



Remote Seller Compliance

WSATA

October 28, 2019

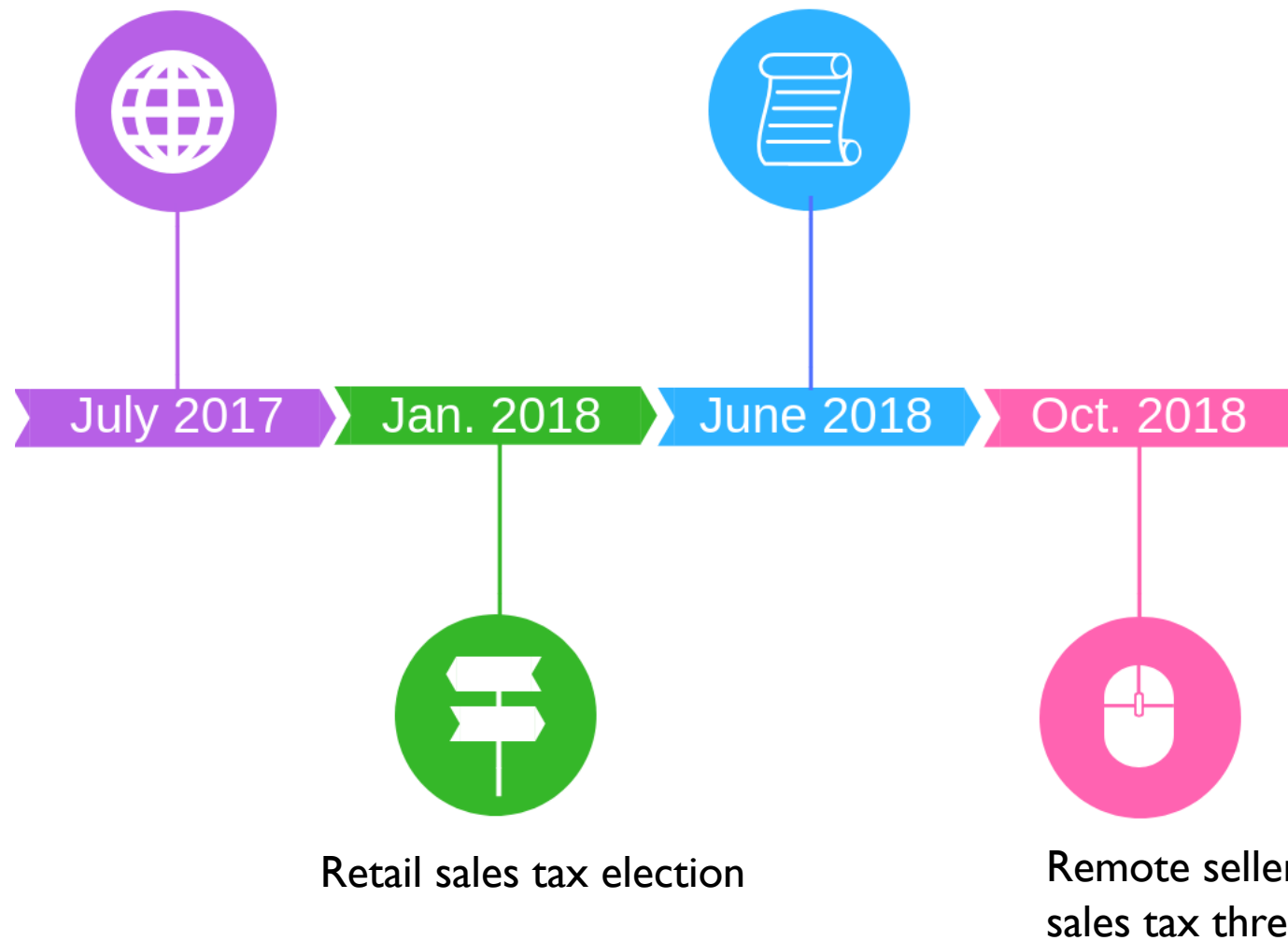
Trista Gonzalez, CA Dept. of Tax & Fee Administration

Patti Wilson, WA DOR

EHB 2163

Retail economic nexus

Wayfair v. South Dakota





California Nexus

- September 15, 2012
 - Affiliate Nexus / Click-Through Nexus
 - Commonly Controlled Group
 - Long Arm Statute
- April 1, 2019
 - Economic Nexus Threshold - \$500,000
- April 25, 2019
 - District Tax Economic Nexus Threshold

