

# Sales and Use Tax for Remote Sellers: Minnesota

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A Q&A guide to remote sellers' exposure to sales and use tax in Minnesota after the US Supreme Court's decision in *South Dakota v. Wayfair, Inc.* in 2018. This Q&A addresses issues including nexus for remote sellers, taxability based on economic nexus, economic nexus thresholds (including the threshold measurement period), the Streamlined Sales and Use Tax Agreement (SSUTA), penalties for failure to comply with sales tax collection and remittance, and the taxation of marketplace sellers and hosts or facilitators.

## SCOPE OF SALES AND USE TAX

### 1. Does your state require remote sellers to collect sales and use tax on sales of goods or services made into your state? Specifically, please discuss:

- How your state determines nexus for sales tax purposes for remote sellers (for example, economic nexus, physical presence nexus, click-through-nexus, affiliate nexus, cookie or in-state software nexus, or a notice and reporting system).
- The particular goods or services that are taxable.
- Relevant statutes or legislation.
- Any significant case law.

In Minnesota, a **remote seller** is a seller that **both**:

- Makes retail sales of goods or services for delivery into Minnesota via:
  - the internet (online);
  - mail (for example, catalog); or
  - telephone.
- Has no physical presence in Minnesota.

(Minn. Stat. Ann. § 297A.66, subd. 3(b) (subd. 1(b), effective for sales made after September 30, 2019); see also Minnesota Department of Revenue, Update for Remote Sellers and Minnesota Department of Revenue, Remote Seller FAQs.)

Minnesota statutes define "retail sale" as:

- Any sale, lease, or rental of tangible personal property for any purpose, other than for:
  - resale;
  - sublease; or
  - subrent.
- The sale of certain services, other than those for resale.

(Minn. Stat. Ann. § 297A.61, subd. 4.)

After October 1, 2018, remote sellers with retail sales into Minnesota that meet the economic threshold must collect and remit Minnesota sales tax (see Question 2: Economic Threshold; Minn. Stat. Ann. § 297A.66, subd. 3 (subd. 1, effective for sales made after September 1, 2019)). Additionally, remote sellers that have click-through nexus, marketplace nexus, or affiliate nexus may also be required to collect and remit Minnesota sales tax (see Nexus).

For additional information pertaining to Minnesota sales and use tax, see State Q&A, Sales and Use Taxes: Minnesota ([3-525-2717](#)).

## NEXUS

Nexus for sales and use tax purposes is the connection that a seller has with a state that requires it to collect and remit tax on sales made to that state. States have adopted various nexus standards relating to the taxation of remote sellers. For a discussion of the various approaches used by states to determine nexus for sales tax purposes, including economic nexus, see Practice Note, Sales and Use Tax for Remote Sellers: Sales Tax Nexus Approaches and Economic Nexus ([W-016-0090](#)).

Minnesota finds nexus for sales tax purposes if a remote seller has:

- Economic nexus (see Economic Nexus).
- Click-through nexus (see Click-Through Nexus).

- Marketplace nexus (see Marketplace Nexus and Marketplace Sellers and Facilitators).
- Affiliate nexus (see Affiliate Nexus).

If a remote seller satisfies the requirements of any one of the nexus standards, they must collect and remit Minnesota sales tax.

### Economic Nexus

Economic nexus requires a remote seller to collect and remit sales or use tax on sales made to a state if its sales or transaction volume (or a combination of the two) to in-state customers exceeds specified thresholds, even if the seller lacks physical or any other type of presence in the state. In *South Dakota v. Wayfair, Inc.*, the US Supreme Court overruled the physical presence test and noted its approval of South Dakota's economic nexus statute (138 S. Ct. 2080 (2018)). For a discussion of the *Wayfair* decision, see Legal Update, States Consider Next Steps on Taxing Remote Sellers After *S. Dakota v. Wayfair* ([W-015-5051](#)).

