



*This article presents general guidelines for Georgia nonprofit organizations as of the date written and should not be construed as legal advice. Always consult an attorney to address your particular situation.*

## **Changes in Sales Tax Obligations for Nonprofit Online Retailers**

Georgia nonprofit organizations that make online sales to customers in other states should be aware of changes to sales tax laws throughout the U.S. that might affect their sales tax obligations. Until recently, states were not able to require out-of-state retailers to collect and remit sales tax solely for online sales. However, effective January 1, 2019, that rule no longer stands. States can now require, within certain limits, out-of-state retailers to collect and remit sales tax for online sales.

Sales tax laws are set by each state, and some states, such as Georgia, even allow each county and city to set its own tax rate. This can make sales tax compliance complex and difficult for retailers. Under the previous rules, a retailer only had to collect and remit sales tax to a state if the retailer made sales to customers in that state *and* had some physical presence, such as a warehouse, office, or storefront, in that state. This was known as the “physical nexus” standard. As Internet sales became increasingly common, the “physical nexus” standard meant that many states were unable to tax a large portion of sales in the state.

In response, in June 2018, the U.S. Supreme Court considered a South Dakota sales tax law that required out-of-state retailers to collect and remit sales tax to South Dakota if the retailers met certain minimum sales thresholds. The Supreme Court upheld the South Dakota law and decided that states could require out-of-state retailers to collect and remit sales tax based only on a certain level of economic activity in the state. This ruling removed the prior “physical nexus” standard and replaced it with a new “economic nexus” test. The “economic nexus” test means that an out-of-state retailer that makes a certain amount of sales into a state can be held responsible for collecting and remitting sales tax to that state.

Since the Supreme Court’s decision, some states have modeled their laws on the South Dakota law, which requires a retailer to collect and remit sales tax for sales in the state if, in a calendar year, the retailer:

- (1) Makes more than \$100,000 of taxable sales of property or services into the state; OR
- (2) Makes taxable sales into the state in 200 or more transactions.

Each state is able to set its own sales thresholds but it needs to meet the minimum of the South Dakota law as set by the Supreme Court decision. Many states have adopted higher sales standards from those in the South Dakota law which would qualify (e.g. more than \$200,000 in sales or 300 or more transactions), and some states have not changed their laws to account for the new “economic nexus” standards.

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Georgia nonprofits that sell goods in multiple states must be aware of the laws in each individual state in which they sell goods and should keep track of the transactions and sales into each state. A nonprofit organization should be able to work with its payment services company to collect the appropriate sales taxes for sales in each state. If your nonprofit organization makes significant online sales into other states such that you might have to pay sales tax on those states, you should consult with a tax professional to determine your sales tax obligations.