Outreach

- Top 1,000 retailer list
- Traditional tax discovery
- Referrals

2019 U.S. Top 1000 Report

Exclusive data from Internet Retailer on North America's 1,000 leading retailers and brands by online sales

<https://www.digitalcommerce360.com/>



Education and Outreach

SPECIAL NOTICE

CALIFORNIA DEPARTMENT
OF TAX AND FEE
ADMINISTRATION
450 N Street
Sacramento, CA 95814

GAVIN NEWSOM
Governor

MARYBEL BATJER
Secretary
Government Operations Agency

NICOLAS MADUROS
Director

CDTFA WEBSITE
www.cdtfa.ca.gov

CUSTOMER SERVICE CENTER
1-800-400-7115

TTY
711

New Use Tax Collection Requirements for Remote Sellers and New District Use Tax Collection Requirements for All Retailers—Operative April 1, 2019

The California Legislature recently passed [Assembly Bill No. \(AB\) 147](#) (Stats. 2019, ch. 5). AB 147 requires:

- Retailers located outside of California (remote sellers) to register with the California Department of Tax and Fee Administration (CDTFA) and collect California use tax if, in the preceding or current calendar year, the total combined sales of tangible personal property for delivery in California by the retailer and all persons related to the retailer¹ exceed \$500,000; and
- All retailers required to be registered with the CDTFA, whether located inside or outside of California, to collect and pay to the CDTFA district use tax on all sales made for delivery in any district that imposes a district tax if, in the preceding or current calendar year, the total combined sales of tangible personal property in this state or for delivery in this state by the retailer and all persons related to the retailer exceed \$500,000.

The new collection requirements are operative April 1, 2019, and supersede our previous direction regarding 1) the use tax collection requirements for out-of-state retailers (see Special Notice [L-565²](#)), and 2) the district use tax collection requirements for all retailers, including retailers located inside or outside of California (see Special Notice [L-591³](#)).

- Top 1,000 Internet Retailers
- “1032 Program”
- Marketplace Sellers
- Marketplace Pulse (www.marketplacepulse.com)



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Use Tax Collection Requirements
Based on Sales into California
Due to the *Wayfair* Decision



