



Wayfair Impacts for Remote Sellers Webinar: December 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.*

Note: Questions and comments made by participants were an important and valued part of these webinars. Participant questions and feedback will be incorporated into our [FAQs for Remote Sellers](#).

About the Webinar

Welcome to the Minnesota Department of Revenue's Wayfair Impacts for Remote Sellers Webinar. My name is Patrick Doherty, 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. There are some law changes effective October 1, 2019. We have included these updates in this webinar.

Before we get started on the impacts of this decision for remote 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 many questions that we will need to collect and answer later. These answers may be compiled and added to our FAQs section on our website. 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 rectangular shape at the top middle section of your screen. A drop-down menu should appear. Once you see the drop-down 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 drop-down 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 add it to the FAQs on our website, in this case we

will let you know that we are going to do that. 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 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. If you have questions, please feel free to contact us at the number or email address provided here.

Course Objectives

After completing this course you will be able to:

- Define remote seller and the small seller exception
- Recognize the rules for sales made through a marketplace provider
- Summarize the benefits of using a Certified Service Provider (CSP) with Streamlined Sales Tax
- Distinguish what products and services are taxable in Minnesota
- Learn how to register for a Minnesota Tax ID number
- Apply the filing requirements for Minnesota and its taxing jurisdictions, and
- List several resources that answer your remote seller questions

Remote Sellers

Generally, a remote seller is a business that sells its products to customers into a state, using the Internet, mail order, or telephone, without having a physical presence in that state.

It is also important to note who is not a remote seller. Any business that has a physical presence in Minnesota is not considered a remote seller. This includes, but is not limited to, offices, employees, agents, representatives, and property. These businesses have been, and continue to be, required to collect and remit sales tax on all taxable transactions. These businesses are also not eligible for the small seller exception. Please note if you were already registered in Minnesota to collect and remit sales tax before the South Dakota v Wayfair decision, you are not impacted by this decision. You should continue to collect and remit tax as you have been.

Remote sellers must register and begin collecting sales tax in Minnesota no later than 60 days after exceeding the small seller exception, which we will be discussing in the next section.

There are multiple ways to register for a Minnesota sales tax ID. If you will be registering for multiple states, it may be more convenient to register using the Streamlined Sales Tax Registration System (SSTRS) at www.sstregister.org. The SSTRS is a quick and easy way to register for a sales and use tax accounts in all Streamlined Sales Tax member states. You also may choose which states to be registered in, you do not have to choose all 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.

If you will only need to register in Minnesota, you can register online by visiting www.revenue.state.mn.us and searching the term “Business Registration” in the top right corner. If you prefer to register by phone, you may call toll-free 1-800-657-3605.

In order to correctly evaluate your registration requirements in Minnesota, you must first define retail sale. Minnesota defines “retail sale” in Minnesota Statutes 297A.61 Subd. 4 to mean any sale of tangible personal property, or taxable services, excluding those purchased for resale. When calculating the small seller exception, you should not include any sales where the purchaser is buying for resale. The purchaser may issue a completed Certificate of Exemption, Form ST3 claiming an exemption. You can find a copy of the Certificate of Exemption on our website.

Minnesota has a Small Seller Exception, which does not require remote sellers to collect sales tax until certain thresholds are met. Remote Sellers who do not meet either of the below thresholds, in the previous 12 months, are not required to collect Minnesota sales tax. These thresholds are either, 200 or more retail sales shipped into Minnesota or, retail sales shipped into Minnesota that total more than \$100,000. It is important to note that the purchaser is always liable for any use tax due on taxable transactions. The next two slides contain examples.

In example 1, a Wisconsin remote seller ships 4 retail sales into Minnesota totaling \$7,000,000. Because the seller exceeds the \$100,000 threshold they are required to collect Minnesota sales tax. Also, the purchaser is always liable for any use tax due on taxable transactions.

In example 2, an Iowa remote seller ships 150 retail sales into Minnesota totaling \$99,000. Because the seller did not meet the value requirement of \$100,000, they are not required to collect Minnesota sales tax. Again, the purchaser is always liable for any use tax due on taxable transactions.