Consistent with the decision in *Wayfair, Inc.*, Minnesota applies an economic nexus standard in determining whether remote sellers must collect and remit Minnesota sales tax (138 S. Ct. 2080). If a remote seller engages in the "regular or systematic soliciting of sales" from potential customers in Minnesota, the remote seller is deemed to have economic nexus with the State of Minnesota and must collect and remit Minnesota sales tax. A remote seller is presumed to regularly or systematically solicit sales from potential customers in Minnesota if it meets the economic threshold. For information pertaining to the economic threshold, see Question 2: Economic Threshold.

### Click-Through Nexus

Minnesota also applies a click-through nexus (often referred to as solicitor nexus in Minnesota) standard in certain instances for sales tax purposes. Under this standard, an out-of-state seller (which includes remote sellers) that makes taxable sales of tangible personal property, specified digital products, or services, is soliciting business and is presumed to have click-through nexus in Minnesota if that seller both:

- Enters into an agreement with a Minnesota resident under which the resident, for a commission or other substantially similar compensation, directly or indirectly refers potential customers (by a link on an internet website or otherwise) to the seller.
- Has more than \$10,000 in sales from these referrals to customers in Minnesota for the 12-month period ending on the last day of the most recent calendar quarter before the calendar quarter in which the sale is made.

(Minn. Stat. Ann. § 297A.66, subd. 1(a)(2), 4a(b).)

Remote sellers that meet these conditions must register for Minnesota sales tax purposes and collect and remit sales tax on all sales delivered to Minnesota.

A typical example of remote sellers with click-through nexus include e-commerce retailers that advertise products on websites maintained by other parties and pay a commission when a consumer clicks on the advertisement and makes a purchase.

A remote seller presumed to have click-through nexus may rebut this presumption. A seller rebuts the presumption by providing proof that the Minnesota resident did not do any solicitation on the seller's behalf in Minnesota. (Minn. Stat. Ann. § 297A.66, subd. 4a(c); for more information, see Solicitor Nexus, Minn. Dept. Rev., 06/1/2013.)

For purposes of click-through nexus in Minnesota, a resident includes both:

- An individual who is a resident of the state of Minnesota.
- A business that either:
  - owns tangible personal property located in Minnesota; or
  - has one or more employees providing services for the business in Minnesota.

(Minn. Stat. Ann. § 297A.66, subd. 4a(d).)

For more information on click-through nexus, see Practice Note, Sales and Use Tax for Remote Sellers: Click-Through Nexus ([W-016-0090](#)).

### Marketplace Nexus

Minnesota also enacted marketplace nexus effective as of October 1, 2018. For more information, see Marketplace Sellers and Facilitators.

### Affiliate Nexus

Minnesota also applies an affiliate nexus standard for sales tax purposes. Under this standard, a remote seller that has a related entity in Minnesota engaged in certain activities on its behalf is:

- Considered to maintain a place of business in Minnesota.
- Deemed to have affiliate nexus with Minnesota for sales tax purposes.
- Required to collect and remit Minnesota sales tax on taxable retail sales made to customers in Minnesota.

(Minn. Stat. Ann. § 297A.66, subd. 1(a).)

Minnesota has three tests to determine if an entity and a remote seller are related parties for purposes of affiliate nexus. The remote seller and the Minnesota entity must meet at least one of the following:

- One or both entities is a corporation, and one entity and any party related to that entity in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation (under IRC § 318) owns directly, indirectly, beneficially, or constructively at least 50% of the value of the corporation's outstanding stock.
- One or both entities is a partnership, estate, or trust and any partner or beneficiary, and the partnership, estate, or trust and its partners or beneficiaries own directly, indirectly, beneficially, or constructively, in the aggregate, at least 50% of the profits, capital, stock, or value of the other entity or both entities.
- An individual stockholder and the members of the stockholder's family (under IRC § 318) owns directly, indirectly, beneficially, or constructively, in the aggregate, at least 50% of the value of both entities' outstanding stock.

(Minn. Stat. Ann. § 297A.66, subd. 4(b).)

