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Accounting and financial reporting in Wayfair decision

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On June 21, the U.S. Supreme Court handed down its decision in the South Dakota v. Wayfair, Inc. case (the Wayfair decision) related to sales and use tax nexus standards. In this ruling, the Supreme Court overruled its previous decisions in other landmark cases, commonly referred to as National Bellas Hess and Quill, which had established a physical presence nexus standard for sales and use tax purposes. Under these prior decisions, entities were generally not required to collect and remit sales and use tax in states where they had no physical presence but sold products "remotely" to customers.

Under the Wayfair decision, entities may now be required to collect sales and use tax in these states based solely on an economic nexus standard if the taxpayer has a substantial connection with the state. (See "Wayfair ruling overturns Quill physical presence requirement" for a summary of the Wayfair decision.)

Entities should apply the accounting guidance in ASC 450-20, Contingencies: Loss Contingencies, to any potential sales and use tax obligations when evaluating the accounting and financial reporting implications of the Wayfair decision. The accounting guidance in ASC 740, Income Taxes, including the guidance related to uncertainty in income taxes, does not apply to sales and use tax because sales and use tax is not a tax that is based on income.

Public business entities need to consider these implications in their current quarter, the second quarter ending June 30, 2018 for calendar-year public business entities. All entities need to understand the implications of the Wayfair decision on their sales and use tax practices in states where they lack a physical presence but act as "remote" sellers, delivering goods and services to customers. In other words, entities need to determine whether they now have nexus for sales and use tax purposes in a particular state based on an economic nexus standard instead of a physical presence nexus standard.

We expect states to act quickly to enact legislation and issue guidance that will require entities to apply an economic nexus standard for sales and use tax purposes. As a result, entities will also need to monitor and consider any related legislation that has already been, or will be, enacted by each state as a result of the Wayfair decision. This legislation will impact the timing and amount of sales and use tax that entities may be required to collect from customers and remit to each state in the future. Although it is uncertain when each state will require entities subject to the state's economic nexus standard to begin collecting sales and use taxes from customers and remitting them to the state, we expect that most states will attempt to impose these requirements as soon as practicable.

While the Wayfair decision is expected to have the most significant effect on Internet retailers engaged in e-commerce activities with customers located in several states, many other entities will be affected. In addition, while the case specifically addresses sales and use tax, its implications may be broad enough to impact and solidify the existing economic nexus standards that are in place for income tax purposes as well. As a result, all entities that are remote sellers of goods and services that do not have a physical presence in a particular state should evaluate both their sales and use tax, as well as their income tax, nexus positions and the related financial statement implications under ASC 450-20 and ASC 740-10, respectively.

Source:
Grant Thornton, On the Horizon, June 28, 2018.

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