

HW Hot Topics Article 2018-05 Wayfair Case

HW Hot Topics articles are brief summaries of a topic, for clients to gain a general understanding. We intend for the information to answer the “quick questions” and to advance the dialog when we provide further analysis and planning.

In 2018 the U.S. Supreme Court ruled in favor of the State of South Dakota in a landmark case against internet sellers, the principal one being Wayfair, Inc.

The key issue – A state may require remote sellers to remit sales tax, and “physical presence” is not necessary.

Other states, 41 of them, signed a court brief, *amicus curiae* (friend of the court).

Washington State: Effective October 1, 2018, the Wayfair ruling applies and remote sellers are required to remit sales tax if their Washington sales exceed \$100,000 per year or their Washington sale transactions exceed 200 in count.

Washington businesses, selling into other states – Extra care is necessary, to know whether subject to similar rules in each state. Collection of tax at the time of sale is necessary, so that the business is not required to remit even though it did not collect from customers.

More information:

Businesses may find additional information and guidance in each state’s website or by other means of contacting the state taxing agency.

HW can assist as well.

Extension of Wayfair principles to Income Tax:

Wayfair is a sales tax case. However, the basis for the Supreme Court ruling is that the judges believe the “physical presence” standards are unsound and unfair to local businesses that are fully subject to a state’s taxation, while remote sellers exploit the same marketplace with lesser taxation. The principle of “economic nexus” is gaining momentum in most states, if not already the standard.

Therefore, businesses should consider a comprehensive review of their exposure to state income taxes. The CPA may not be aware of the extent to which sales into other states are made. HW expects clients to provide sales information by state so that determinations can be made.

Businesses should have sales systems that enable classifying and summarization by destination of the goods or services.

