

SOUTH CAROLINA
DOR
DEPARTMENT OF REVENUE

REMOTE SELLERS
FREQUENTLY ASKED
QUESTIONS

The following frequently asked questions (“FAQs”) are an informal summary of the South Carolina Sales and Use Tax law and its application to retailers who have economic nexus with South Carolina. It is intended for general information only.

For the best information about the South Carolina Sales and Use Tax law, visit the Department’s [website](#).

Note: The establishment of economic nexus with South Carolina requires an understanding of various terms – most of which are defined in the South Carolina Sales and Use Tax law. The definitions for the terms “remote seller,” “marketplace,” “gross revenue,” and “tangible personal property” are summarized in these FAQs.

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General Questions

What is the effect of the *Wayfair* decision in South Carolina?

On June 21, 2018, in *South Dakota v. Wayfair*, the U.S. Supreme Court overturned the 1992 case of *Quill v. North Dakota*, ruling that an out-of-state seller with no physical presence in a state can be required to collect and remit Sales and Use Taxes in states where they meet certain economic thresholds.

In South Carolina, a remote seller whose gross revenue from sales delivered into South Carolina exceeds \$100,000 in the previous calendar year or the current calendar year has economic nexus (*i.e.*, substantial nexus) with South Carolina and is responsible for obtaining a retail license and remitting South Carolina Sales and Use Tax.

South Carolina's economic nexus standard applies to sales made by remote sellers on and after **November 1, 2018**. For more details as to the effective date of South Carolina's economic nexus standards, see the section of these frequently asked questions entitled: "Effective Date for Obtaining a Retail License and Remitting the Sales and Use Tax."

Who is a "remote seller"?

A remote seller is an out-of-state retailer (*i.e.*, a person engaged in the business of selling tangible personal property at retail) that has no physical presence in South Carolina.

Is a "marketplace" without a physical presence in South Carolina a "remote seller"?

Yes. A "marketplace" is a person engaged in the business of facilitating a retail sale of tangible personal property by (1) listing or advertising, or allowing the listing or advertising of, the products of another person in any marketplace where sales at retail occur and (2) collecting or processing payments from the purchaser, either directly or indirectly through an agreement or arrangement with a third party, regardless of whether the marketplace receives compensation or other consideration in exchange for its services. A marketplace includes any related entity assisting the marketplace in sales, storage, distribution, payment collection, or in any other manner with respect to the marketplace.

A marketplace may be physical or electronic and includes, but is not limited to, any space, store, booth, catalog, website, television broadcast, or similar place, medium, or forum.

Are remote sellers currently licensed in South Carolina affected by the *Wayfair* decision?

No. Remote sellers voluntarily licensed in South Carolina prior to the *Wayfair* decision must continue to collect and remit Sales and Use Tax as long as they are licensed with South Carolina or meet South Carolina's economic nexus standard.

Are remote sellers responsible for remitting the Sales and Use Tax on sales into South Carolina prior to the *Wayfair* decision?

No. If a remote seller is not currently licensed with the Department and is subject to South Carolina Sales and Use Tax only as a result of the U.S. Supreme Court's decision in *Wayfair*, the remote seller is not required to collect and remit Sales and Use Tax on sales that occurred prior to November 1, 2018.

May a remote seller obtain a retail license and begin collecting the South Carolina Sales and Use Tax prior to November 1, 2018?

Yes. A remote seller may voluntarily obtain a retail license and remit Sales and Use Tax prior to November 1, 2018.

May a remote seller who does not meet the economic nexus standard for South Carolina voluntarily obtain a retail license and begin collecting the South Carolina Sales and Use Tax?

Yes. A remote seller who does not meet South Carolina's economic nexus standard may voluntarily obtain a retail license and remit Sales and Use Tax at any time.

Economic Nexus Standard for Remote Sellers

What is the economic nexus standard in South Carolina that will require a remote seller to obtain a retail license and begin collecting and remitting the South Carolina Sales and Use Tax for deliveries into South Carolina?

In South Carolina, a remote seller whose gross revenue from sales delivered into South Carolina exceeds \$100,000 in the previous calendar year or the current calendar year has economic nexus (*i.e.*, substantial nexus) with South Carolina and is responsible for obtaining a retail license and remitting South Carolina Sales and Use Tax.

What is “gross revenue”?