If the remote seller and the Minnesota entity are related parties, the remote seller will have affiliate nexus if the Minnesota entity engages in any of the following activities:

- Uses its facilities or employees in Minnesota to advertise, promote, or facilitate the establishment or maintenance of a market for sales of items by the remote seller to purchasers in Minnesota or for the provision of services to the remote seller's purchasers in Minnesota, such as accepting returns of purchases for the remote seller.
- Has the same or a similar business name to the remote seller and sells, from a location in Minnesota, taxable tangible personal property, digital goods, or services, that are similar to that sold by the remote seller.
- Maintains an office, distribution facility, salesroom, warehouse, storage place, or other similar place of business in Minnesota to facilitate the delivery of tangible personal property, digital goods, or services sold by the remote seller to its customers in Minnesota.
- Maintains a place of business in Minnesota and uses trademarks, service marks, or trade names in Minnesota that are the same or substantially similar to those used by the remote seller, and that use is done with the express or implied consent of the holder of the marks or names.
- Delivers, installs, or assembles tangible personal property in Minnesota, or performs maintenance or repair services on tangible personal property in the state, for tangible personal property sold by the remote seller.
- Facilitates the delivery of tangible personal property to the remote seller's customers by allowing the customers to pick up tangible personal property sold by the remote seller at a place of business the entity maintains in Minnesota.
- Shares management, business systems, business practices, or employees with the remote seller, or engages in intercompany transactions with the remote seller related to the activities that establish or maintain the remote seller's market in Minnesota.

(Minn. Stat. Ann. § 297A.66, subd. 4(a).)

#### TAXABILITY OF GOODS AND SERVICES

Retail sales of any of the following by remote sellers are potentially subject to sales tax in Minnesota:

- Tangible personal property (as defined in Minn. Stat. Ann. § 297A.61, subd. 10).
- Specified services (as listed in Minn. Stat. Ann. § 297A.61, subd. 3(g)).
- Specified digital products (as defined in Minn. Stat. Ann. § 297A.61, subd. 55).

For additional guidance on the taxability of specific products and services in Minnesota, see Minnesota Sales and Use Tax Business Guide: Taxable Sales; see also State Q&A, Sales and Use Taxes: Minnesota: Question 3 ([3-525-2717](#)).

Remote sellers should use the purchaser's zip code **plus** four digits to accurately collect the correct state and local sales tax rate. Sales tax rates can be calculated using the Minnesota Department of Revenue's Sales Tax Rate Calculator.

Remote sellers should also collect and maintain properly completed exemption certificates (Form ST3, Certificate of Exemption), to substantiate exempt sales to Minnesota customers.

#### STATUTES AND LEGISLATION

Relevant authority related to this subject can be found in Chapter 297A of the Minnesota Statutes, General Sales and Use Tax (Minn. Stat. Ann. §§ 297A.61 to 297A.995).

On May 30, 2019, Minnesota's Omnibus Tax Bill was signed into law. Among other things, this new law:

- Amends and reorganizes several definitions relating to remote and marketplace sellers.
- Changes the economic threshold for remote sellers to match the standard set out in *Wayfair* (see Question 2: Economic Threshold).
- Changes the economic threshold for marketplace sellers to match the standard set out in *Wayfair* (see Question 9).

(2019 Minn. Sess. Law Serv. 1st Sp. Sess. Ch. 6 (H.F. 5).)

These changes take effect for sales made after September 30, 2019.

#### SIGNIFICANT CASE LAW

Because the legislation on this subject matter is recent, there are no significant Minnesota cases to date. However, the following US Supreme Court cases are relevant:

- *Wayfair, Inc.* (138 S. Ct. 2080).
- *Quill Corp. v. North Dakota* (504 U.S. 298 (1992)).

#### TAXABILITY BASED ON ECONOMIC NEXUS

##### 2. If your state currently does or intends to require remote sellers to collect sales tax for sales of goods or services into your state based on economic nexus, please:

- Provide the date this requirement either went into or is intended to go into effect.
- Discuss whether the requirement is retroactive.
- Discuss whether there is an economic threshold that remote sellers must meet before they are subject to the collection and remittance requirements.
- Discuss any amnesty opportunities.

#### EFFECTIVE DATE

Minn. Stat. Ann. § 297A.66, subd. 3 (subd. 2, effective for sales made after September 30, 2019), which requires certain remote sellers to register and collect and remit Minnesota sales tax based on economic nexus, went into effect on October 1, 2018.

