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The New Sales Tax Burden

As I previously covered in earlier columns (see my articles in the August 2018, Feburary/March 2019 and May 2019 issues), last year gave us the long-awaited Supreme Court decision on a state's right to collect sales tax stemming from online and other out-of-state sales. In the June 21, 2018, decision *South Dakota v. Wayfair, Inc.* case, the U.S. Supreme Court's ruling supported a state's right to impose the collection of sales tax on sales generated by out-of-state retailers to in-state purchasers. This was the proverbial "leveling of the playing field" that most brick-and-mortar retailers were looking for over the past two decades.

Thanks to the Supreme Court decision, a state like South Dakota will now collect approximately $50 million annually in sales tax on commerce sales, helping to make up for the many years of lost tax revenue from online-only retail businesses. Other than the five states that have no sales tax, online shoppers are now starting to see their state's respective sales tax percentage added onto their bill. This new world order will help bring a renewed sense of tax fairness to the retailing landscape for brick-and-mortar retailers by allowing them to capture sales that was previously lost to out-of-state online shoppers.

But like many things in life, we sometimes need to be careful what we wish for. While states will now enjoy billions in sales tax revenue from enforcing sales tax compliance on internet retailers, this new ruling is starting to rear its ugly head by creating a new administrative burden heaped on all retailers … especially the smaller business retailers who are ill-equipped to face their new tax reporting and collection responsibilities.

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THE BURDEN ON SMALL BUSINESS

As the impact of this ruling starts to sink in, retailers will soon face the realities of addressing the new administrative tasks that will accompany sales tax compliance. To prepare for this major sales tax law change, business owners need to evaluate how this new ruling will change their business model, operating budgets, internal accounting procedures, computer systems and store staffing. What the new Wayfair decision means is online retailers will now be required to track and possibly collect, remit and report sales tax from customer sales in each state, even if they don't have a physical presence (a.k.a. "physical nexus") in that state under the new "economic nexus" rules. And while major U.S. retailers such as Amazon, Walmart and Target may see little impact on their overall business operations from this new ruling, small businesses will now need to dedicate greater internal resources to track the amount of sales they generate in each state.

In fact, the new sales tax ruling will ultimately affect tens of thousands of retailers who sell online, along with millions of consumers. Here are just a few of the major issues that are already impacting small business retailers engaged in online sales:

1. States are now moving fast to tax consumers across state lines. The Wayfair decision has paved the way for states to immediately start taxing internet and mail order sales. While not all states have enacted new sales tax legislation, it's a bit surprising to see the speed at which many states have already jumped on. But given the Supreme Court has essentially handed over a multi-billion dollar revenue windfall for all states by overturning two previous rulings that made internet sales largely exempt from the collection of sales taxes, the speed to enact new sales tax collection laws shouldn't be surprising at all.

2. Online retailers must track sales levels and tax law changes in all states where they do business. Because each state is enacting new and varying sales tax nexus rules with regard to sales volume thresholds,