“Gross revenue” includes:

- the total gross revenue from all sales of tangible personal property delivered into South Carolina, including all taxable retail sales, exempt retail sales, and wholesale sales of tangible personal property;
- the total gross revenue from all sales of products transferred electronically into South Carolina, whether or not the transfer of such product is subject to the South Carolina Sales and Use Tax; and
- the total gross revenue from all services delivered into South Carolina, whether or not the service is subject to the South Carolina Sales and Use Tax.

Example 1 – Sales on Own Website: Assume a remote seller makes sales into South Carolina via his own website. His annual South Carolina sales total \$100,001. These sales consist of \$75,000 in taxable retail sales and \$25,001 in exempt retail sales and wholesale sales. Since the remote seller’s total gross revenue from all sales into South Carolina exceeds \$100,000, the remote seller meets South Carolina’s nexus standard and he is required to obtain a retail license and remit the Sales and Use Tax to the Department.

Example 2 – Sales by Own Website and Via a Marketplace: Assume a remote seller makes sales via his own website as well as via a marketplace. The remote seller sells \$75,000 of items into South Carolina via his own website. A marketplace makes sales of \$50,000 of products owned by the remote seller and the marketplace collects or processes customer payments from these marketplace sales.

The calculation of the remote seller’s economic nexus standard includes the gross revenue from property owned by the remote seller but sold via the marketplace. Since the remote seller’s total gross revenue from South Carolina exceeds \$100,000 (\$75,000 + \$50,000), the remote seller meets South Carolina’s nexus standard. He is required to obtain a retail license and remit the Sales and Use Tax to the Department on his “gross proceeds of sales” of \$75,000.

Since South Carolina’s economic nexus standard is based on “gross revenue” and not “gross proceeds of sales,” revenue from the sales made via the marketplace in this example (Example 2) are included in the calculation for determining if the remote seller has established economic nexus with South Carolina. However, under South Carolina Sales and Use Tax law, the sales made via the marketplace are sales by the marketplace and the marketplace is required to report and remit the Sales and Use Tax on the marketplace’s “gross proceeds of sales,” which includes the \$50,000 in sales of products owned by the remote seller but sold by the marketplace.

What is the difference between “gross revenue” and “gross proceeds of sales?”

For many remote sellers, gross revenue and gross proceeds of sales will be the same.

In general, gross revenue is all revenue from sales into South Carolina, regardless of whether the revenue is subject to the South Carolina Sales and Use Tax. Gross revenue is used solely for determining if a remote seller has economic nexus with South Carolina. It does not determine liability for the tax.

Gross proceeds of sales is the basis or measure for the Sales and Use Tax. It only applies to the sale of tangible personal property as defined in the South Carolina Sales and Use Tax law.

Example 1 – Gross Revenue and Gross Proceeds are the Same: Assume a remote seller sells t-shirts into South Carolina for \$25 and charges \$5 for shipping via the U.S. Postal Service. The “gross revenue” and “gross proceeds of sales” are the same for this transaction - \$30.

Example 2 - Gross Revenue and Gross Proceeds are Different: Assume a remote seller sells software in three different ways. His gross revenue from South Carolina is as follows:

| | |
|------------------------|------------------|
| Disks and Flash drives | \$ 55,000 |
| ASP (SaaS) | \$ 25,000 |
| Downloads | <u>\$ 30,000</u> |
| Total | \$110,000 |

Since software sold on disks and flash drives and via an ASP (SaaS) are subject to the South Carolina Sales and Use Tax, and software sold via downloads are not, “gross revenue” and “gross proceeds of sales” are different. Gross revenue for the remote seller in this example is \$110,000 and gross proceeds of sales is \$80,000 (\$55,000 + \$25,000). The remote seller meets South Carolina’s economic nexus standard because his “gross revenue” from South Carolina in the prior year or the current year exceeds \$100,000, but he is only required to report \$80,000 in “gross proceeds of sales” on his Sales and Use Tax return. The South Carolina Sales and Use Tax will be based on the \$80,000 in “gross proceeds of sales.”

For purposes of calculating the South Carolina economic nexus standard, when is a sale deemed to occur?

Generally, sales by remote sellers are deemed to occur upon delivery in South Carolina.

What is “tangible personal property” for purposes of determining South Carolina’s economic nexus standard?

