



How to Navigate the Changing Tax Law Landscape in Arizona

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Disclaimer

Although best efforts have been made to ensure that the following prepared materials and any accompanying oral guidance reflect the official positions and interpretations of the Arizona Department of Revenue, any variances or discrepancies are solely attributable to the presenter and not to the agency.



Meeting Agenda

- **The history of remote seller/marketplace facilitator laws**
 - *Pre-Wayfair Quill Corp. v. North Dakota (1992)*
 - *South Dakota vs Wayfair (2018)*
 - Arizona Revised Statutes (A.R.S.) § 42-5044
- **The Changing Tax Law Landscape in Arizona**
 - Selling through the business' website
 - Selling through a marketplace facilitator
 - Compliance outside of Arizona
- **Resources**
- **Questions and Answers**



Knowledge Check

- **Your business is a/an?**
 - Arizona-Based Seller
 - Remote Seller
 - Marketplace Seller
 - Marketplace Facilitator
 - Marketplace Facilitator in Arizona
 - None Of The Above



Quill Corp. v. North Dakota (1992)



Under the U.S. Constitution's Dormant Commerce Clause, states cannot levy taxes from purchases made by their residents from out-of-state retailers without a **physical presence** in their jurisdictions.



South Dakota v. Wayfair Inc



States can charge tax on sales from out-of-state retailers, even if the retailer has no physical presence in the taxing state.



Arizona Revised Statutes (A.R.S.) § 42-5044



- Signed Into Law on May 31, 2019
- Became Effective on October 31, 2019
- Introduced New Economic (Dollar-Based) Nexus Standards
- Focused On Retail Sales Of Tangible Personal Property (TPP)





- **Taxpayer Categories:**

- Arizona-Based Seller Without a Storefront
- Marketplace Facilitator in Arizona (MPFAZ)
- Marketplace Facilitator (MPF)
- Marketplace Seller (MS)
- Remote Seller (RS)

Arizona-Based Seller Without Storefront



- Makes retail sales through own website or MPF.
- Sells to Arizona and/or out-of-state customers.
- **NOT** considered a remote seller.
- Arizona remote seller thresholds do not apply.
- Likely required to obtain a TPT license.
- Exception - 100% MPF Sales.



Arizona-Based Seller Sales Made Through a Marketplace Facilitator



- The marketplace facilitator is now responsible for collecting, reporting, and remitting tax for these sales.
- When filing, the Arizona-based business must still report sales made through the marketplace facilitator, but deduct such sales using deduction code 804.
- Sell 100% through a marketplace facilitator.



Arizona-Based Seller Sales Made Into Another State



- Sales to a customer in another state must be reported by the Arizona business and then deducted if the sale is considered an interstate sale.
- There may be reporting, filing, and payment responsibilities in other states, dependent upon the thresholds of the applicable states.
- Could be direct or through a marketplace facilitator.



Marketplace Facilitator in Arizona (MPFAZ)



- Has a physical presence in Arizona.
- Facilitates sales from third-party sellers or facilitates its own sales and sales from third-party retailers (*i.e.*, an MPF does not include a seller who is only making its own retail sales).
- As an Arizona business, MPFAZ must be licensed using the existing Joint Tax Application for the sales described above regardless of whether the \$100,000 is met.
- Option to file and register consolidated.
- If already licensed before 10/1/19, ADOR will need to manually convert account to a MPFAZ license.



Marketplace Facilitator



- A marketplace facilitator advertises/lists and facilitates sales on behalf of third-party sellers (and may or may not itself make sales on its own behalf).
- The threshold for MPF is >\$100k in sales in the current or prior calendar year.



Marketplace Seller



- Marketplace seller means a person that makes retail sales through any physical or electronic marketplace that is operated by a marketplace facilitator.

