

## **WAYFAIR DECISION AND HB 1019XX**

### **Remote Sellers**

The recent U.S. Supreme Court decision in **South Dakota v. Wayfair** allows Oklahoma to require remote sellers with no physical presence, such as online and mail-order companies, to collect and remit sales or use tax on sales delivered to locations within the state. Oklahoma law (HB 1019xx) requires remote sellers that experienced aggregate taxable sales in the state of at least \$10,000 during the previous 12 months to file an election with the Oklahoma Tax Commission to collect and remit the tax or to comply with statutory notice and reporting requirements. The notice and reporting requirements include notifying customers purchasing products for Oklahoma delivery that use tax may be due, and reporting customer names, addresses, and aggregate dollar amounts of each customer's purchases to the Tax Commission.

### **Marketplace Facilitators**

Oklahoma law also requires marketplace facilitators providing a platform which facilitates retail sales on behalf of third-party sellers to file an election with the Tax Commission to collect and remit tax on Oklahoma sales or to comply with statutory notice and reporting requirements. This election requirement applies to entities which list or advertise tangible goods for sale, collect payment from the purchaser and transmit the payment to the third-party seller. Remote sellers do not need to collect sales tax when a marketplace facilitator is collecting and remitting the tax for them. Marketplace facilitators must register and begin collecting Oklahoma sales tax on behalf of remote sellers or report those sales to the Tax Commission.

### **Referrers**

Oklahoma law also requires referrers that receive consideration to advertise a seller's products, and transfers a buyer to the seller to complete a sale to file an election with the Oklahoma Tax Commission in the same manner as remote sellers and marketplace facilitators. Remote sellers do not need to collect sales tax when a referrer is collecting and remitting the tax for them. Referrers must register and begin collecting Oklahoma sales tax on behalf of remote sellers or report those sales to the Tax Commission.

### **Election**

The election for entities falling with the above-described classifications was due July 1, 2018. The Oklahoma Tax Commission stands ready to assist these entities with registering to collect and remit the applicable taxes for Oklahoma sales or these entities can access the Commission's website at [https://oktap.tax.ok.gov/OkTAP/Web/\\_/](https://oktap.tax.ok.gov/OkTAP/Web/_/) to register. If you are in need of assistance or an extension in which to comply with the Oklahoma law, please contact us at [otcmaster@tax.ok.gov](mailto:otcmaster@tax.ok.gov).