Testimony before the
Subcommittee on Economic Growth, Tax, and Capital Access
Committee on Small Business

United States House of Representatives
Hearing on
South Dakota v. Wayfair, Inc.:
How Main Street is Fairing and Whether Federal Intervention is Necessary

March 3, 2020

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Contents

Disclaimer: All of the information referenced in this testimony is accurate as I know it to be as of February 24, 2020. The rules change all the time. If any of it is incorrect, that shows just how hard it is for someone running a small business, and not a tax authority, to keep track of everything in this complex environment.

Introduction

Good morning Chairman Kim, Ranking Member Hern, distinguished members of the Subcommittee and staff. Thank you for inviting me to testify today to discuss the impact the *Wayfair* Supreme Court decision has had on my business.

My name is Linda Lester and I am the Vice President of K-Log, a family-owned small business with 30 employees, proudly headquartered in Zion, Illinois. Our company sells school, library and office furniture throughout the country as marketed through our printed catalogs and online through our website. Our customers are schools, colleges and public and government agencies at the local, state and federal levels, the majority of which are tax exempt.

While I appreciate the opportunity to speak with you today, I wish there wasn't a need for my testimony. As Vice President, I am in charge of the day-to-day operations of K-Log, and have had to divert my time away from running the business in order to implement nationwide sales tax collection. I estimate that we have spent well over 1,500 hours on this thus far, with a total cost of over $75,000.

Supreme Court Ruling

As you know, the Supreme Court's ruling in the *South Dakota v. Wayfair* case enabled states to require out-of-state or remote sellers, with no physical presence inside the state, to collect and remit sales taxes on transactions with customers inside their borders. Forty-five states and the District of Columbia have some form of sales or general revenue tax; forty-three of those have established "remote seller" requirements. But it's not just the states: the majority of states also allow their cities, counties and other local jurisdictions to impose additional taxes. In reality, there are well over 10,000 taxing jurisdictions in the US.

Supreme Court Justice Anthony Kennedy, writing for the majority, opined that:

"*.. South Dakota's tax system includes several features that appear designed to prevent discrimination against or undue burdens upon interstate commerce. First, the Act applies a safe* *harbor to those who transact only limited business in South Dakota. Second, the Act ensures that no obligation to remit the sales tax may be applied retroactively. S. B. 106, §5. Third, South Dakota is one of more than 20 States that have adopted the Streamlined Sales and Use Tax Agreement. This system standardizes taxes to reduce administrative and compliance costs: It requires a single, state-level tax administration, uniform definitions of products and services, simplified tax rate structures, and other uniform rules. It also provides sellers access to sales tax administration software paid for by the State. Sellers who choose to use such software are immune from audit liability. See App. 26–27. Any remaining claims regarding the application of the Commerce Clause in the absence of* Quill *and* Bellas Hess *may be addressed in the first instance on remand.*"

States' Response to Court Ruling

How has this borne out in the year and a half since the decision was announced? Unfortunately, most states have been quick to act, passing new sales/use tax collection regulations without regard for the undue burden they places on businesses. Many states did not follow Justice Kennedy's ruling stating states should not only set a reasonable nexus threshold, but also exclude retroactivity, and provide a streamlined set of rules and filing forms, with software paid for by the state.

Please understand: my company is not opposed to collecting and remitting sales taxes. We have done this with Illinois customers for over 30 years. Our struggle, however, is with the chaotic manner in which overwhelmingly complex requirements have been mandated, as well as the expense in time, money, and energy these mandates have imposed on us.

Economic Nexus Thresholds Set

Let's take a look at the individual points in Justice Kennedy's opinion, the first of which is establishing a "*safe harbor to those who transact only limited business*" in a state, commonly referred to "economic nexus." Even among just the states that impose sales taxes (leaving aside cities, counties, special districts and the like) there is no standard for exactly what:

- **Types of sales** count towards the thresholds (retail sales? gross sales? only taxable sales? digital sales?);
- **Number of transactions** that count towards the thresholds (taxable transactions? all transactions? any transactions? only transactions over a certain dollar amount?), and;
- **Time period** is covered by the thresholds (sales after the threshold is met? sales for the entire fiscal OR calendar year in which a threshold is reached? and if so, is that regardless of whether that's the first or last day of the period?)