“Tangible personal property” is personal property which may be seen, weighed, measured, felt, touched, or which is in any other manner perceptible to the senses. It also includes services and intangibles, the sale or use of which are subject to tax under South Carolina’s Sales and Use Tax law. The services specifically subject to the South Carolina Sales and Use Tax are:

- communications,
- laundry and related services,
- furnishing of accommodations, and
- electricity.

For the services that are specifically subject to the Sales and Use Tax, and therefore by definition are “tangible personal property,” see Chapters 2 and 3 of the *South Carolina Sales and Use Tax Manual*, which can be found on the Department’s website.

Does South Carolina have a separate economic nexus standard for local Sales and Use Tax?

No. If a retailer has substantial nexus with South Carolina, the retailer has substantial nexus with each local jurisdiction in South Carolina for purposes of local Sales and Use Taxes administered and collected by the Department.

What are examples that explain common types of sales that are included when determining South Carolina’s economic nexus standard?

Examples best illustrate the computation of the economic nexus standard for remote sellers selling various types and amounts of tangible personal property. It is important to understand that the economic nexus standard is based upon “gross revenue.” The examples assume the person is a remote seller (*i.e.*, is an out-of-state seller with no physical presence in SC) that only makes the sales listed in each specific example and the product is owned by that remote seller, unless otherwise stated.

| Type of Sales Made Via Online, Catalog, or Phone Order | Gross Revenue from SC in Previous Calendar Year | Does Remote Seller Meet SC Economic Nexus Standard? |
|--|--|---|
| <p>Example 1: <u>All taxable sales</u> Remote seller sells common household items via his own website or through his own catalog and telephone sales operations (e.g., furniture, pet supplies, cosmetics, jewelry, etc.).</p> | Over \$100,000 | Yes; Remote seller must obtain a retail license and collect and remit SC Sales and Use Tax on all taxable retail sales. |
| | \$100,000 or less | No; Remote seller is not required to, but may voluntarily, obtain a retail license and collect and remit SC Sales and Use Tax. |
| <p>Example 2: <u>All nontaxable sales</u> Remote seller sells only items that are exempt from SC Sales and Use Tax (e.g., sales to federal government, sales of medicine by prescription, etc.).</p> | Over \$100,000 | Yes; Remote seller must file “zero tax due” Sales Tax returns; seller may request quarterly or annual filings in lieu of monthly filings. |
| <p>Example 3: <u>All wholesale sales</u> Remote seller only sells items for resale (i.e., wholesale sales). Wholesale sales are not subject to SC Sales and Use Tax.</p> | Over \$100,000 | Yes; However, since the remote seller is <u>not</u> a retailer (i.e., does not make retail sales), he is <u>not</u> required to obtain a retail license or collect SC Sales and Use Tax. |
| <p>Example 4: <u>Both taxable and nontaxable sales</u> Remote seller sells some items that are taxable and some items that are exempt from SC Sales and Use Tax.</p> | Exempt = \$ 99,000 Taxable = \$ <u>1,001</u> Total = \$100,001 | Yes; Remote seller must obtain a retail license and collect and remit SC Sales and Use Tax on all taxable retail sales. |
| <p>Example 5: <u>Sales exempt from State tax, but subject to local tax</u> Taxpayer sells unprepared food, which is exempt from SC state Sales and Use Tax, but is subject to local Sales and Use Taxes in certain counties.</p> | Over \$100,000 | Yes; See DOR website for local tax chart of counties imposing tax on unprepared food. |