Remote Seller



- Makes sales to Arizona customers from outside the state.
- Does **NOT** have physical presence.
- The gross income for direct sales into Arizona for the applicable year is greater than:
 - *\$200,000 for 2019;*
 - *\$150,000 for 2020; and*
 - *\$100,000 for 2021 and each year thereafter.*
 - There is a look back to the prior calendar year using the threshold for the current calendar year.



Compliance Outside of Arizona



- **Are you a remote seller?**
 - A remote seller is generally a seller who does not have a physical presence in a state but who sells products or services for delivery into that state.
- **Are you a marketplace seller?**
 - A marketplace seller is generally a seller who sells products through a physical or electronic marketplace operated by a marketplace facilitator/provider.
- **Are you a marketplace facilitator/provider?**
 - A marketplace facilitator/provider is generally a business or person who owns, operates, or otherwise controls a physical or electronic marketplace and facilitates the sale of a third-party seller's products.



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Remote Seller State Guidance

Revenue Department Website	Remote Seller Compliance Date	Remote Seller Threshold	State Guidance for Remote Sellers	Notes	Streamlined Member State Information
Alabama	10/1/2018	Sales of TPP of <i>more than</i> \$250,000 in prior calendar year; No transaction threshold Seller must also engage in or conduct certain other activities in Alabama in addition to having more than \$250,000 in sales.	Remote Seller	Press Release (7/3/2018) AL FAQs	
Alaska	4/1/2020	Statewide gross remote sales <i>meets or exceeds</i> \$100,000 or 200 transactions in the current or previous calendar year	Remote Seller	Marketplace Facilitator	
Arizona	10/1/2019	Annual gross retail sales or income from online sales into Arizona is <i>more than</i> \$200,000 in 2019, \$150,000 in 2020 and \$100,000 in 2021 and thereafter.	Remote Seller	Marketplace Facilitator	
Arkansas	7/1/2019	Sales <i>exceed</i> \$100,000 or 200 transactions during the current or preceding year.	Remote Seller	Marketplace Facilitator	AR
California	4/1/2019	The total combined sales <i>exceed</i> \$500,000 during the preceding or current calendar year	Remote Seller	Marketplace Facilitator	
Colorado	12/1/2018	Taxable sales of <i>more than</i> \$100,000 in past calendar year	Remote Seller	Marketplace Facilitator	
Connecticut	12/1/2018	7/1/2019 Threshold change: \$100,000 <i>or more</i> in gross receipts and 200 <i>or more</i> retail transactions 12/1/2018 Threshold: \$250,000 <i>or more</i> in gross receipts and 200 <i>or more</i> retail transactions	Remote Seller		

<https://www.streamlidsalestax.org/for-businesses/remote-seller-faqs/remote-seller-state-guidance>



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Marketplace Seller State Guidance

State Marketplace Seller Information	Is the Marketplace Facilitator required to collect and remit sales tax?	Is a seller who only sells through a Marketplace required to register and file returns if the Marketplace is required to collect and remit sales tax?	Does a remote seller include sales through a Marketplace Facilitator in the seller's Remote Seller's Threshold calculation?	If a marketplace seller is required to identify their sales through the marketplace separately from direct sales on a state's sales tax return, how are those sales reported?
Alaska <small>(updated 7/13/2021)</small>	Yes	No	Yes	N/A
Arkansas <small>(updated 6/22/2020)</small>	Yes	No, a seller that has physical presence may want to register in order to purchase merchandise for resale without payment of tax.	No	N/A
Georgia <small>(updated 9/1/2020)</small>	Yes	No	No	N/A
Indiana <small>(updated 6/22/2020)</small>	Yes	No, unless the marketplace seller has physical presence in Indiana.	No	If a marketplace seller is otherwise required to register for Indiana sales tax due to physical nexus or meeting the remote seller threshold, then the seller should report marketplace sales as if they are exempt sales on the ST-103.
Illinois <small>(updated 10/2/2020)</small>				
Iowa <small>(updated 6/22/2020)</small>	Yes	No	Yes	See the example under the "Remote sellers that make marketplace and non-marketplace Iowa sales" section of our marketplace facilitator guidance .