#### RETROACTIVE COLLECTION

The obligation of remote sellers to collect Minnesota sales tax based on economic nexus is not retroactive. It applies only to sales made on or after October 1, 2018 (Minn. Stat. Ann. § 297A.66).

## ECONOMIC THRESHOLD

A remote seller that engages in the regular or systematic soliciting of sales from potential customers in Minnesota is deemed to have economic nexus with the State of Minnesota and must collect and remit Minnesota sales tax. A remote seller is presumed to regularly or systematically solicit sales from potential customers in Minnesota if it meets the economic threshold. (Minn. Stat. Ann. § 297A.66, subd. 3 (subd. 2, effective for sales made after September 30, 2019).)

The economic threshold for remote sellers differs based upon when the sales are made (see Sales Made Through September 30, 2019 and Sales Made After September 30, 2019).

### Sales Made Through September 30, 2019

Minnesota has adopted an economic threshold for remote sellers similar to the one set out in *South Dakota v. Wayfair*. Specifically, starting October 1, 2018 and for sales made through September 30, 2019, remote sellers that were not already registered with Minnesota must register and collect and remit Minnesota sales tax if they meet either (or both) of the following criteria:

- The remote seller makes **100 or more** retail sales from outside Minnesota to destinations in Minnesota during a period of 12 consecutive months.
- The remote seller makes **ten or more** retail sales totaling more than **\$100,000** from outside Minnesota to destinations inside Minnesota during a period of 12 consecutive months.

(Minn. Stat. Ann. § 297A.66, subd. 3 (effective for sales made through September 30, 2019); for the economic threshold for sales made after September 30, 2019, see Sales Made After September 30, 2019.)

Remote sellers that were registered in Minnesota before the *Wayfair* decision must continue to collect and remit sales and use tax (see Minnesota Department of Revenue, Remote Seller FAQs).

When calculating whether they meet the economic threshold, remote sellers must include all retail sales made into Minnesota through:

- Any marketplace (see Question 9: Marketplace Sellers).
- Their own website.
- Any other sources.

(See Minnesota Department of Revenue, Remote Seller FAQs.)

This economic threshold provides a safe-harbor for remote sellers that do not meet either of the criteria. The economic threshold is often referred to as a **small seller exception** by the Minnesota Department of Revenue. When calculating the safe-harbor threshold, a retailer does not include any sales where the purchaser is buying for resale (see Minnesota Department of Revenue, Remote Seller FAQs).

### Sales Made After September 30, 2019

On May 30, 2019, Minnesota's Omnibus Tax Bill was signed into law that includes language changing the economic threshold for remote retailers to match the economic threshold standard set out in *Wayfair* (138 S. Ct. at 2099). Specifically, for sales made starting October 1, 2019, remote sellers that are not already registered with Minnesota must register and collect and remit Minnesota sales tax if they meet either (or both) of the following criteria:

- The remote seller makes **200 or more** retail sales from outside Minnesota to destinations in Minnesota during the prior 12-month period.
- The remote seller makes retail sales totaling more than **\$100,000** from outside Minnesota to destinations in Minnesota during the prior 12-month period.

(Minn. Stat. Ann. § 297A.66, subd. 1(c) (effective for sales made after September 30, 2019).)

Remote sellers that are registered in Minnesota must continue to collect and remit sales and use tax.

When calculating whether they meet the economic threshold, remote sellers must include all retail sales made into Minnesota through:

- Any marketplace (see Question 9: Marketplace Sellers).
- Their own website.
- Any other sources.

(See Minnesota Department of Revenue, Remote Seller FAQs.)

This economic threshold provides a safe-harbor for remote sellers that do not meet either of the criteria. When calculating the safe-harbor threshold, a retailer does not include any sales where the purchaser is buying for resale (see Minnesota Department of Revenue, Remote Seller FAQs).

See Questions 3, 4, and 5 for additional information pertaining to the economic threshold.

## AMNESTY OPPORTUNITIES

Although the Minnesota Department of Revenue has not recently offered an amnesty program, it does have an ongoing Voluntary Disclosure Program. Taxpayers that meet **all** of the following conditions are eligible to participate in the program:

- The taxpayer is not under review for Minnesota tax obligations.
- The taxpayer has not been contacted by the Minnesota Department of Revenue about tax compliance or an audit.
- The taxpayer is not evading taxes or misrepresenting its tax liabilities.