Overview

Getting
Started

General Info
and Collection
Requirements

Tax Matrix and
Common
Transactions

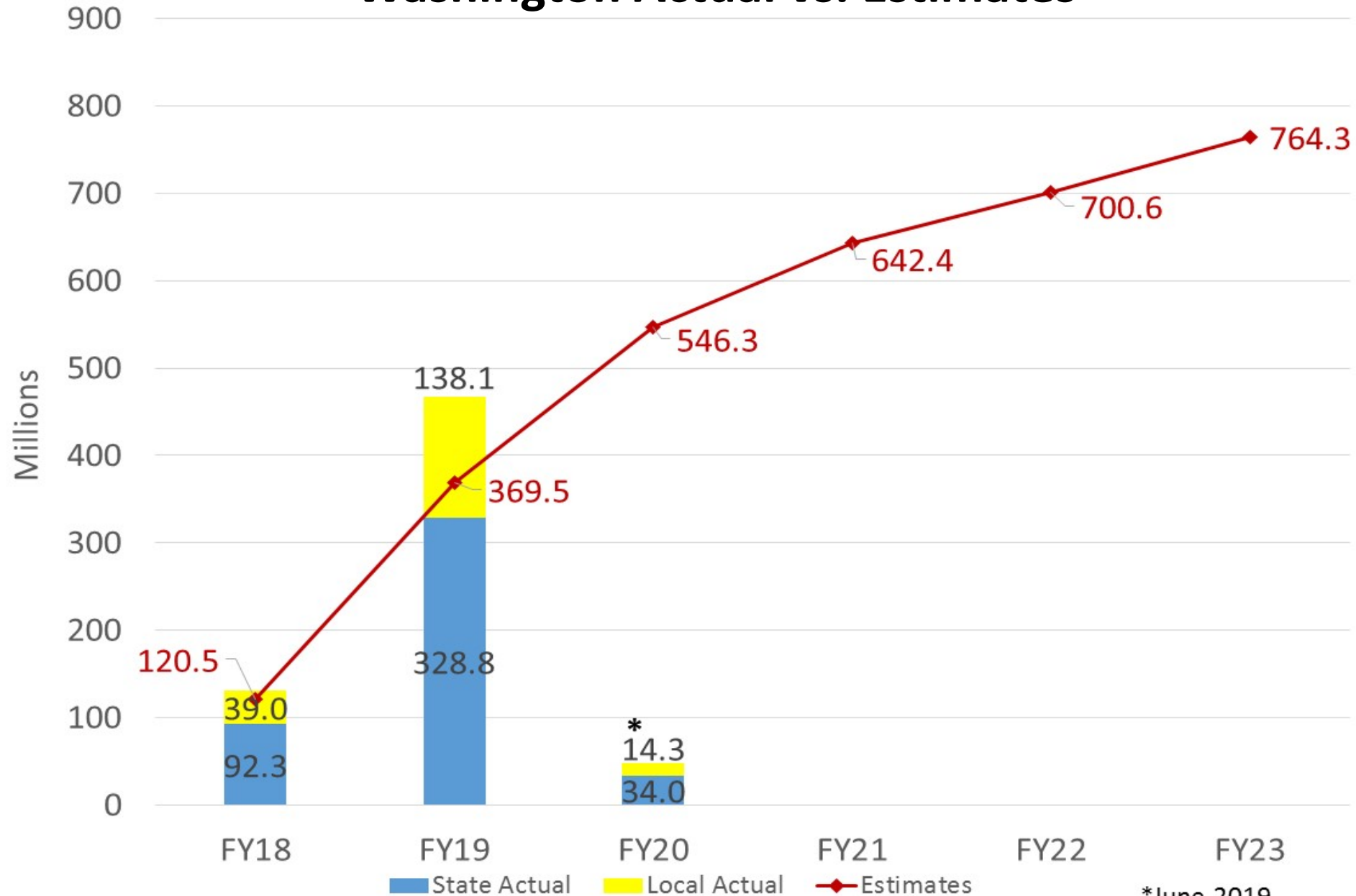
FAQs

Resources



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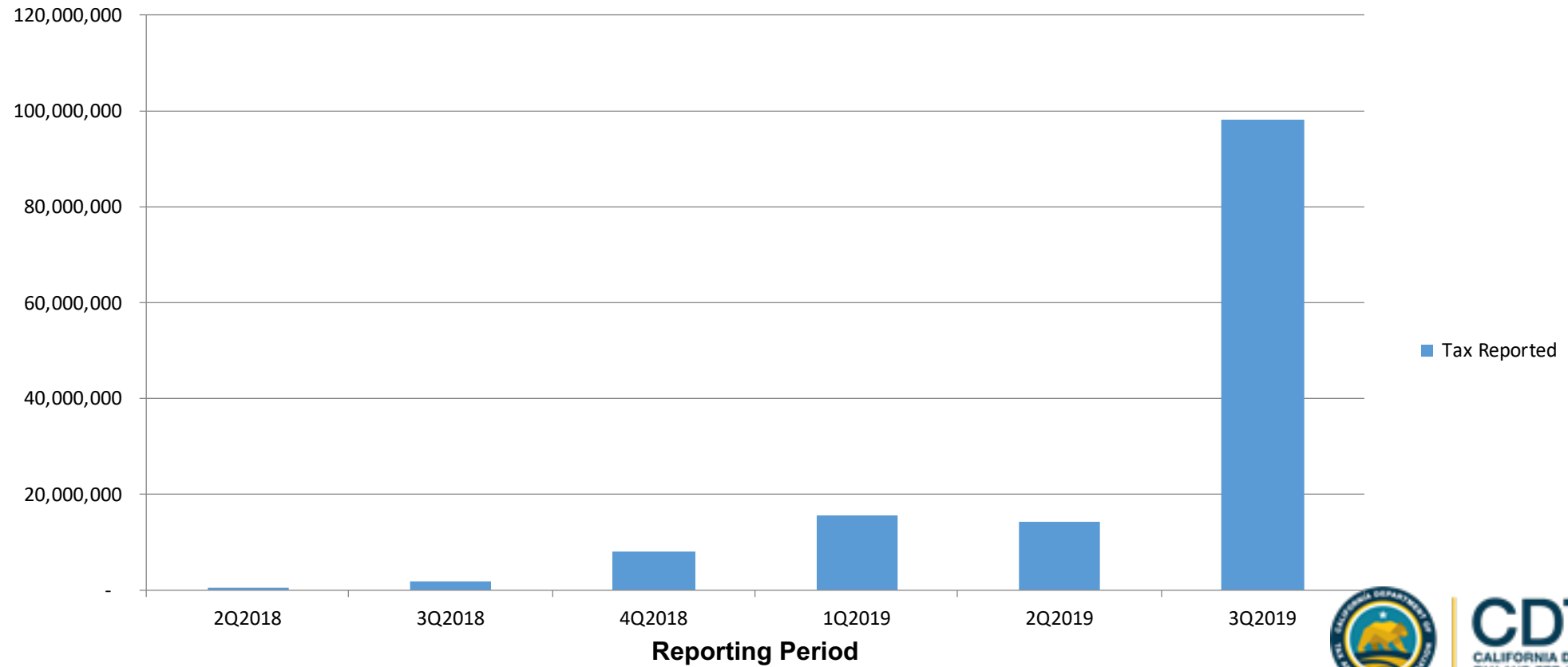
Washington Actual vs. Estimates