In practice, "economic nexus" thresholds are nearly meaningless – particularly those based on number of transactions. For example, many states have a dollar threshold OR a volume threshold – typically 200 transactions. Now, imagine your side business sells T-shirts at $10 a piece via your website.

In our case, winning just one contract can cause K-Log sales to exceed a threshold where we typically would not. For example: In a state where the threshold is based on $100,000 gross sales, K-Log typically expects gross sales of $60-70,000. One $40,000 sale of cafeteria tables to outfit a new community college campus would put us over the threshold.

We're not going to stop selling into a state just because we're close to a threshold. Do we then continually monitor every sale in every state just in case one puts us over? It made more sense for us to register everywhere it's possible we could exceed a threshold, even if we haven't yet. For K-Log, this has meant registering in 42 of the 45 states which impose sales or gross receipts taxes, excluding Missouri (which as of this writing has not established remote seller requirements) and Alaska and Hawaii (into which we do very little business). Note that, once registered, a seller generally has to continue to file forever after even if they have no sales to report.

Raising thresholds is no solution, as this does not eliminate any of the complexity or difficulties facing a remote seller. It just reduces the pool of sellers facing the problem. Moreover, there's a point for every taxing authority (different for every one) where it is either economically or politically infeasible to change the threshold any further.

<u>Retroactivity Imposed</u>

Justice Kennedy opined that "*the Act ensures that no obligation to remit the sales tax may be applied retroactively."* South Dakota's law explicitly rules out demanding taxes for any period before their law took effect (which ultimately was November 1, 2018). However, that still meant there was only four months for every remote seller in the US to have software, systems and training in place before the clock started – in South Dakota alone. Vermont, Hawaii and Maine laws went into effect 1 July 2018 – barely a week after *Wayfair*. New York's law became effective immediately on June 21, 2018 – the moment the ruling was announced. A total of 23 states had remote seller nexus laws become effective before January 1, 2019. Laws in Massachusetts, Ohio, Pennsylvania and Rhode Island had effective dates before June, 2018 (Pennsylvania and Rhode Island revised their statutes to make remittance mandatory after July 1, 2019).

So, even if a state declines to pursue taxes from a period before the *Wayfair* decision removed the physical presence rule, there's still potentially a year and a half since the decision where a business might have been liable – whether they were ready to collect, or even knew they might have to do so.

<u>Streamlined Sales Tax (SST) Process</u>

Justice Kennedy's third point was that South Dakota joined the Streamlined Sales Tax (SST) Governing Board, a coalition of states joined together in 2000, to simplify voluntary sales tax collection by imposing uniform standards, long before the Supreme Court's ruling. The SST's own website (https://www.streamlinedsalestax.org/) states: "The goal of this effort is to find solutions for the complexity in state sales tax systems that resulted in the U.S. Supreme Court holding (*Bellas Hess v. Illinois* and *Quill Corp. v. North Dakota*) that a state may not require a seller that does not have physical presence in the state to collect tax on sales into the state. **The**

Court ruled that the existing system was too complicated to impose on a business that did not have a physical presence in the state."

Unfortunately, our experience is that the SST, while mildly helpful, doesn't solve the problem of nationwide remote sales tax complexity. The SST is a compact between just 24 states. The largest states, as well as some of those with the most complex taxes, are not part of it. No state has joined the compact since 2014, and it's not likely that any new ones will. The requirements for uniform definitions of products and services, as well as simplified tax structures, almost certainly will prevent any new members from joining.

Fallacy of "Free" Software

At first glance, the primary benefit to registering through the SST is access to a state-subsidized Certified Software Provider (CSP) for tax administration. Because of the complexity and volatility of state and local tax laws, rates and requirements, a small business has virtually no choice but to work with a specialized tax administration service. Using an approved CSP to calculate and file the required taxes, as well as relieve the risk of liability in an audit, is a distinct benefit.

However, the subsidized services and liability immunity are not available for the largest (in terms of population and business activity) and most complex states. Outside of the SST, only Pennsylvania (as of this writing) has implemented a similar CSP program. Moreover, certain services may not be subsidized even amongst SST member states. For instance, the Agreement stipulates that a CSP may charge additional fees for managing exemption records if more than 30% of your transactions are exempt, or with exempt entities. In K-Log's case, over 80% of our business is with entities that are typically exempt from paying sales taxes. The cost of tax exemption certificate management for K-Log from the CSP's was quoted at $7,000 - $10,000 annually.

