexus in the next slide.

Based on the U.S. Supreme Court decision on South Dakota v. Wayfair remote sellers must also register to collect Minnesota sales tax if they sell taxable items into Minnesota unless they qualify for the Small Seller Exception. Please note if you have physical presence nexus in Minnesota the small seller exception does not apply to you.

The Small Seller Exception does not require remote sellers to collect sales tax until their retail sales during a period of 12 consecutive months total either:

- 200 or more retail sales shipped to Minnesota, or
- Retail sales shipped to Minnesota that total more than \$100,000

These requirements were changed effective October 1, 2019. If you do not make taxable sales, but make purchases subject to use tax, you must register to remit use tax.

What is Nexus and what creates nexus? Nexus is defined as a connection, tie, or a link. For sales and use tax purposes, any of the following situations, if in Minnesota, will create physical presence nexus for that business:

- Physical location of your business, or any part of your business
- Performing a service
- Repairing or installing tangible personal property
- Participating in conventions and/or trade shows
- Having an agent, sales rep, solicitor, or affiliated company in the state
- Performing construction work, or
- Leasing or renting tangible personal property

Based on the U.S. Supreme court ruling, states can require remote sellers to collect and remit the applicable sales or use tax on sales delivered to locations within their state even if they do not have a physical presence in that state. A remote seller is a business that sells its products or services to customers into a state, using the Internet, mail order, or telephone, without having a physical presence in that state. As a Minnesota business, you may also have remote seller status in other states.

A Minnesota seller who sells through a Marketplace provider must be registered to collect and remit sales and use taxes in Minnesota. If the marketplace is obligated to collect sales tax in Minnesota they are obligated to do so for all of their sellers. However, the sellers have the option to obtain a MN ID number and then have an agreement with the Marketplace that they will file and remit tax on their own. Use tax is still the responsibility of the seller.

You can apply for a Minnesota Tax ID number directly with the Department of Revenue in one of three ways, online, by phone, or mailing in a completed paper registration form. You could also use the Streamlined Sales Tax Registration System (SSTRS). We will cover SSTRS in more detail later in the presentation.

Local Taxes

Many cities and counties have additional local sales taxes. These local taxes are added to the general rate sales tax to compute the total tax rate:

- City tax
- County tax
- Special local tax(es)

By law, the Department of Revenue must administer all local general sales and use taxes.

We have information about Local Taxes on our website. To find information relating to Sales and Use Tax on our new website select the Businesses tab, then open the list of Business Taxes and Fees by selecting the plus sign (+) in this section, and then select Sales and Use Tax.

Note: At any point, if you want to go back to our home page, click on the Minnesota Department logo in the upper left hand corner of the current web page.

You can find these tax rate lookup tools on our website by selecting the plus sign (+) in the section next to Local Sales Tax Information. Here you will also find information about new local taxes, local sales tax information, and starting a new local tax.

In this section, you will find a variety of tools including:

- Sales Tax Rate Calculator
- Sales Tax Rate Map
- Sales Tax Rate Map FAQs
- Sales Tax Rate Spreadsheet
- Rates and Boundaries Data
- Local Sales Tax Rate Guide
- Twin Cities Area Local Tax Rate Guide
- Twin Cities Area Local Tax Rate Map

These tools may be very helpful to you. For example, a county is setting up a new customer that resides on the outer edge of the taxing jurisdiction. To find out what the appropriate tax rate is, you'll want to use one of our tax rate lookup tools.

You can also get directly to the Sales Tax Calculator by selecting Calculate a Sales Tax Rate from the Top Tasks menu on our home page.

What is the Sales Tax Rate Calculator?

The Sales Tax Rate Calculator provides the state and local general sales and use tax rates that apply to sales made to specific locations in Minnesota. The calculator does not include special local taxes (lodging, entertainment, liquor, admissions, and restaurant taxes). If special local taxes apply, you will need to add them to the rate displayed.

We offer three different options to use the Sales Tax Rate Calculator:

1. The Address option
2. The ZIP + 4 option, and

3. The Map option

You can use this tool if you have the physical address, or the 9-digit ZIP code for the location where the sale is sourced.

Choose your preferred option from the accordion menu.

You must enter the 9-digit ZIP code of the location of the sale and effective period of the sale in order for the sales tax rate calculator to work properly. If you only have the 5-digit ZIP code, you can select the Look up a ZIP code or verify an address link, which will direct you to the U.S. Postal Service website.