Part B – Sales Via a Marketplace

| Type of Sales of Tangible Personal Property in SC | Gross Revenue from SC in Previous Calendar Year | Does Remote Seller Meet SC Economic Nexus Standard? |
|--|---|--|
| <p>Example 6: <u>Both sales via own website and sales via marketplace sales</u> Remote seller sells via his own website. He also lists his products for sale on a marketplace that has economic nexus with South Carolina and that collects or processes the customer’s payment.</p> | <p>Own website sales = \$99,000 Sales of the remote seller’s product by a marketplace = \$300,000</p> | <p>Yes; Sales of a remote seller’s product by a marketplace retailer (<i>i.e.</i>, \$300,000) and by his own website (<i>i.e.</i>, \$99,000) are used in computing the SC economic nexus standard of the remote seller. However, the remote seller is only responsible for reporting and remitting the SC Sales and Use Tax on the \$99,000 in sales he made via his own website. The marketplace is responsible for reporting and remitting the SC Sales and Use Tax on the \$300,000 from sales of the remote seller’s products made via the marketplace.</p> |
| <p>Example 7: <u>All marketplace sales</u> Remote seller <u>only</u> sells via another person’s marketplace.</p> | <p>Over \$100,000</p> | <p>Yes; While the remote seller has economic nexus with SC (<i>i.e.</i>, over \$100,000 in sales via another person’s marketplace), the remote seller is not making retail sales under SC law and therefore is not a retailer. The remote seller is not required to obtain a retail license or collect SC Sales and Use Tax.</p> |
| <p>Example 8: <u>Marketplace is the remote seller</u> Marketplace sells items that it owns and items owned by many others via its website.</p> | <p>\$100,000 or less</p> | <p>No</p> |
| <p>Example 8: <u>Marketplace is the remote seller</u> Marketplace sells items that it owns and items owned by many others via its website.</p> | <p>Over \$100,000</p> | <p>Yes; Marketplace must obtain a retail license and collect and remit SC Sales and Use Tax on all taxable retail sales, including all taxable retail sales of items owned by others.</p> |

Part C – Sales of Services

| Type of Sales of Tangible Personal Property in SC | Gross Revenue from SC in Previous Calendar Year | Does Remote Seller Meet SC Economic Nexus Standard? |
|--|--|--|
| <p>Example 9: <u>All taxable services</u> Taxpayer sells services subject to the SC Sales and Use Tax (<i>e.g.</i>, certain communications services). Services that are subject to tax are those defined as “tangible personal property” under SC Sales and Use Tax.</p> | Over \$100,000 | Yes Remote seller must obtain a retail license and collect and remit SC Sales and Use Tax on all taxable retail sales. |
| | \$100,000 or less | No Remote seller is not required to, but may voluntarily, obtain a retail license and collect and remit SC Sales and Use Tax. |
| <p>Example 10: <u>All nontaxable services</u> Taxpayer only sells services that are <u>not</u> subject to the SC Sales and Use Tax (<i>e.g.</i>, professional services, security monitoring, etc.) Services that are not subject to tax are those services <u>not</u> included in the definition of “tangible personal property” under SC Sales and Use Tax law.</p> | Over \$100,000 | Yes. Since the remote seller is <u>not</u> a retailer (<i>i.e.</i> , does not make retail sales of tangible personal property as defined in SC law), he is <u>not</u> required to obtain a retail license or collect SC Sales and Use Tax. |

Effective Date for Obtaining a Retail License and Remitting the Sales and Use Tax – Economic Nexus

What is the effective date for remote sellers to obtain a retail license and begin collecting and remitting Sales and Use Tax in South Carolina following the Wayfair decision?

It depends on the date the remote seller first meets the nexus threshold. Remote sellers who meet South Carolina’s economic nexus standard in calendar year 2017, or from January 1, 2018 through September 30, 2018, are required to obtain a retail license from the Department and remit South Carolina Sales and Use Taxes for all taxable sales (deliveries) beginning **November 1, 2018**.

Remote sellers who meet South Carolina’s economic nexus standard on or after October 1, 2018, are required to obtain a retail license from the Department and remit South Carolina Sales and Use Taxes beginning the first day of the second calendar month after economic nexus is established. (This is approximately 30 days from the end of the month in which economic nexus is established.)

The remote seller is not required to collect and remit Sales and Use Tax on sales that occurred prior to November 1, 2018.

The following chart illustrates the date a remote seller must obtain a retail license and the date the remote seller must file his first South Carolina Sales and Use Tax return once economic nexus is established.

| Date economic nexus threshold is met by remote seller | Date responsible for obtaining a retail license and beginning collection of SC Sales and Use Tax | Due date of first Sales and Use Tax return (Assume a monthly tax filer) |
|--|---|--|
| Calendar Year 2017 | November 1, 2018 | December 20, 2018 for the November 2018 return |
| From January 1, 2018 to September 30, 2018 | November 1, 2018 | December 20, 2018 for the November 2018 return |

| Date economic nexus threshold is met by remote seller | Date responsible for obtaining a retail license and beginning collection of SC Sales and Use Tax | Due date of first Sales and Use Tax return (Assume a monthly tax filer) |
|--|---|--|
| On or after October 1, 2018 | First day of second calendar month after economic nexus | (See below examples) |

| | | |
|---------------|-------------------------------------|--|
| | is established (See below examples) | |
| October 2018 | December 1, 2018 | January 21, 2019 for the December 2018 return* |
| November 2018 | January 1, 2019 | February 20, 2019 for the January 2019 return |
| December 2018 | February 1, 2019 | March 20, 2019 for the February 2019 return |
| January 2019 | March 1, 2019 | April 22, 2019 for the March 2019 return* |

*Monthly Sales and Use Tax returns are due by the 20th of the following month. Since the 20th of the month in these examples falls on a Saturday or a Sunday, the due date is extended to the next business day.