Choosing a tax administration software package is not as straightforward as picking a meal off a menu because one size does not fit all. Besides features and cost, you have to find one that will work with your business practices. K-Log investigated all the available CSP packages. We tried implementing TaxCloud (too difficult), then Avalara (too expensive for the non-SST states) before finally settling on Taxify by Sovos, one of the CSP's listed on the SST website.

Once the tax administration software has been selected, you still have to integrate it with your internal business systems. In the best case, your company uses an off-the-shelf enterprise management system with little to no customization, and there is an easily-implemented, pre-written software module that will interface it with the CSP software. In the worst case, your company uses a heavily-modified or home-grown enterprise management system and you have to hire a developer to make it "talk" with the CSP software. In either case, there will be some non-trivial expense if money and man-hours to implement and test the integration, and then train your staff to use it.

We embarked on a months-long project to integrate Taxify into our existing systems, calculate tax for our home state of Illinois, and file the monthly Illinois tax form. Once we had worked through any issues with just our home state, we contacted Taxify to register with all of the streamlined member states. That's when we were told that although Sovos Taxify was certified by the SST, they had decided "not to onboard any clients into that program." After another month of discussions with staff at the SST, and getting no resolution, we decided to stick with Sovos Taxify, because the cost of starting over with another software provider would have cost us too much time and money. [Of note, Taxify by Sovos is (as of this writing) still listed as a CSP on the SST website but according to Sovos, it is a Model 4, and not a Model 1 certified solution, meaning that while it meets the requirements, states do not subsidize the software costs.]

In the end, it took our company most of a year and $75,000 to find tax administration software, integrate it with our in-house system, research our tax responsibilities in all 50 states, and then set up accounts with all the various tax collection agencies (and this last we had to do with all the states, even the SST members). During this time, we had to defer hiring a Sales Manager and delay expansions to our GSA and other contract offerings.

Rates Determined at Local Jurisdiction, Not Just State, Levels

As for Justice Kennedy's reference to "*simplified tax rate determination*": Most states allow local jurisdictions to impose additional sales taxes. (Only 9 states - Connecticut, Hawaii, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan and Rhode Island – plus the District of Columbia - do not). For instance, Iowa, an SST member, has a 6% state-wide sales tax. In addition to the state tax, local jurisdictions may impose a local option sales tax of 1%. Within a county, some cities may have the local option tax, some may not. Also, the unincorporated rural area of a county may or may not have the tax. Arkansas, also an SST member, imposes state sales tax statewide at 6.500%. With local taxes across 791 cities and counties, the total sales tax rate may be between 6.500% and 11.625%. The only states that specifically implemented optional simplified rates for remote sellers (as of this writing) are Louisiana and Texas – neither of which are part of the SST.

Furthermore, local rates are always changing. For instance, in Iowa, a jurisdiction may enact the local option sales tax on January 1 or July 1. As of January 1, 2020, there were five new Iowa localities charging the local option sales tax. In Arkansas, changes are allowed quarterly. This reinforces the necessity of certified tax administration software, but doesn't help the "simplified sales rates" argument much.

No Uniform Taxability Rules

Uniform definitions of products and services is very important to sellers with a wide variety of offerings, or selling in particular niche markets (One real-world example: is a potted tomato plant taxed as a plant? A fruit? A vegetable? Something else? It varies by state). K-Log is not affected as much, since our products are exclusively categorized as "tangible personal property". On the other hand, the way delivery charges are taxed from state to state is bewildering – with or without standardized definitions.

No Uniform Tax Exemption Standards

Almost every jurisdiction that levies a sales or gross receipts tax exempts certain organizations from having to pay it, either because of the nature of the organization or because the buyer intends to resell the property. The rules for which entities are exempt, which transactions may be exempt even to a buyer who normally would pay tax, and how sales are documented, vary wildly. Some states issue “exempt ID numbers” or “reseller numbers”; others issue certificates (which may expire annually, after a longer period, or never). Many states require sellers to collect and retain a copy of the exempt or resale certificate; in other states the certificate number or exempt ID is enough. In still others, a purchase order or invoice on the organization’s letterhead is sufficient documentation. Some states require exemption documentation for every transaction; others only require the seller to collect that information once. Some states require the seller to verify the buyer’s exemption documentation through the state taxing authority before accepting it. To add to the complexity, an organization that pays sales tax to the state may be exempt from local taxes – and if that’s not enough, some organizations that are exempt by state statute don’t need to provide documentation at all.