If you choose to enter the dollar amount of the sale, the calculator will provide the actual tax liability for the sale in addition to the applicable tax rates.

The Tax Rate Calculator is tested and updated quarterly.

If you do not know the 9-digit ZIP code where the sale takes place, you can also use the Address option on our website. You'll need to enter the complete address. Once you select Submit, which will access the database and return a 9-digit ZIP code along with the applicable tax rates for the effective period.

Note: Like with the ZIP + 4 Option, if you choose to enter the dollar amount of the sale, which we did not do in this example, the calculator will provide the actual tax liability for the sale in addition to the applicable tax rates.

In 2018, we added the Sales Tax Rate Map option to our website. The Sales Tax Rate Map uses Google Maps to identify the applicable taxing jurisdiction and access the tax tables to provide the applicable tax rate for the identified site.

Use the map to find the local general sales and use tax rate for any location **in Minnesota**.

- The **Plus** and **Minus** buttons change the zoom level on the map.
- The **Home** button zooms out to the whole state.
- The **Locate** button zooms to your current location.
- The **Gallery** button changes between street and satellite views.

You can also calculate the applicable tax for a specific dollar amount. In this example, you can see that the tax on \$5000 in downtown St. Paul in April - June 2019 is \$393.75.

Another option is to download the Sales Tax Rate Spreadsheet and use this to enter a 9-digit ZIP code to look up rates.

This works best when you have multiple 9-digit ZIP codes to look up at a time.

Businesses using the Sales Tax Rate Spreadsheet should download the updated spreadsheet every quarter to ensure they have the current tax rates.

Sourcing Local Taxes

Prior to the U.S. Supreme Court's decision sellers were only required to collect sales tax in areas where they had created a physical presence, or delivered items in their own vehicles.

Now all Minnesota sellers, regardless of their location, must collect state and local sales taxes based on our sourcing rules. If you make sales into local jurisdictions, that have local sales taxes, you must collect those taxes. This may require you to register, collect, and remit additional local taxes.

The next three slides will give an example of each of these situations.

In example one, the business is physically located in St. Paul. A customer from Rochester comes in to the physical location in St. Paul and purchases a chair. In this example the customer takes the chair with them when they leave, so the possession of the item was transferred at the physical location of the store. The tax assessed on the chair is the Minnesota general rate sales tax plus any applicable local taxes for St. Paul.

In example two, the business is physically located in St. Paul. A customer from Rochester purchases a chair online and has it shipped to their home in Rochester. The tax assessed on this sale would be Minnesota General Rate sales tax and any applicable local taxes for Rochester, since possession of the item is transferred when the item is received by the customer at their home. Sourcing would also be Rochester if the customer went in to the physical location and asked for the item to be shipped to their home. Also keep in mind that the cost to ship the chair should be included in the sales price and the entire amount taxed.

In example three, there is a cell phone carrier located in Minneapolis. They have a customer with a billing address in Mankato. When the customer decides to download a new app to their phone or tablet they could be located anywhere, but the cellphone carrier doesn't know where exactly they are. Therefore, the only option they would have for assessing sales tax is the billing address. Sale would be sourced to the customer's billing address. As stated before the majority of sales fall into one of the first two sourcing rules.

Sales Outside Minnesota

As a Minnesota seller, you may be a remote seller in other states. We want to provide some information about resources that we hope will help you if you are obligated to register, collect and remit sales tax states other states.

We want to highlight two of these administrative tools for you today.

To begin, you may want to use the Streamlined Sales Tax Registration System (SSTRS) to register for a sales tax account with Streamlined Sales Tax member states in a single registration. The SSTRS is a quick and easy way to register for a sales and use tax account in all Streamlined Sales Tax member states. When you register through the SSTRS, you receive sales tax accounts to collect and remit sales and use tax in all Streamlined Sales Tax full member states. You may also choose to register in any associate member states. Once you are registered, you must collect and remit sales and use taxes in those states.

The most useful tools are available through the Streamlined Sales and Use Tax Agreement. This Agreement is the result of the cooperative effort of 44 states, the District of Columbia, local governments, and the business community to simplify and make more uniform the sales and use tax collection and administration by retailers and states.