<https://www.streamlinedsalestax.org/for-businesses/marketplace-sell>



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Marketplace Facilitator State Guidance

State Marketplace Facilitator Information	Marketplace Facilitator Compliance Date	Is the Marketplace Facilitator required to collect and remit sales tax?	Marketplace Facilitator Threshold	Is a Marketplace Facilitator required to identify sales made on behalf of marketplace sellers separately from its own direct sales on its return?	Does your state allow or require the Marketplace Facilitator file a separate return for any third-party sales it facilitates?	Is the Marketplace Facilitator required to provide certification that it will collect and remit tax on behalf of the marketplace seller?
Alaska <small>(updated 7/13/2021)</small>	4/1/2020	yes	Statewide gross remote sales meets or exceeds \$100,000 or 200 transactions in the current or previous calendar year	No	Allow	No
Arkansas <small>(updated 7/14/2020)</small>	7/1/2019	Yes	Aggregate sales exceeding 200 transactions or \$100,000	No	Allow	No
Georgia <small>(updated 9/1/2020)</small>	4/1/2020	Total value of the sales price of its taxable retail sales sourced to Georgia, combined across all its marketplace sellers and the marketplace facilitator itself, equals or exceeds \$100,000 in the previous or current calendar year.	Yes	Yes	Require	No
Illinois <small>(updated 10/2/2020)</small>	1/1/2021					

<https://www.streamlinedsalestax.org/for-businesses/marketplace-facilitator>



Certified Service Provider (CSP)

The following providers are certified by the Streamlined Sales Tax Governing Board.

- Avalara
- TaxCloud
- Sovos
- Accurate Tax

Please note that Arizona Department of Revenue does not promote or endorse CSP's, this is for general information only.

<https://www.streamlinedsalestax.org/certified-service-providers/freeservices>



Multistate Tax Commission (MTC)

Multistate Voluntary Disclosure Program (MVDP)

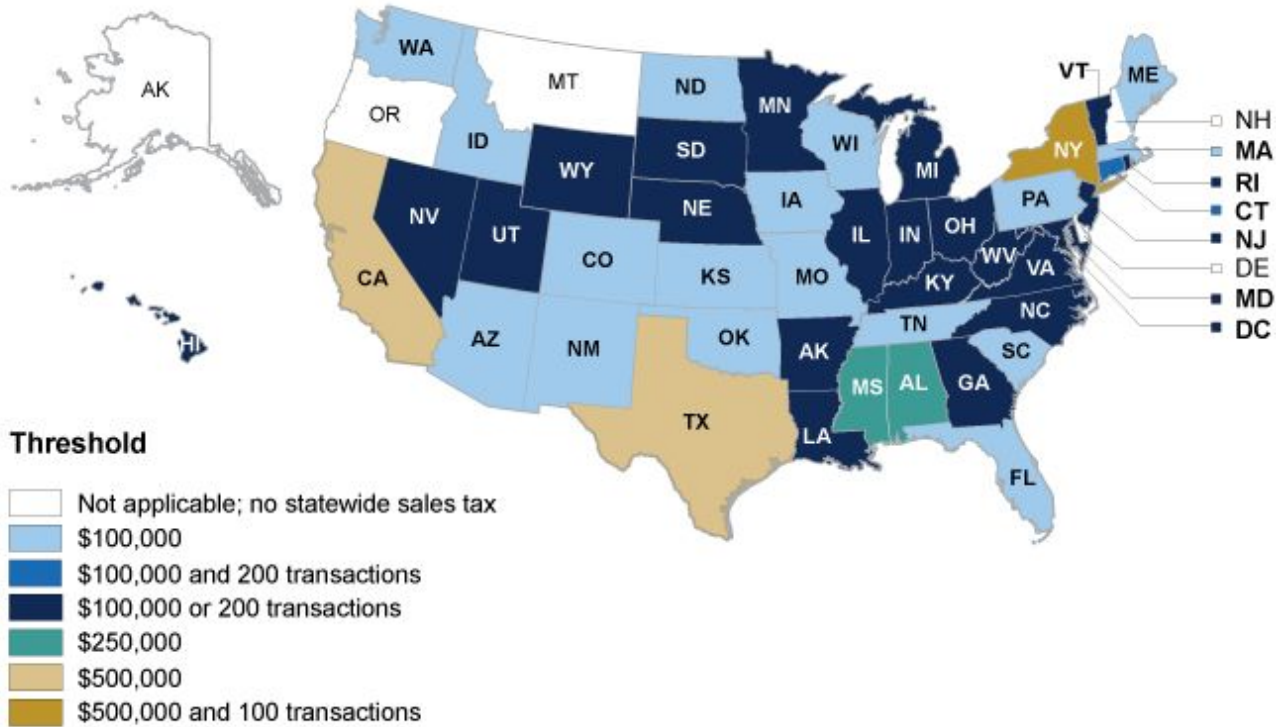
- Provides a way for a taxpayer with potential tax liability in multiple states (including the District of Columbia) to negotiate a settlement.
- This service encourages taxpayers to commence filing and paying taxes in states in which they may have substantial nexus.
- There is no charge to the taxpayer for participation in the MVDP.