In general, the burden of proof for proving a sale was exempt from tax is on the seller. The seller can meet the burden of proof by obtaining properly completed exemption documentation – but what form that takes, and how long it has to be retained, also vary wildly. Is a digital copy enough, or is a signed paper copy required. Which person in the organization must sign or authorize the documents? Must a digital document be signed or is the typed name of the company officer sufficient? How long must records be kept in case of audit, and is that period after the sale, after the date the return was filed, or some other period? Must the seller get the exemption documentation at the time of the sale or is there a grace period?

Filing Returns is Not Standardized

The SST states do have a uniform, digital return and it is helpful that our provider submits these electronically on our behalf. One area of concern for us is the format of the Simplified Returns to SST states, in that all we are given by our CSP is an XML file, and no human-readable “paper trail". How this will work out when we are inevitably audited is of great concern for us. Filing for the other 22 states (and DC) is done through their individual web portals, something done by our CSP at a per-filing fee.

<u>States Using Sales Tax Registrations to Impose Income Taxes</u>

Texas sent us a letter stating that we are now subject to a "Franchise Tax", which will probably cost us at least $3,000 this year. So because we have customers located in Texas, we are now required to pay what amounts to an income tax to Texas, a state in which we have no employees, no sales reps, and no physical connection in any way. Several other states, including Hawaii, Idaho and Pennsylvania are doing the same.

<u>Examples of Overwhelming Complexity</u>

I could talk for days about the difficulties we continue to face, and in fact I have, as Congressman Schneider and his staff can attest. I have reams of documentation on this, including a 284 page Tax Exemption Guidebook that we created for our sales and accounting staff to use. There's far more to this than I can even begin to cover in this document, but here are just a few of the most egregious examples of what I've experienced.

<u>Colorado's Massive Tax Filing Form</u>

Colorado has over 750 taxing jurisdictions, with reporting required individually for each one. The state sales tax form is 2,046 pages, with three pages for each of the 682 jurisdictions where the state collects on their behalf. Due to its length, Colorado requires that the form be filed electronically. But, also due to its size, I am unable to review the report generated by our CSP to verify its accuracy. I can only check the grand total and hope that the rest is completed properly. In addition to that, we are required to file individually with the 97 additional jurisdictions if we sell to customers in any of them, including Denver and other large cities.

Complicated Shipping Taxability Determination

I've had to figure out how shipping is treated in each state and how it applies to my business, one state at a time. In some states, shipping is taxable, and in others, it's not. That part is fairly straight-forward. But in some states, the actual cost of shipping is non-taxable, but if we mark it up a bit to cover any unforeseen issues, that markup is taxed, even if we don't separate it out on the customers invoice as a handling fee. We sell furniture. It is big and heavy and expensive to ship. There is no good way I can tell a customer that their shipping amount is $250, but only $25 of that is taxable.

Alabama's Local Tax Reporting

Alabama assigned us a State sales tax license number as well as a Local tax license number. Our CSP filed the Alabama state form for the first month on our behalf. A few weeks later, we received a notice from Alabama stating that we hadn't filed the additional Local tax form, not realizing a separate form was required as well. The four transactions for that month were tax exempt and no tax was due, but we were charged a $100 late filing fee, even though the tax liability was zero. A few weeks later, we received a notice from one of the counties stating that we had used an incorrect tax ID, discovering that the State only collects for roughly half the counties and cities. Eleven counties and roughly 50 cities are "self-administered", meaning we have to register individually with each to get a sales tax account. Roughly 100 other counties and cities have their sales taxes collected by one of four private companies, each of which requires us to register for an account as well. We have decided to register as needed and file the forms ourselves rather than pay Taxify to do it for us (each local return they file on our behalf currently costs $27).

Arizona's Rules on Sales to the Federal Government

Instead of sales and use taxes on buyers, Arizona has a "Transaction Privilege Tax" (TPT) levied on sellers. The TPT "acts" as a sales tax in that sellers are allowed to pass on the cost to the buyer. The Federal government, its entities and instrumentalities are exempt from tax in every other state with a sales or gross receipts tax. However, Arizona Revised Statute §42-5061 states that sales to the Federal Government by a “manufacturer, modifier, assembler or repairer” are tax exempt, but sales by others, including a retailer like K-Log, are taxed at 50% of the normal tax rate. Taxify, our software provider, doesn’t account for this. But more importantly, our federal government customers insist that their transactions are 100% tax exempt, and not 50% tax exempt. K-Log has had to make the business decision to not charge sales tax to federal government agencies in Arizona and just pay the tax due out of pocket, rather than arguing with our customers.