In exchange for coming forward voluntarily, the Minnesota Department of Revenue offers a limited look back period and waiver of certain penalties.

For more information, see Minnesota Department of Revenue, Voluntary Disclosure Program.

## ECONOMIC THRESHOLD

**3. If your state has an economic threshold, what is the threshold measurement period?**

### SALES MADE THROUGH SEPTEMBER 30, 2019

For sales made through September 30, 2019, Minnesota law provides that the threshold measurement period is the "period of 12 consecutive months" (Minn. Stat. Ann. § 297A.66, subd. 3 (effective for sales made through September 30, 2019); for the threshold

measurement period for sales made after September 30, 2019, see *Sales Made After September 30, 2019*). The remote seller:

- **Must** register and begin collecting and remitting Minnesota sales tax on taxable transactions that occur **after** the economic threshold is met.
- **Is not required** to collect and remit sales tax on transactions that occurred **before** meeting the economic threshold.

The Minnesota Department of Revenue provides remote sellers a grace period up to 60 calendar days to register with the state and begin collecting and remitting sales tax once the economic threshold is exceeded (see Minnesota Department of Revenue, Remote Seller FAQs).

If a remote seller was not registered in Minnesota before the Supreme Court's decision in *Wayfair*, the seller would need to look at each consecutive 12-month period (starting with the period running from August 2017 through July 2018) to determine if they exceeded the economic threshold in effect for sales made before October 1, 2019. For more information and examples, see Minnesota Department of Revenue, Remote Seller FAQs.

See Question 2: Economic Threshold for the specific criteria relating to the economic threshold.

#### SALES MADE AFTER SEPTEMBER 30, 2019

For sales made starting October 1, 2019, the threshold measurement period changes to the "prior 12-month period" (Minn. Stat. Ann. § 297A.66, subd. 1(c) (effective for sales made after September 30, 2019)). The remote seller:

- **Must** register and begin collecting and remitting Minnesota sales tax on taxable transactions that occur **after** the economic threshold is met.
- **Is not required** to collect and remit sales tax on transactions that occurred **before** meeting the economic threshold.

The Minnesota Department of Revenue provides remote sellers a grace period up to 60 calendar days to register with the state and begin collecting and remitting sales tax once the economic threshold is exceeded (Minn. Stat. Ann. § 297A.66, subd. 2(d) (effective for sales made after September 30, 2019); see Minnesota Department of Revenue, Remote Seller FAQs).

Accordingly, for sales made starting on October 1, 2019, a remote seller that is not already registered in Minnesota must look at each consecutive 12-month period (starting with October 1, 2018 through September 30, 2019) to determine if they exceed the economic threshold in effect for sales made after September 30, 2019. Once the remote seller exceeds the economic threshold, the seller must register, collect, and remit Minnesota sales tax on the first taxable retail sale into Minnesota that occurs no later than 60 days after the threshold was exceeded.

See Question 2: Economic Threshold for the specific criteria relating to the economic threshold.

**4. If a remote seller meets the economic threshold during the current year, does your state specify when and for how long the tax obligation applies (either by statute, regulation, or guidance)?**

Minnesota Department of Revenue has not provided guidance on how long a remote seller's sales tax obligations apply once the seller meets the economic threshold. Based on the statute, for sales made through September 30, 2019, it appears that economic nexus is determined using a rolling 12-month standard (Minn. Stat. Ann. § 297A.66, subd. 3(d), effective for sales made through September 30, 2019). This means that a remote seller who has already met the economic threshold and has registered with Minnesota could potentially file a return collecting and remitting zero sales tax if, in a future consecutive 12-month period, the economic threshold is not met. However, this interpretation may not be consistent with Minnesota Department of Revenue policy.

For sales made after September 30, 2019, remote sellers must continue to collect and remit Minnesota sales tax until at least the last day of the 12th calendar month following the calendar month in which they began collecting and remitting Minnesota sales tax (Minn. Stat. Ann. § 297A.66, subd. 2(d) (effective for sales made after September 30, 2019)).