Effective Date for Obtaining a Retail License and Remitting the Sales and Use Tax- Physical Nexus

When is physical nexus established?

A retailer has physical nexus with South Carolina if it maintains within South Carolina, directly or by a subsidiary, an office, distribution house, sales house, warehouse or other place of business, or any agent operating within South Carolina under the authority of the retailer or its subsidiary, regardless of whether the business or agent is located here permanently or temporarily or whether the retailer or subsidiary is admitted to do business within South Carolina.

What is the effective date for a retailer with physical nexus with South Carolina to obtain a retail license and begin collecting and remitting Sales and Use Tax in South Carolina?

A retailer with physical nexus with South Carolina must begin collecting and remitting the South Carolina Sales and Use Tax for deliveries into South Carolina effective the date physical nexus is established.

Is a remote seller who does not meet South Carolina's standard for economic nexus but subsequently establishes physical nexus with South Carolina required to collect and remit the Sales and Use Tax?

Yes. Once a retailer establishes physical nexus with South Carolina, the retailer must obtain a retail license and begin collecting and remitting the Sales and Use Tax effective the date physical nexus is established.

Local Tax Nexus, Collection and Remittance

Are local Sales and Use Taxes administered by the Department remitted to the county or city imposing the tax or to the Department?

All local Sales and Use Taxes administered by the Department are remitted to the Department.

Are remote sellers required to collect local Sales and Use Taxes administered by the Department?

Yes. Remote sellers licensed with South Carolina for Sales and Use Tax purposes must collect and remit to the Department the applicable local Sales and Use Taxes.

Note: Certain counties have local hospitality taxes, which must be reported and paid directly to counties; however, this situation is rare for remote sellers.

How can a remote seller determine if local Sales and Use Taxes administered and collected by the Department on behalf of local jurisdictions apply to a sale?

For information on local taxes administered and collected by the Department, visit the Department's website (dor.sc.gov).

Does SC require a remote seller to register and file separate returns for local Sales and Use Taxes?

No. South Carolina state and local Sales and Use Taxes are reported on one return.

Taxable Transactions

What sales are taxable in South Carolina?

South Carolina imposes a Sales and Use Tax on all sales of tangible personal property delivered into South Carolina, unless an exemption or exclusion applies.

In addition, the following services are specifically subject to the South Carolina Sales and Use Tax:

- communications,
- laundry and related services,
- furnishing of accommodations, and
- electricity.

Note: See the FAQ section entitled “Exemptions and Exclusions” for examples of sales that are exempt or excluded from Sales and Use Tax.

What is the measure of the Sales and Use Tax?

The measure upon which the Sales Tax is based is “gross proceeds of sales” as defined in Code Section 12-36-90. The measure upon which the use tax is based is “sales price” as defined in Code Section 12-36-130.

Note: See Code Section 12-36-90 and Code Section 12-36-130 for information as to what is included and what is not included in “gross proceeds of sales” and “sales price.”

What is an example of “gross proceeds of sales” or “sales price?”

Generally, “gross proceeds of sales” and “sales price” are the total amount charged in conjunction with the sale or rental of tangible personal property.

Example: Assume a remote seller sells a computer for \$1,200 and ships it at no additional charge to a South Carolina customer. However, at the time of the purchase of the computer, the South Carolina customer exercises an option and purchases an extended

warranty for \$200. The total amount charged in conjunction with the sale of the computer, or the “gross proceeds of sales” or “sales price” of the computer, is \$1,400.

Are remote sellers required to remit Sales and Use Tax on sales made online?

Yes. Remote sellers who meet South Carolina’s economic nexus standard are required to remit Sales and Use Tax on all taxable sales into South Carolina, including sales made by the remote seller through his website or catalog and telephone sales operations.

