

Encouraging and then Enforcing the Compliance of Remote Sellers

Maryland and Pennsylvania Approaches

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Today's Presenters

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AGENDA



- Published Guidance/New Law
- Responses to Taxpayers
- FAQs
- Combined Registration Application
- Voluntary Disclosure

- Marketplace sales
- Economic presence
- CSP Initiative
- Compliance plan
- Outreach & education

Maryland's Response to Wayfair

Published Guidance

- Initial Tax Alert Issued on July 3, 2018
- Second Tax Alert Issued on September 14, 2018
- Webpage Updates
- Third Tax Alert?



Maryland's Response to Wayfair

Marketplace Facilitators Act 2019

- Maryland Legislature Enacted Marketplace Facilitators and Sellers of Other Tobacco Products Act during 2019 Legislative Session
- Effective October 1, 2019
- The effect on Remote Sellers that have or have not registered to date.

Pennsylvania – Before Wayfair

Marketplace Sales

- Act 43 of 2017 required collection by marketplace facilitators
- Online marketplaces dominate online sales
- Compliance through ‘collection at source’ by facilitator

Maryland's Response to Wayfair

Responses to Taxpayers

- Maryland created a dedicated e-mail to answer questions on Wayfair and Registration
- Taxpayers and representatives can send questions to:
remotesellers@comp.state.md.us.
- All questions are answered within 48 hours
- What are typical questions?

Pennsylvania – Post-Wayfair

Economic Presence

- Pre-Wayfair – expanded physical presence
- Economic presence in Pennsylvania
 - \$100,000 or more in annual PA gross sales (all channels)
 - Applicable to succeeding period from April 1st through March 31st
- Policy statement Sales & Use Tax Bulletin 2019-01 codified by statute
 - Act 13 of 2019
- Physical presence remains an issue – inventory in your state

Maryland's Response to Wayfair

Frequently Asked Questions – Remote Sellers

- Temporary Sales Tax License Questions
- Physical Delivery into Maryland Questions
- Third-Party Drop Shipment Vendors
- Wholesalers Who Delivery TPP for Resale
- Vendors who Sell Exempt TPP
- Digital Goods and Services

Maryland's Response to Wayfair

Frequently Asked Questions – Remote Sellers

- Delivery of Tangible Personal Property and Taxable Services into the State
 - How is TPP defined in Maryland?
 - Which services are taxable in Maryland?
 - What if TPP exempt?
 - What if TPP is for resale?
 - What if TPP is for a third party vendor?

Pennsylvania – Post-Wayfair

Certified Service Providers Initiative

- Applies Wayfair decision principle of simplification
- Can we “reduce administrative and compliance costs” for smaller vendors without the uniform definitions and procedures?
- Answer: Yes, if we can:
 - Make compliance much simpler,
 - Provide active assistance through the CSPs, and
 - Subsidize it

Pennsylvania – Post-Wayfair

Certified Service Providers Initiative

- Invitation to Bid (ITB) instead of RFP to simplify procurement
- Contingent fee at a percentage of revenue remitted. PA has this statutory authority.
- Provide a taxability matrix and audit immunity for sellers using CSPs
- Sellers required to make an annual attestation of no physical presence
- Each CSP will file a single composite return and payment per month

Registering a Taxpayer in Response to Wayfair

Combined Registration Application

- CRA is Used to Register Maryland insurance and tax accounts including sales and use tax
- Taxpayers generally complete CRA online
- Significant Increase in CRAs During First Few Months

Registering a Taxpayer in Response to Wayfair

Combined Registration Application

- CRA Question 17 was revised in response to Wayfair
- Select the option that best describes your situation (Check **ONLY ONE** box):
 - Applicant has a physical sales location within Maryland and will not make online sales to customers in Maryland.
 - Applicant will make online sales to Maryland customers and does not have a physical sales location in Maryland.
 - Applicant has a physical sales location in Maryland and will make online sales to customers in Maryland

Registering a Taxpayer in Response to Wayfair

Combined Registration Application

- 2300 Taxpayer Registrations in Response to Wayfair during first three months
 - November 2018 – 442 remote sellers registered, \$5,900,000
 - December 2018 – 621 remote sellers registered, \$8,300,000
 - January 2019 – 1145 remote sellers registered, \$12,100,000
 - Total for past 8 months?

Pennsylvania – Post-Wayfair *Compliance Plan*

- Online seller data gathering
- Registration review
- Eliminate marketplace/CSP participants
- Encourage voluntary registration shifting to enforcement

Getting a Taxpayer in Compliance

Voluntary Disclosure Agreements

- Voluntary Disclosure Agreements
 - Standard Lookback Period for Sales and Use Taxes Four Years
 - Is a VDA to cover Wayfair sales and use tax liability available?
 - For example,

Client did not have nexus for sales tax purposes prior to Wayfair. Client was required to register on November 1, 2018 to collect sales and use tax under temporary regulations. Client discovers problem on April 1, 2019. Client wants to register to collect on May 1, 2019, but is worried about sales tax exposure from November 1, 2018 to April 30, 2019.

Pennsylvania – Post-Wayfair

Outreach & Education

- Online retailers and CSP web guidance

<https://www.revenue.pa.gov/GeneralTaxInformation/Tax%20Types%20and%20Information/SUT/OnlineRetailers/Pages/default.aspx>

- Webinar – to an audience outside of Pennsylvania
- October/November information notices campaign

Pennsylvania – Goal of Tax Compliance Efforts

Continuing to Close the Tax Gap