Revenue

California Remote Sellers



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Compliance Work

- Voluntary Disclosure
- Remote Seller Relief program





Voluntary Disclosure

CDTFA-38 (FRONT) REV. 7 (2-18)

APPLICATION FOR OUT-OF-STATE VOLUNTARY DISCLOSURE

STATE OF CALIFORNIA
CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION

Although your retail business is located outside of California, you may be required to collect and report California use tax when you make sales of tangible personal property that is used, stored, or otherwise consumed in this state. You are required to collect and pay the use tax if you are "engaged in business" in California as defined in California Revenue and Taxation Code section 6203 (see reverse).

The California Department of Tax and Fee Administration (CDTFA) has established a voluntary disclosure use tax liability program for out-of-state retailers who wish to acknowledge their liability for California use tax. By voluntarily registering with the CDTFA under this program, you may be able to limit your liability for tax, penalties, and interest due for prior periods. Ordinarily, if you did not file a return, the CDTFA can send you a bill ("deficiency determination") for the amounts owed as late as eight years after the quarterly period in which the sales were made. Pursuant to Revenue and Taxation Code section 6487.05, if you qualify for the voluntary disclosure program, the billing period may be limited to three years. In addition, you may be relieved of applicable penalties (see below).

Please complete this form if you wish to apply for the voluntary disclosure program. By completing and signing this form, you are representing that:

- The retailer is located outside this state, and has not previously registered with the CDTFA or the Board of Equalization (BOE).
- The retailer is engaged in business in this state, as defined in Revenue and Taxation Code section 6203 (see reverse).
- The retailer voluntarily registers with the CDTFA.
- The retailer has not been previously contacted by the CDTFA, the BOE, or their agents regarding the provisions of Revenue and Taxation Code section 6203.
- Failure by the retailer to register with the CDTFA or the BOE, file returns and pay tax to the CDTFA or the BOE was not due to negligence, intentional disregard of the law, fraud, or intent to evade the provisions of the California Revenue and Taxation Code.

CERTIFICATION

I certify (or declare), under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct.

BUSINESS NAME	SSN OR FEIN	ACCOUNT NUMBER (see note)
YOUR NAME		
TYPE OF BUSINESS		
ADDRESS (street, city, state, zip code)		
TELEPHONE NUMBER	PERIOD OPERATED IN CALIFORNIA	
	From (month, day, year) To (month, day, year)	
YOUR BUSINESS ACTIVITY IN CALIFORNIA		
<input type="checkbox"/> Salesperson <input type="checkbox"/> Solicitor <input type="checkbox"/> Manufacturer's Agent <input type="checkbox"/> Independent Contractor or Representative <input type="checkbox"/> Installer <input type="checkbox"/> Trainer		
<input type="checkbox"/> Affiliate <input type="checkbox"/> Commonly-Controlled Group <input type="checkbox"/> In-State Location <input type="checkbox"/> Warehouse, Fulfillment, or Distribution Center <input type="checkbox"/> Inventory		
<input type="checkbox"/> Installation of Tangible Personal Property <input type="checkbox"/> Rent or Lease Property <input type="checkbox"/> Deliver Merchandise by Non-Common Carrier <input type="checkbox"/> Other		

- Out of State Retailer
RTC § 6487.05
- Marketplace Seller
RTC § 6487.07
- Managed Audit Program



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Washington's new Remote Seller Relief Program: Will it start a new trend?

■ Sales and Use Tax Sep 11, 2019 | Gail Cole



<https://www.avalara.com/us/en/blog/2019/will-washingtons-remote-seller-relief-program-start-a-new-trend.html>

References

Washington

<https://dor.wa.gov/marketplacefairness>

California

<http://www.cdtfa.ca.gov/industry/wayfair.htm>