The Internet Tax Freedom Act prohibits South Carolina from imposing Sales and Use Tax on internet access services, but does not prohibit South Carolina from taxing sales made online.

Exemptions and Exclusions

Are certain sales exempt or excluded from the South Carolina Sales and Use Tax?

Yes. Sales of various items, and sales to certain entities, are specifically exempted or excluded from State and local Sales and Use Taxes. For example, the following sales are exempt from State and local Sales and Use Taxes:

- Sales to the federal government
- Sales of prescription medicine sold to an individual by prescription
- Sales of clothing, computers, and school supplies during the annual Sales Tax Holiday (the first Friday, Saturday, and Sunday in August)
- Sales of textbooks for use in a course of study at elementary schools, middle schools, high schools, and colleges

In addition, sales of unprepared food (*i.e.*, food that may be purchased with U.S. Department of Agriculture food stamps) are exempt from the State Sales and Use Tax. Whether sales of such unprepared food are exempt from local Sales and Use Tax depends on the type of local Sales and Use Tax being imposed.

Note: For information on all the exemptions and exclusions, or to obtain more details as to the requirements of the above examples, visit the Department’s website (dor.sc.gov).

State and Local Tax Rates

What is South Carolina's current State Sales and Use Tax rate?

South Carolina imposes the following State tax rates under the Sales and Use Tax law:

| | |
|---------------------------------|----------------------------------|
| General Sales and Use Tax Rate: | 6% |
| Accommodations Tax Rate: | 7% |
| 900 and 976 Tax Rate: | 11% |
| Manufactured Home | 5% + 2% for amounts over \$6,000 |
| Maximum Tax Items | 5% (Maximum Tax: \$500 or \$300) |
| Sales to Persons 85 and Older | 5% |

What are the current tax rates for local Sales and Use Taxes administered and collected by the Department?

Most local Sales and Use Taxes administered and collected by the Department are currently imposed at a rate of 1%. Only the two local transportation Sales and Use Taxes imposed in Charleston County are imposed at a rate other than 1% - with each being imposed at a rate of ½ of 1%.

Note: Currently, 43 of the 46 counties in South Carolina impose one or more county-wide local Sales and Use Taxes. The total local Sales and Use Tax rate in a particular county or city depends on the number of local Sales and Use Taxes imposed in that county or city and can range from 0% to 3% at this time. Only one city, Myrtle Beach, imposes a city-wide local Sales and Use Tax.

Retail Licenses and Filing Requirements

What is the fee for a South Carolina retail license?

The fee for a South Carolina retail license is \$50 for each retail location. The retail license is valid as long as the Sales and Use Tax account is open.

Is the fee for the South Carolina retail license paid annually?

No. The \$50 fee is a one-time fee.

Note: If the remote seller subsequently closes his South Carolina retail license, he must pay another \$50 to obtain a new retail license.

How do remote sellers obtain a retail license in South Carolina?

A remote seller must register directly with the Department. A remote seller may register with the Department online using the Department's tax portal, MyDORWAY, or by submitting a paper application.

The Department's online portal for obtaining a retail license can be found at: MyDORWAY.dor.sc.gov. Remote sellers using the online portal may submit the electronic retail license application beginning September 28, 2018.

The Department's paper application for use by remote sellers in obtaining a retail license is South Carolina Form DOR-111RS, "Remote Seller Sales and Use Tax Registration." This form is on the Department's website (dor.sc.gov).

When are Sales and Use Tax returns due?

Sales and Use Tax returns are due by the 20th of the month following the end of the month in which the sales occurred. For example, for sales that occur in November, the November return must be filed by December 20th.

Can I file quarterly or annually instead of monthly?

Yes, provided certain requirements are met and filing on a quarterly or annual basis has been approved by the Department. To determine if you are eligible to file quarterly or annually, please contact the Department's Licenses and Registration Section.

Do I need to file a return if I don't make any sales for a particular filing period (e.g., monthly, quarterly, annually)?

Yes. A Sales and Use Tax return is due for each filing period the Sales and Use Tax account is open, including filing periods for which the remote seller will file a "zero tax due" return.

Do I need to file a return if all my sales are exempt sales for a particular filing period (e.g., monthly, quarterly, annually)?

Yes. A Sales and Use Tax return is due for each filing period the Sales and Use Tax account is open, including filing periods for which the remote seller will file a "zero tax due" return.