The Agreement minimizes costs and administrative burdens on retailers that collect sales tax, particularly retailers operating in multiple states. It was developed to encourage remote sellers selling over the Internet and by mail order to collect tax on sales to customers living in the Streamlined states. Prior to the Wayfair decision, it leveled the playing field so that local brick-and-mortar stores and remote sellers operated under the same rules. This Agreement ensures that all retailers can conduct their business in a fair, competitive environment.

Currently, there are 24 member states that have adopted the agreement. Minnesota has been a full member since October 1, 2005. The purpose of the Agreement is to provide a road map for states who want to simplify and modernize sales and use tax administration in their state in order to substantially reduce the burden of tax compliance. The Agreement focuses on improving sales and use tax administration systems for all sellers and for all types of commerce through all of the following:

- State level administration of sales and use tax collections

- Uniformity in the state and local tax bases
- Uniformity of major tax base definitions
- Central, electronic registration system for all member states
- Simplification of state and local tax rates
- Uniform sourcing rules for all taxable transactions
- Simplified administration of exemptions
- Simplified tax returns
- Simplification of tax remittances, and
- Protection of consumer privacy

We also have information regarding Streamlined Sales tax on our website. To locate this information visit our website and select “Businesses” on the first page. From there navigate to “Sales and Use Tax,” then select “Sales Tax Information.” Here you will find a link for “Streamlined Sales Tax.” Select this link.

Now you have the various links for Streamlined Registration, Rates and Boundaries, Purchaser’s Exemption form, and Membership Documents. Under the membership documents we have the Minnesota’s Taxability matrix. Under Resources there is a link to access the Streamlined Sales Tax Governing Board website.

This is the Streamlined Sales Tax Governing Board main page. Along the top there is a section “For Businesses,” in the dropdown box you can choose the “Remote Sellers.” On this page you will find information regarding remote sellers including, FAQs and links to full member states. On the left side of the screen there is a link to register for all Streamlined Sales Tax member states. This is not managed by the Minnesota Department of Revenue, if you have questions concerning resources found here please contact the SST Governing Board.

Second, Certified Service Providers (CSPs) are companies that work directly with the Streamlined Sales Tax states. They incorporate software into your electronic bookkeeping system that calculates, collects, remits, and files sales tax returns in all Streamlined Member States. A CSP is designed to allow a business to outsource most of its sales tax administration responsibilities. As a Streamlined Sales Tax member state, Minnesota has worked with all of the Certified Service Providers. We believe that a CSP will ease additional burdens on businesses caused by new collection and remittance requirements. The seller is still responsible to remit use tax on its own purchases.

If you are making sales into other states as well, it may be very valuable for you to use a CSP. The CSP software works with your accounting system to identify which products and services are taxable, apply the appropriate tax rate, and record the transaction. The CSP sets up their software with your system, prepares and files returns, and remits tax to each member state. They will also maintain a record of the transactions.

The CSP also resolves any notices or audits by member states. There is free monthly return processing in states where you are a remote seller. A remote seller is defined as someone who does not have physical presence nexus in a state, but is making sales into that state. If you have physical presence nexus in a state a fee may apply to those returns. As an example you are Minnesota sellers and you have physical presence nexus in Minnesota, therefore the CSP will charge a fee to file the Minnesota return.

Streamlined Sales Tax member states certify the accuracy of the CSP software and provide liability relief for incorrect tax calculation based on the certification. If you have correctly identified the product, and an error was made by the state when determining the taxability of that category of products in the CSP’s system, you will not be held liable for any taxes that you would have otherwise needed to charge.

There are several options to choose from if you wish to research CSPs further. The following is a list of CSPs that have been certified by Streamlined Sales Tax.

- [Avalara](#)
- [Sovos](#)
- [Exactor \(Intuit\)](#)
- [Tax Cloud](#)
- [AccurateTax](#)

Some CSPs also provide services in non-Streamlined states. Check their websites for more information. There are also Service Providers who are not part of the Streamlined Sales Tax Agreement. You may choose to contract with one of these service providers, but you will need to contact them to inquire about their services.

Filing and Payment Instructions

In order to avoid penalties you must file your return on time, and pay your tax liability on time. You must file your return electronically, either online through e-Services, or by telephone. You also must pay your tax liability by the due date, this can be done electronically or by check.

Please note, some taxpayers are required to pay electronically, you will be notified of this requirement by mail.

e-Services will allow you to file your return early, and schedule an electronic withdrawal for a later date, it is also easy, convenient, and free.

