Sales Tax Nexus
Responding to the *Wayfair* Decision
10 Steps for Tax Compliance with the Wayfair Decision

1. Identify new sales tax collection and reporting requirements
   - Identify the states where you currently collect sales tax and which additional states are now imposing collection responsibilities on remote sellers to determine where you need to collect sales tax. There are many charts and tools available to get updated state-by-state information.
   - It is important to note that foreign-based businesses are not immune from sales tax collection responsibilities under an economic nexus test.

2. Determine whether your products and services are subject to sales tax
   - To determine if your goods and services are subject to sales tax, you must identify the states where the applicable sales tax laws apply.
   - As part of this research, you will need to be updated to include the additional states.

3. Quantity the sales and transactions, apply nexus thresholds, and register if necessary
   - Using sales data, determine the sales amount and transaction count for each additional state where you currently are not reporting sales tax. If you exceed the state's economic nexus threshold, you are required to register with the state and begin collecting the tax by the enforcement date.

4. Contact customers and obtain exemption certificates
   - Pay special attention to each state's particular measurement when determining if the state's threshold has been exceeded. Many states measure sales and transactions for the prior 12-month period, whereas other states use a calendar year basis. Also, the sales amount basis can vary from state to state. For example, some states use gross receipts in the state, whereas other states use retail sales.

5. Determine the software needed to correctly charge and remit sales tax
   - Once you've determined which additional states require tax collection, contact your customers to inform them you will be collecting sales tax on your purchases delivered in those states unless the customer's purchases are exempt. For example, the customer may be an exempt nonprofit organization, or the customer may be purchasing items for resale or using them for activities that are exempt from sales tax.

6. Identity impact of remitting sales tax to additional jurisdictions
   - Obtain exemption certificates from customers prior to charging sales tax to avoid accounting complications of reporting sales tax charges after the invoice is issued.

7. Respond to state tax notices and audits
   - The right software tools and remit sales tax. Be prepared to take more control over taxability and helps avoid tax penalties and interest. Discussions are currently taking place to determine if these should be a different solution, and several proposals are being considered. However, if Congress does not act soon, more states will pass legislation in early 2019 to add an economic nexus provision. Some states may even be emboldened to make certain services subject to sales tax.

8. Monitor sales tax charged by vendors
   - Purchasers may consider obtaining and using a state's direct pay permit. Direct pay permits allow the purchaser to take more control over sales tax by remitting use tax rather than paying sales tax to vendors.

9. Understand Wayfair’s impact is not limited to sales tax
   - While the Wayfair case was only applicable to South Dakota, other states are viewing it as an opportunity to significantly increase revenue and will contact sellers they believe should be collecting use tax. Sales tax decisions by remitting use tax charged by vendors.

10. Be aware everything might change—better or worse
    - Many taxpayers and some elected officials believe the Wayfair decision creates too large a burden on remote business sellers to require them to collect other state sales taxes. Discussions are currently taking place to determine if these should be a different solution, and several proposals are being considered. However, if Congress does not act soon, more states will pass legislation in early 2019 to add an economic nexus provision. Some states may even be emboldened to make certain services subject to sales tax.

- If tax has not been collected in states where it should have, a Voluntary Disclosure Agreement could minimize the impact on the audit sampling plan.

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- If a state sales tax audit covers periods before and after the state’s economic nexus effective date, consider whether this has an impact on the audit sampling plan.

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Ryan’s Solution

For businesses with remote customers who need help navigating their way through Wayfair, Ryan offers specialized end-to-end services, including research on taxable goods and services, sales tax software for calculating and reporting the tax liability, and outsourced compliance solutions. As each state has its own authority on how to impose taxes, Ryan’s tax experts have the extensive knowledge and bandwidth to help you explore all options in each jurisdiction and avoid the consequences of noncompliance.

For more information or to speak with a Ryan tax expert, visit ryan.com/wayfair.