

Sales/Use/Indirect:

North Carolina: New Law Eliminates 200-Transaction Threshold from *Wayfair* Economic Nexus Statute

H.B. 228, signed by gov. 7/1/24. Effective as of July 1, 2024, new law repeals North Carolina's 200 transaction-based economic nexus annual threshold for purposes of requiring remote retailers and marketplace facilitators to collect and remit North Carolina sales and use tax, and it leaves intact the threshold of gross sales in excess of \$100,000 from remote (or marketplace-facilitated) sales sourced to North Carolina for the previous or current calendar year. To help implement this repeal, subsequently issued guidance from the North Carolina Department of Revenue [see Directive No. SD-24-1, N.C. Dept. of Rev. (7/1/24)] clarifies that North Carolina's remote seller nexus thresholds now consist of the following:

URL: <https://www.ncleg.gov/BillLookup/2023/hb228>

URL: <https://www.ncdor.gov/sd-24-1-repeal-transaction-thresholdpdf/open>

- The retailer makes gross sales in excess of \$100,000 from remote sales sourced to North Carolina, including sales as a marketplace seller, for the previous or the current calendar year, or
- The retailer is a marketplace facilitator that makes gross sales in excess of \$100,000, including all marketplace-facilitated sales for all marketplace sellers, from sales sourced to North Carolina for the previous or the current calendar year.

The administrative guidance also addresses how, under this new law, a remote seller may cancel its current North Carolina registration if it meets the following requirements:

1. It did not make gross sales sourced to North Carolina of more than \$100,000 during 2023;
2. It did not make gross sales sourced to North Carolina of more than \$100,000 from January 1, 2024, through the date it cancels its registration in 2024; and
3. It is not otherwise engaged in business in North Carolina.

The legislation also contains an exception to North Carolina's general statute of limitations for proposing an assessment related to sales and use tax customer refunds – providing that “if a purchaser receives a refund from a seller of sales and use tax paid to the seller, the period for proposing an assessment against the customer of any tax refunded is three years after the date of the refund.” Please contact us with any questions.

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