

Mapping a path forward after *Wayfair*

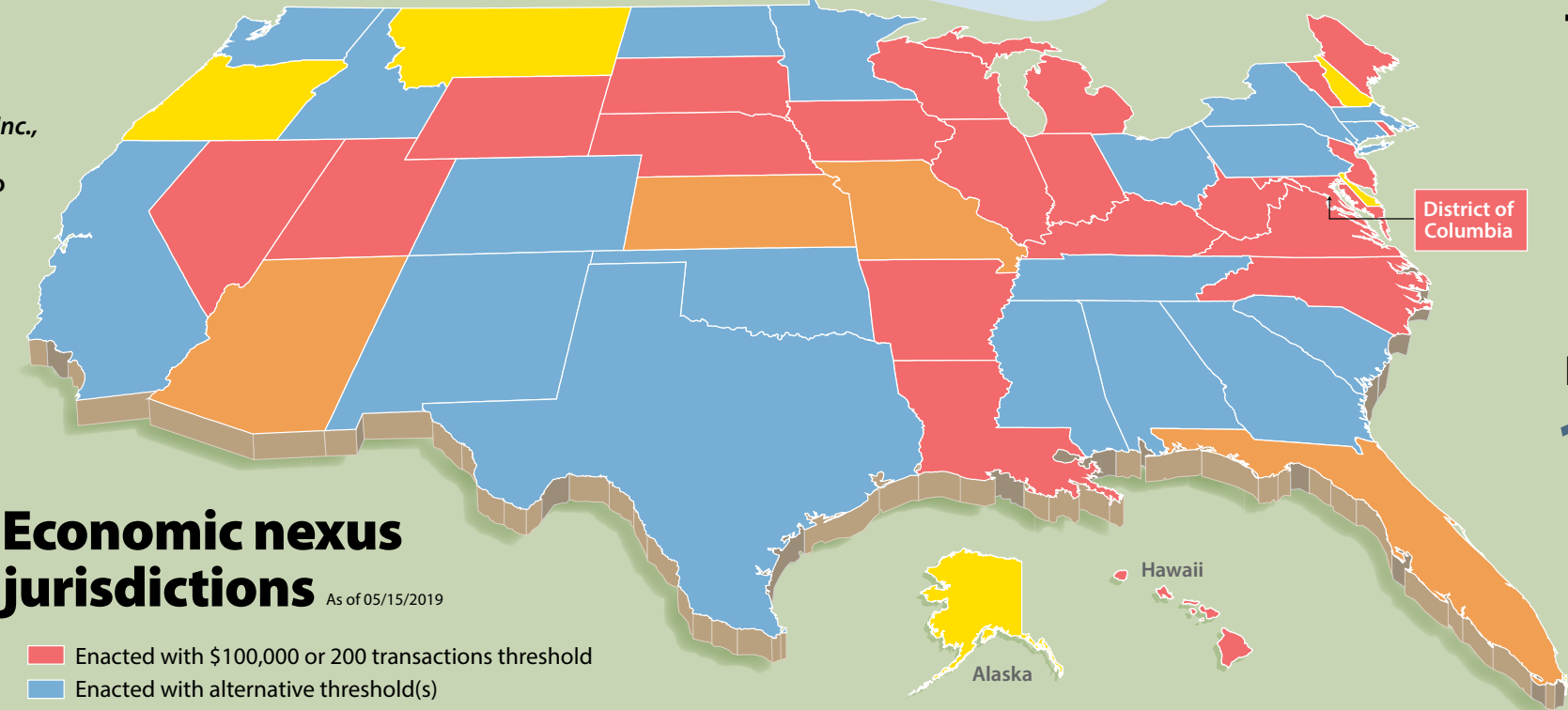
CPAs should educate themselves and their clients on the current nexus standard for sales taxes.

Compiled by Deborah K. Rood, CPA

Why is the *Wayfair* case important?

The U.S. Supreme Court in *South Dakota v. Wayfair, Inc.*, 138 S. Ct. 2080 (2018), eliminated the physical presence requirement for states to require businesses to collect and remit state sales tax. It established economic nexus as the sales tax nexus standard. CPAs may face professional liability claims if clients fail to collect and remit state sales tax properly.

Taxing claims



A 'baffling' prospect

'Correctly calculating and remitting sales taxes on all e-commerce sales will likely prove baffling for many retailers. Over 10,000 jurisdictions levy sales taxes, each with "different tax rates, [and] different rules ..."

— Chief Justice John Roberts, writing in dissent in *Wayfair*

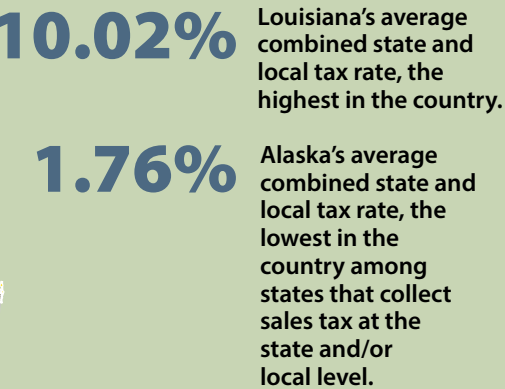
Big money

Assume an internet-based client fails to collect and remit any state sales taxes on its \$10 million in sales to customers in all 50 states. Assume the client's failure to collect and remit is detected seven years later by South Dakota and the 40 other states with similar *Wayfair* laws. Using South Dakota's 4.5% sales tax rate, the client has a \$9,000 annual unpaid sales tax liability to that state, ballooning to nearly \$2.6 million for all 41 states for the seven-year period before penalties and interest. Whom will the client blame?

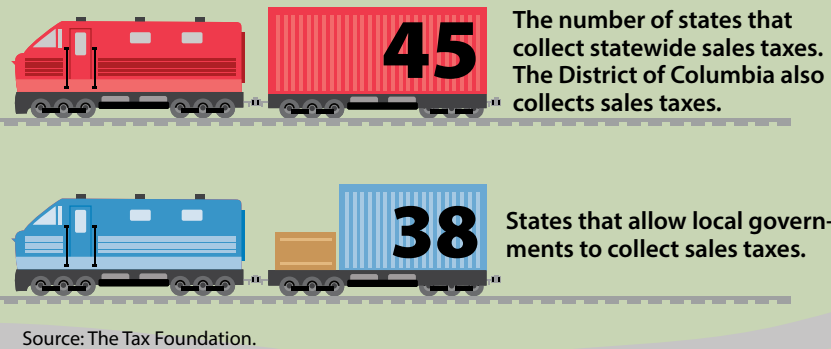
Tips for mitigating liability

- ▶ Understand *Wayfair*.
 - ▶ Inform all clients of *Wayfair*.
 - ▶ Discuss *Wayfair* with clients to whom the decision most likely applies.
- For more, see "No Fair to *Wayfair* for a CPA Firm's Professional Liability Risk," by Deborah K. Rood, CPA, available at tinyurl.com/y6eo7w6o.

Highs and lows



Filling state and local coffers



Deborah K. Rood, CPA, MST, is a risk control consulting director at CNA. For more information about this infographic, contact specialtyriskcontrol@cna.com. Continental Casualty Co., one of the CNA insurance companies, is the underwriter of the AICPA Professional Liability Insurance Program. Aon Insurance Services, the National Program Administrator for the AICPA Professional Liability Insurance Program, is available at 800-221-3023 or visit cpai.com.

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