**5. If a remote seller does not meet the economic threshold in your state requiring the collection and remittance of sales tax, is it subject to notice and reporting requirements? If yes, please describe the requirements.**

A remote seller that **does not** meet the economic threshold:

- Is not obligated to:
  - register or collect and remit Minnesota sales tax;
  - report sales made to Minnesota customers; or
  - notify customers of any Minnesota filing or payment obligations.
- May voluntarily register to collect and remit Minnesota sales tax.

(See Minnesota Department of Revenue, Remote Seller FAQs.)

A remote seller that does not meet the economic threshold may still have Minnesota sales tax obligations if it satisfies one of the other nexus standards that Minnesota uses (see Nexus).

If a remote seller is not obligated to collect sales tax on a taxable sale delivered to Minnesota, the purchaser must report and remit use tax (see Minnesota Department of Revenue, Remote Seller FAQs).

#### STREAMLINED SALES AND USE TAX AGREEMENT (SSUTA)

**6. Is your state a member of the Streamlined Sales and Use Tax Agreement (SSUTA)?**

Minnesota has been a full member of SSUTA since 2005. Because Minnesota is a member of SSUTA, remote sellers may submit their Minnesota sales tax registration (as well as registration for all other member states) using the Streamlined Sales Tax Registration System (SSTRS).

For additional information about SSUTA, see Practice Note, Sales and Use Tax for Remote Sellers: Streamlined Sales and Use Tax Agreement ([W-016-0090](#)).

**7. If your state is not a member of the Streamlined Sales and Use Tax Agreement (SSUTA), how does your state collect sales and use tax, both at the state and local level? Specifically, please discuss whether your state:**

- Adheres to common tax base definitions provided in SSUTA.
- Provides base/rate lookup software for sellers.
- Offers immunity from reliance on software.
- Has uniformity between the state and local tax bases.
- Provides centralized administration by the state or otherwise for sales tax registration, filings, and tax remittance.

Minnesota is a member of the SSUTA (see Question 6).

## PENALTIES

**8. What are the penalties imposed on remote sellers by your state for failing to comply with sales and use tax collection, filing, and notice and reporting requirements?**

The penalties Minnesota imposes for failing to comply with sales and use tax filing and collection requirements include:

- **Late filing penalty.** The penalty for failing to file a sales and use tax return when due is:
  - 5% of the tax due for each month (or part of a month) the return is late; and
  - an additional penalty equal to the greater of 5% or \$100 for each month the return is late may also be charged if the return is not filed within 30 days after a written demand for filing.
- (Minn. Stat. Ann. § 289A.60, subd. 2, 2a.)
- **Late payment penalty.** When sales tax payments are submitted late, a late payment penalty of 5% of the tax due per month (or part of a month), up to a total of 15%, may also be charged (Minn. Stat. Ann. § 289A.60, subd. 1(e)).
- **Penalty for repeated failure to file or pay.** Remote sellers that repeatedly fail to file sales tax returns or make sales tax payments may be subject to an additional penalty of 25% of the amount that is not timely paid. This penalty, which can be abated, can only be imposed if the remote seller is given written notice. (Minn. Stat. Ann. § 289A.60, subd. 5a.)
- **Failure to electronically file or pay.** Remote sellers that must use electronic filing for returns or make electronic payments that fail to do so are liable for a penalty of 5% of each payment that should have been made electronically, plus interest, for each failure to electronically file or pay. This penalty can be abated if the remote seller can show reasonable cause. (Minn. Stat. Ann. § 289A.60, subd. 21.)
- **Interest.** Interest is calculated at the annual rate of 5% for every month (or part of a month) the sales tax is unpaid, compounded annually (Minn. Stat. Ann. § 289A.55).

Minnesota also imposes additional penalties and in certain instances, criminal charges, for fraud or serial offenses.