For more information about e-Services visit our website. e-Services accepts uploaded files, search our website for Sales Tax File formats for more information.

How often you need to file depends on your total tax liability averaged over the course of a year.

- If your tax liability is less than 100 dollars per month, or 1200 dollars per year, you are required to file your sales and use tax return annually. This return is due on February 5th every year.
- If your tax liability is between 100 dollars and 500 dollars per month, or between 1200 and 6000 dollars per year, you need to file your returns quarterly. Quarterly returns are due on the 20th of the month following the end of the quarter.
- If your tax liability is greater than 500 dollars per month, or 6000 dollars per year, you must file your returns monthly. Monthly returns are due the 20th of the following month.

e-Services is the online filing system for the Minnesota Department of Revenue. When you select “e-Services for Businesses,” on our webpage this is the screen that will come up first. If you already have an account you can put in your username and password in here, then select logon. If you do not yet have an account, please select sign up for Minnesota e-Services in the middle of the screen. There are also links for retrieving a forgotten password or username.

We now have an additional verification step when signing in. This is what the screen will look like after selecting logon. An email will be sent automatically to the email address in your e-Services profile. Enter the verification code, if you would like to bypass this step in future logons, select “yes” under remember this computer.

Once you get signed in you will see all of your accounts, any alerts, and then options for what you would like to do with your account. Select the Sales & Use tax hyperlink, then select the filing period you would like to file.

This is the screen you will see once you select to file a return for a particular filing period. Enter your gross receipts. Gross receipts include your total Minnesota sales for that period whether or not they are taxable. Do not include sales tax. And then fill out the appropriate fields for general rate, use tax purchases, and any applicable local sales or use

taxes. To add a local tax to your return, click on the Add a Tax Line hyperlink at the bottom of the list. Choose the desired local tax from the dropdown menu. e-Services also offers the Save and Finish Later feature. Save and finish later allows you to enter information on your return and finish it later. Your information is saved for 14 days. If you do not return in 14 days, the session will expire and you will need to reenter your information.

Resources

To access information for remote sellers first click on the “Business” tab at the top of the page, next select “Business Taxes and Fees”. You can then click on “Sales and Use Tax.”

Select the Remote Seller Information link.

Here you will find information regarding the Marketplace Providers Update, Remote Sellers Update, Local Sales Tax Requirement for Sellers, and Remote Sellers FAQ.

We launched an online Business Center in 2017. The Center brings together existing tax information and resources that include fact sheets, industry guides, forms, and training information. Features include Starting a Business, Self-Employed, Business Taxes and Fees, Classifying a Worker, Closing an Account of Business, Minnesota Tax ID Requirements, Tax Delinquency lists, Update your Business Information, and Education and Outreach (which lists our fee education by tax type).

We also have additional online webinars to assist you with your sales and use tax questions. To explore our webinars visit our website and search “education webinars” in the top right corner. Or look for them under the “resources” tab on our Sales and Use Tax webpage and selecting “Education.”

Fact sheets and Industry guides are a valuable tool as well. These can be found by visiting our website and searching for either Sales Tax Fact Sheets or Industry Guides in the top right hand corner. Or look for the by selecting the “tax information” tab on our Sales and use tax site and selecting “Fact Sheets” or “Industry Guides.”

If you have any questions regarding sales tax law, filing requirements, or your sales and use tax account activity please visit our website. You may also contact us through email addresses or telephone number provided here.

There are many ways to reach us, and this information is available on our website.

- If you have questions regarding sales and use tax law, please email us at salesuse.tech@state.mn.us.
- If you have questions regarding your sales and use tax account or how to file your return, email us at saleuse.tax@state.mn.us.
- Or, if you prefer contact us by phone at the number listed here.

Sign up to receive email alerts from the Department of Revenue.

- There are many topics to choose from so you get the information you need right in your inbox.
- You can subscribe by visiting our website.

Topics range from press releases to tax fraud alerts to outreach training notifications.

Course Review

During this class, we discussed:

- The changes based on the U.S. Supreme Court ruling in South Dakota v Wayfair
- Taxable products and services in Minnesota
- How to handle sales shipped to local jurisdictions
- And resources and tools available on the department website

Thank you for taking our webinar on Wayfair Impacts for Minnesota sellers.