Because the small seller exception requires you to review your previous 12 month sales activity, some sellers may find that their requirement to collect Minnesota sales tax fluctuates. Once economic nexus is established you must complete a full 12 months of filing. If you begin collecting and remitting sales tax, and later determine you no longer exceed the small seller exception, please contact us so that we can update your account. We will need to update these accounts so that return expectations are not created. This may cause unnecessary mailings and penalties if our system shows a return is expected but you are actually not required to file. If you find that in the future, your sales are high enough that you no longer qualify for the small seller exception, you will need to contact us again so that we can reopen your account and you are able to file. Please call 1-800-657-3605 (toll-free) if you need to update your sales tax account. You may also volunteer to collect and remit Minnesota sales tax regardless of the quantity of sales you have into Minnesota.

Sales through Marketplace Providers

To start, it will be important to know how Minnesota defines the term Marketplace Provider.

A Marketplace Provider is any person, other than the seller, who facilitates a retail sale by: Listing or advertising the seller’s products; and processing the payments from the customer, either directly or indirectly through a third party, regardless of whether the Marketplace Provider receives compensation or other consideration in exchange for its services.

A Marketplace Provider located in Minnesota is **required** to collect on your behalf unless:

- You elect to register and collect Minnesota sales tax directly and prove to the Marketplace Provider that you intend to collect and remit Minnesota sales tax on your own.

If the Marketplace Provider is collecting sales tax on your sales, you do not need to register for a Minnesota sales tax ID. You will not need to worry about filing these returns, as they will be handled by the Marketplace Provider.

Effective October 1, 2019 an out-of-state Marketplace Provider is required to collect and remit sales tax for sales into Minnesota unless one of the two following conditions is met:

- The out-of-state marketplace does not meet the Smaller Seller Exception, or
- The seller gives the marketplace provider a copy of its Minnesota sales tax registration, and there is an agreement that the seller will collect and remit sales tax.

If your only retail sales into Minnesota are through a Marketplace Provider and the Marketplace is collecting and remitting Minnesota sales tax on your behalf, then you do not need to register and collect Minnesota sales tax.

If your only retail sales into Minnesota are through a Marketplace Provider and the Marketplace is not collecting and remitting Minnesota sales tax on your behalf, then you must collect Minnesota sales tax on your taxable sales unless you meet the Small Seller Exception we discussed earlier.

If your retail sales into Minnesota are through a Marketplace, your own website, and through other sources, then Minnesota sales tax must be collected and remitted to Minnesota on all of your taxable sales unless you meet the Small Seller Exception we discussed earlier. You must collect and remit the tax unless a Marketplace is collecting and remitting on your behalf.

Streamlined Sales Tax

The Streamlined Sales and Use Tax 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 23 full member states, and 1 associate member, 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
- Protection of consumer privacy

Certified Service Providers

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 Certified Service Provider will ease any additional burdens on businesses caused by new collection and remittance requirements. The seller is still responsible to remit use tax on its own purchases.

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. Remote sellers are subject to audits like any other business. For remote sellers using a CSP, the department works with the CSP for the audit. The department has no direct contact with the remote seller. Monthly return processing is free in states where you are a remote seller. If you have nexus in member states, a small fee may apply to file those returns. 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](#)

Note: Some CSPs also provide services in non-Streamlined states. Check their websites for more information.

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, retail price of a good or service, shipping charges, taxes that are the obligation of the seller, service 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.

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. e-Services is 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 do you file? 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.

Resources

To access information for remote sellers, first go to our website, www.revenue.state.mn.us and select “Businesses”. Extend the “Business Taxes and Fees section by clicking the + to the side in the green banner. Now you can select “Sales and Use Tax to reach our webpage.

On the Sales and Use tax page there are links at the top for “Sales tax rate calculator” “Fact Sheets and Industry Guides” and “2019 Sales Tax Law Changes”. You can also expand the various menus and find a wealth of information regarding Minnesota sales and use tax, your obligations, and resources available.

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 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.

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 or 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 valuable tools 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 them 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 the 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 651-296-6181 or toll-free at 1-800-657-3777.

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the area to connect with us. There is an option to either sign up with your email, or connect with various social media accounts. Topics range from press releases to tax fraud alerts to outreach training notifications.

Course Review

During this class, we discussed

- Definitions of remote sellers and marketplace providers
- The benefits of a Certified Service provider and Streamlined Sales Tax
- What products and services are taxable in Minnesota
- How to register for a MN ID number
- How to use e-Services to file and pay your sales and use tax return, AND
- Where to find information to help you answer your questions.

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