## MARKETPLACE SELLERS AND FACILITATORS

**9. How does your state handle the collection of sales and use tax for marketplace sellers and marketplace facilitators or hosts (such as Amazon, that sell directly, but also host other sellers on its website)? Is the treatment different between marketplace facilitators or hosts versus hosted (third-party) sellers?**

In Minnesota, effective October 1, 2018, out-of-state-retailers (including remote sellers) that make sales into Minnesota through internet marketplace providers have marketplace nexus for sales tax purposes (Minn. Stat. Ann. § 297A.66, subd. 1(a), 4b(a) (subd. 1(a), 2(b), effective for sales made after September 30, 2019)). See Question 1: Nexus for more information on Minnesota sales tax nexus.

These retailers are included in the category often referred to as **marketplace sellers**.

A **marketplace provider** (also referred to as a marketplace facilitator or host) is someone other than the seller who facilitates a retail sale by **both**:

- Listing or advertising the seller's taxable goods (including digital goods) or services for sale.
- 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.

(Minn. Stat. Ann. § 297A.66, subd. 1(c) (subd. 1(d), effective for sales made after September 30, 2019); see also Minnesota Department of Revenue, Update for Marketplace Providers.)

## MARKETPLACE SELLERS

### Selling Solely Through Marketplace Providers

A remote seller that make taxable sales into Minnesota solely through one or more marketplace providers:

- **Does not need** to register and collect Minnesota sales tax if the marketplace providers are collecting tax on remote seller's behalf.
- **Does need** to register and collect and remit Minnesota sales tax if **both** of the following conditions are satisfied:
  - marketplace providers are not collecting sales tax on the remote seller's behalf (for those instances when a marketplace provider would not be collecting sales tax on a remote seller's behalf, see Marketplace Facilitators (Hosts)); **and**
  - the remote seller meets or exceeds the economic threshold established for economic nexus (see Question 2: Economic Threshold).

For more information, see Minnesota Department of Revenue, Remote Seller FAQs.

### Selling Through Multiple Sources

A remote seller that makes taxable sales into Minnesota through both marketplace providers **and** its own website or other sources

must combine all of its taxable sales into Minnesota when calculating whether the economic threshold is met (see Question 2: Economic Threshold). If the remote seller meets the economic threshold, it must collect and remit:

- Minnesota sales tax on taxable sales into Minnesota through its website and other sources.
- Minnesota sales tax on sales made into Minnesota through any marketplace providers if the marketplace providers are not collecting Minnesota sales tax on the remote seller's behalf. For those instances when a marketplace provider would not be collecting sales tax on a remote seller's behalf, see Marketplace Facilitators (Hosts).

(Minn. Stat. Ann. § 297A.66, subd. 2(a) (effective for sales made after September 30, 2019); for more information, see Minnesota Department of Revenue, Remote Seller FAQs.)

### MARKETPLACE FACILITATORS (HOSTS)

As of October 1, 2018, marketplace providers (also referred to as facilitators or hosts) **must collect and remit sales tax** on taxable sales into Minnesota made by a remote seller through the marketplace **unless any** of the following are satisfied:

- The remote seller elects to register and collect Minnesota sales tax directly and has provided the marketplace provider with a copy of its registration to collect the tax before the provider facilitates a sale.
- The remote seller and the marketplace provider enter into an agreement where the seller agrees to collect and remit sales tax on its marketplace sales.

- The marketplace provider learns from the tax commissioner that the seller is registered to collect Minnesota sales or use tax.
- The remote seller's taxable retail sales into Minnesota through the marketplace are less than \$10,000 in a 12-month period ending on the most recently completed calendar quarter (Minn. Stat. Ann. § 297A.66, subd. 2(b), effective for sales made through September 30, 2019). Note, however, that this *de minimis* exception will no longer be available starting October 1, 2019.

(Minn. Stat. Ann. § 297A.66, subd. 4b (subd. 2(b), effective for sales after September 30, 2019); see also Minnesota Department of Revenue, Update for Marketplace Providers.)

For more information on marketplace sellers, see Practice Note, Sales and Use Tax for Remote Sellers: Box: Marketplace Sales Tax ([W-016-0090](#)).

### OTHER CONSIDERATIONS

**10. Does your state offer a FAQ page relating to remote sellers' exposure to sales tax? If so, please provide the website link.**

The Minnesota Department of Revenue offers a FAQ page relating to remote sellers' exposure to sales tax (Minnesota Department of Revenue, Remote Seller FAQs).

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