In the case of a return in which all sales are exempt sales, the remote seller must still report its “gross proceeds of sales” and take a deduction for all exempt sales which will result in a “zero tax due” return.

Does the remote seller receive a discount for timely filing and remitting State and local Sales and Use Tax?

Yes. If returns are filed and the taxes are paid in full by the due date, the taxpayer is allowed a discount on taxes due. For taxes less than \$100, you may take a 3% discount of the tax. For taxes of \$100 or more, the discount is 2% of the tax.

The maximum discount allowed per taxpayer (all locations included) during the state’s fiscal year (July 1 - June 30) is \$3,000. The discount is increased to a maximum of \$3,100 if the retailer files his Sales and Use Tax returns electronically.

Remote sellers not required by law to collect the South Carolina Sales and Use Tax (*i.e.*, do not have physical nexus or economic nexus), but who voluntarily register to do so, are allowed a maximum discount of \$10,000 each fiscal year.

The discount (whether \$3,000, \$3,100 or \$10,000) is calculated from the June return filed in July to the May return filed in June.

South Carolina Purchasers

What is the effect of the Wayfair decision on South Carolina purchasers?

Purchasers in South Carolina may see an increased number of remote sellers charging South Carolina Sales and Use Tax. As before *Wayfair*, if a remote seller does not charge sales or use tax on a taxable item delivered in South Carolina, the purchaser should pay use tax on the purchase price. For example, an individual may report the use tax on his South Carolina individual income tax return or by filing a Form UT-3.

For additional information, see SC Revenue Ruling #18-9, “Use Tax Information for Businesses, Individuals, and Nonprofits.”

South Carolina Based Retailers

Does a South Carolina based retailer have an obligation to collect and remit another state's Sales and Use Tax if he makes retail sales for delivery into the other state?

It depends. South Carolina based retailers should be aware that they may have an obligation to collect and remit the Sales and Use Tax of other states if they are making retail sales for delivery into other states. Each state has its own nexus standard as to when a remote seller has established an economic presence.

Guidance Regarding Potential Sales and Use Tax Liability Resulting from the Amazon Litigation for Persons Using a Marketplace to Sell Their Products

The Department is currently in litigation with Amazon Services, LLC, (“Amazon”) an online marketplace with a physical presence in South Carolina, with respect to sales of tangible personal property owned by another person and made via the Amazon marketplace.

The Department maintains that under South Carolina Sales and Use Tax law, Amazon is the retailer responsible for collecting and remitting the South Carolina Sales and Use Tax on all taxable sales of products on Amazon.com, including products owned by another person that are listed and sold on Amazon.com and for which payments are collected or processed by Amazon.

Persons who use a marketplace to sell their products may consider voluntarily submitting an application for a South Carolina retail license and begin collecting and remitting Sales and Use Tax on these marketplace transactions. This will protect such persons against potentially incurring a large Sales and Use Tax liability if the courts ultimately rule against the Department and in favor of Amazon. It is recommended that these persons first contact the marketplace to determine if the marketplace is, or will be, remitting the South Carolina Sales and Use Tax on such sales into South Carolina.

Since the Department maintains that marketplaces, as defined in these FAQs, are the retailers of all products sold on their marketplace under South Carolina law, the opportunity for a person whose products are listed and sold on another person's marketplace to obtain a retail license and collect and remit the Sales and Use Tax is voluntary.

Only persons who have (1) economic nexus under the guidance provided in SC Revenue Ruling #18-14 or (2) physical presence nexus may incur a Sales and Use Tax liability for sales made through a marketplace if the courts ultimately rule against the Department and in favor of Amazon. Under SC Revenue Ruling #18-14, remote sellers would not be

subject to the Sales and Use Tax for any sales made prior to the later of (1) November 1, 2018 or (2) the first day of the second calendar month after economic nexus was established. Similarly, retailers with physical presence in South Carolina would not be subject to the Sales and Use Tax for any sales made prior to the date physical nexus was established.

Once the current Amazon litigation is resolved, the Department will issue additional guidance for both operators of marketplaces and persons whose products are listed and sold on such marketplaces.

Note: A person who voluntarily registers to collect and remit Sales and Use Tax, including persons who use a marketplace to sell their products, is entitled to a timely filing and payment discount of up to \$10,000 during the state fiscal year (July 1 through June 30).