Congress Must Act to Protect Businesses

Here’s the bottom line: If compliance were as “easy” as just implementing so-called “free software”, it wouldn’t have taken us over a year to do that at a cost of over $75,000. We would not have deferred hiring a Sales Manager because of the resources being sucked up trying to comply with all the issues created by this ruling. We wouldn’t be concerned that we’re even doing it correctly. And, if it were that “easy”, Illinois would have far more than just 5,000 or so remote sellers currently remitting sales tax to the Illinois Department of Revenue.

Instead of encouraging the success and growth of small businesses, sales tax collection is pushing small businesses to large marketplaces facilitators, who promote that they can collect and remit on your behalf. Think about this: The profit that businesses could once enjoy are being instead reaped by the likes of Amazon and other large marketplaces. State legislatures are forcing businesses to either close up shop or pay exorbitant fees to marketplace facilitators just to stay in business.

I know very few small businesses in compliance. Some are still unaware and when I discuss it, they look at me like I’m crazy and just plain wrong. Others are trying to comply and failing miserably. The majority are hoping that they can keep “under the radar” and wait it out until the federal government steps in to come up with a comprehensive nationwide solution because this simply can’t be the way things will be from now on.

The lobbyists for the marketplace facilitators and software providers have a vested interest in keeping sales tax administration complicated. Small businesses like K-Log need Congress to regulate interstate commerce in such a way that we can fulfill our obligations without being driven out of business.

As the Supreme Court stated in their *Wayfair* decision: “The Constitution grants Congress the power [t]o regulate Commerce … among the several States…. This Court has long held that in some instances it imposes limitation on the States absent congressional action. Of course, when Congress exercises its power to regulate commerce by enacting legislation, the legislation controls.”

I’m here today to ask for your help in bringing order to the marketplace. A simple-straightforward taxing regime will not only alleviate the burden on our businesses, but also lead to increased compliance, and thus increased revenues to the States. Collecting and remitting sales taxes across thousands of jurisdictions nationwide is nightmarishly complex for a small business. To “prevent discrimination against or undue burdens upon interstate commerce” requires legislative action, not case-by-case rulings by the courts. Any proposed solution for remote sales tax collection must include one rate per state, a single filing point for all states, time to implement free of penalties, and a comprehensive program to educate businesses and consumers on the changes that have taken place. I have some ideas on how to make this happen and I’m hoping that now is the time to bring everyone to the table to start to work on sensible solutions to this complex problem.

Thank you again for having me here today, and I look forward to providing additional information to you and your staffs, sharing my recommendations on how Congress can address these issues, and I stand ready to answer any questions you may have.

Solution: Simplification + Education = Compliance

A Workable Solution to Post-*Wayfair* Remote Sales Tax Collection

Premise

In *South Dakota v Wayfair*, the Supreme Court ruled that businesses with a significant *economic* nexus in a state should be required to collect and remit sales/use tax as the prior standard of a *physical presence* no longer applies in today's digital and interconnected economy. Since that June 2018 ruling, the Departments of Revenue in most states have enacted some type of regulation to require sellers to collect and remit sales/use tax for purchases sent to buyers in their state.

It is not our intention to advocate to overturn this decision nor do we, summarily, disagree with it. Imposing a sales tax on all transactions, whether made at a traditional brick and mortar store, or in an online marketplace should be treated the same. Parity is what we are striving for. The current situation does not impose parity as the rules for local stores are not the same for remote sellers. We seek a resolution that does not impose an undue burden on neither the traditional merchant nor the remote seller.

While the reasons for non-compliance with the new state laws vary by company, we present that they fall into two general categories: (1) Businesses are either unaware of the changes or don't think they apply to them or (2) the process of compliance is so complicated and expensive that they simply haven't been able to comply.

It is our belief that with a solution that makes it simple for businesses to know what rate to charge and make reporting easier, compliance will jump from the low percentage that it is now, to near full compliance rates. This is a win-win for both the states who will receive more tax revenue and businesses as it minimizes implementation costs.