<https://www.mtc.gov/Nexus-Program/Multistate-Voluntary-Disclosure-Program#Purpose>



GAO Study 2022

State remote sales tax requirements vary



Source: GAO analysis of state laws. | GAO-22-106016

<https://www.gao.gov/products/gao-22-106016>

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Arizona Department Of Revenue Resources

AZTaxes.gov

<https://www.aztaxes.gov/Home/Page>

Enroll to File & Pay

AZDOR.gov

<https://azdor.gov/>

Starting a new business

Model City Tax Code

<https://azdor.gov/model-city-tax-code/model-city-tax-code>

TPT Online Quick Reference

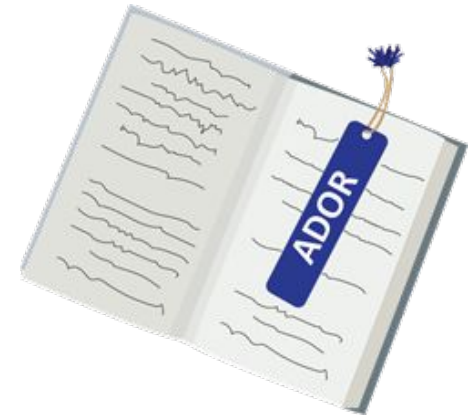
<https://azdor.gov/transaction-privilege-tax/quick-reference>

Arizona Based Sellers without a Storefront

<https://azdor.gov/transaction-privilege-tax/retail-sales-subject-tpt/arizona-based-sellers-without-storefront>

Out of State Sellers

<https://azdor.gov/transaction-privilege-tax/retail-sales-subject-tpt/out-state-sellers>



ADOR Specialized Services

Voluntary Disclosure Agreement

<https://azdor.gov/businesses-arizona/voluntary-disclosure-program>

Payment Arrangement for Business

<https://azdor.gov/collections-business/payment-arrangement-business>

Approved Bulk File Vendors for TPT

<https://azdor.gov/e-services/approved-vendors>

Other Specialized Programs



Arizona Department Of Revenue Resources



- E-Commerce Compliance and Outreach (ECCO) team
 - Assists out-of-state taxpayers with questions on complying with Arizona's new economic nexus provisions.
 - Connects Arizona retailers with other states taxing authorities.
 - Email: AZEsale@azdor.gov
 - Phone: 833-293-7253 (833-AZeSale)



**Thank you for your
time today!**