Proposed Solution – One Rate per State, Collected and Remitted to the Home State

We propose that businesses report and collect interstate sales tax on their home state sales tax return. Each state would set a state-wide interstate sales tax rate. Businesses would collect sales tax at the destination state rate, but report and remit it to their home state. The states would then be responsible for transferring collected funds to the appropriate states. An example of the sales tax form is included on the next page.

This filing form accomplishes the goal of simplification and education. In this example on the next page, the business has a home state of Illinois, with physical locations also in Indiana and Wisconsin. They had additional sales in Alabama, Arizona and Colorado during the month. The shaded box with the tax rate would be pre-printed on the form.

OUT OF STATE SALES TAX REPORTING FORM – ILLINOIS EXAMPLE

State	Status	Gross Sales	Exempt Sales	Taxable Sales	Tax Rate	Sales Tax Due
Alabama	Remote Seller	$23,000.00	$17,400.00	$5,600.00	8.0%	$448.00
Alaska	STATE DOES NOT REQUIRE SALES TAX COLLECTION					
Arizona	Remote Seller	$1,500.00	0.00	$1,500	7.6%	$114.00
Arkansas	Remote Seller	0.00	0.00	0.00	8.5%	0.00
California	Remote Seller	0.00	0.00	0.00	9.25%	0.00
Colorado	Remote Seller	$8,450.00	$2,100.00	$6,350.00	6.9%	$311.15
Connecticut	Remote Seller	0.00	0.00	0.00	6.35%	0.00
Delaware	STATE DOES NOT REQUIRE SALES TAX COLLECTION					
District of Columbia	Remote Seller	0.00	0.00	0.00	8.0%	0.00
Florida	Remote Seller	0.00	0.00	0.00	8.0%	0.00
Georgia	Remote Seller	0.00	0.00	0.00	6.0%	0.00
Hawaii	Remote Seller	0.00	0.00	0.00	6.0%	0.00
Idaho	Remote Seller	0.00	0.00	0.00	8.0%	0.00
Illinois	**Filed in State**	Illinois Acct # 39884593-98873				
Indiana	**Filed in State**	Indiana Acct # 8484893939				
Iowa	Remote Seller	0.00	0.00	0.00	8.0%	0.00
Kansas	Remote Seller	0.00	0.00	0.00	8.5%	0.00
Kentucky	Remote Seller	0.00	0.00	0.00	8.0%	0.00
Louisiana	Remote Seller	0.00	0.00	0.00	6.45%	0.00
Maine	Remote Seller	0.00	0.00	0.00	7.5%	0.00
Maryland	Remote Seller	0.00	0.00	0.00	8.0%	0.00
Massachusetts	Remote Seller	0.00	0.00	0.00	8.25%	0.00
Michigan	Remote Seller	0.00	0.00	0.00	8.0%	0.00
Minnesota	Remote Seller	0.00	0.00	0.00	8.875%	0.00
Mississippi	Remote Seller	0.00	0.00	0.00	9.0%	0.00
Missouri	Remote Seller	0.00	0.00	0.00	6.225%	0.00
Montana	STATE DOES NOT REQUIRE SALES TAX COLLECTION					
Nebraska	Remote Seller	0.00	0.00	0.00	7.5%	0.00
Nevada	Remote Seller	0.00	0.00	0.00	8.85%	0.00
New Hampshire	STATE DOES NOT REQUIRE SALES TAX COLLECTION					
New Jersey	Remote Seller	0.00	0.00	0.00	8.625%	0.00
New Mexico	Remote Seller	0.00	0.00	0.00	7.125%	0.00
New York	Remote Seller	0.00	0.00	0.00	6.0%	0.00
North Carolina	Remote Seller	0.00	0.00	0.00	6.75%	0.00
North Dakota	Remote Seller	0.00	0.00	0.00	7.0%	0.00
Ohio	Remote Seller	0.00	0.00	0.00	7.75%	0.00
Oklahoma	Remote Seller	0.00	0.00	0.00	6.5%	0.00
Oregon	STATE DOES NOT REQUIRE SALES TAX COLLECTION					
Pennsylvania	Remote Seller	0.00	0.00	0.00	8.0%	0.00
Rhode Island	Remote Seller	0.00	0.00	0.00	9.0%	0.00
South Carolina	Remote Seller	0.00	0.00	0.00	8.0%	0.00
South Dakota	Remote Seller	0.00	0.00	0.00	6.5%	0.00
Tennessee	Remote Seller	0.00	0.00	0.00	9.0%	0.00
Texas	Remote Seller	0.00	0.00	0.00	8.25%	0.00
Utah	Remote Seller	0.00	0.00	0.00	6.7%	0.00
Vermont	Remote Seller	0.00	0.00	0.00	8.0%	0.00
Virginia	Remote Seller	0.00	0.00	0.00	6.3%	0.00
Washington	Remote Seller	0.00	0.00	0.00	8.5%	0.00
West Virginia	Remote Seller	0.00	0.00	0.00	8.0%	0.00
Wisconsin	**Filed in State**	Wisconsin Acct # 120-48459499				
Wyoming	Remote Seller	0.00	0.00	0.00	4.0%	0.00
Total Interstate Sales Tax Due						**$873.15**

Simplification:

- One rate per state, set by the state. Our recommendation is to use the state's base rate plus 1% for county taxes and 1% for local taxes, but states can set their own remote seller rate.
- States would decide on their own allocation factors to distribute any county or local amounts. Louisiana and Texas already allow a flat rate per state option for remote sellers, with the local portion allocated based on population.
- Remote sales tax state rates can change once per year, on January 1st. Unlike the current system, businesses would not need to continually look for changing rates. The annual sales tax rate changes would become standard practice.
- All sales to all states are taxable at the same rate, unless the customer is tax exempt. For a tax exempt sale, a Tax Exempt, Resale or other certificate would need to be collected and stored on file, just as they are now for tax exempt sales.
- Business would not need to register nor file returns in any state where they had no physical presence.
- If a business would prefer to register and file in any additional states for any reason (lower in-state rates for example), they could elect to do so, but it would not be required.
- The collected tax would be remitted to the home states, and the states would be responsible for reporting and remitting to each other.

Education:

- With sales tax rates pre-printed on the forms, businesses would know exactly what rate is due in each state.
- The new rates would be published by October 1st of the prior year and included in notifications sent by the Department of Revenue to the home state of each business. Businesses would have plenty of notice to the new rates and would have no reason not to know that changes are coming.

Benefits to the States:

- States would process the same number of forms that they do now – only for businesses with a physical presence in their state. There is no need to add hundreds of thousands of out of state businesses to their monthly processing.
- States would still retain the option to audit a company's reported amounts, just as they do now. We propose that the audit request would need to go through the home state's Department of Revenue first, then additional details requested from the business, if needed.

Case Study: K-Log's Cost/Benefit Analysis of Sales Tax Collection Post-*Wayfair*
February 24, 2020

Company Name: **K-Log, Inc.**
Industry: **School and Office Furniture Sales Primarily to Public Agencies**
Primary Location: **Zion, Illinois**
Physical Presence in these states: **Only Illinois**
Number of states with nexus post *Wayfair*: **42 states**
Company size: **32 Employees**

Costs to Implement Remote Sales Tax Nationwide

One-Time Implementation Expense	**Amount**
Software Expense	$ 7,830
Labor – Programming and Implementation	43,000
Training & Support	1,200
State Registrations	320
Legal, Research and Professional Fees	26,422
Total Implementation Expense	**$78,772**
Estimated Ongoing Annual Expenses	**Amount**
Software Expense	$10,260
Labor – Programming	5,000
Tax and Exempt Certificate Collection – Labor and Expenses	18,000
Filing Fees – Labor and Expenses	12,000
Legal, Research and Professional Fees	10,000
Audit and Compliance Expense	10,000
Total Ongoing Annual Expense	**$65,260**
State & Federal Agencies Cost/Benefit Analysis	**Amount**
Total Actual New Sales Tax Collected (90% to California)	$63,865
Est. Loss of Tax Revenue to Illinois (Income & Payroll Taxes)	($41,509)
Est. Loss of Tax Revenue to Fed Government (Income & Payroll Taxes)	($49,386)
Net Change for Government Revenues	**($27,030)**

Impact on Our Business and Government Revenues

We are spending tens of thousands of dollars to collect very little tax in most states. 81% of our customers are tax exempt schools and government agencies. However, since most states have passed economic laws with thresholds measured in **GROSS** sales, not **TAXABLE** sales, we are required to comply even though little or no tax dollars are being remitted. Not only that, but **the net change for government revenue is also negative.**