

**SMALL BUSINESS IMPACT STATEMENT AS REQUIRED BY
NRS 233B.0608**

LCB File No. R189-18

1. Background

The United States Supreme Court ruled in *South Dakota v. Wayfair, Inc.* on June 21, 2018, that the states can require remote sellers to collect and remit the applicable sales or use tax on sales delivered to locations within their states regardless of whether the seller has a physical presence in the state.

There has been no change in the law (the decision just overturns a prior decision based on the same law), Nevada will apply this ruling on a prospective basis for remote sellers that are not already registered with their state. (Note: Remote sellers that were already registered and collecting the tax or remitting the tax through a third party, such as a marketplace facilitator, are not entitled to a refund of the taxes they previously collected and should not stop collecting through these channels. In addition if a seller has a physical presence or other legal obligation to collect and remit the tax for Nevada, this prospective treatment does not apply.)

Under this regulation: Sec. 1 provides clarity and guidance to determine whether the activities of a retailer located outside this State has sufficient nexus with this State to satisfy the requirements of the United States Constitution. Sec. 2 provides guidance regarding the date that a retailer has to register with the State who satisfied the criteria to begin to impose, collect and remit sales and use tax.

2. A description of the manner in which comment was solicited from affected small businesses, a summary of their responses, and an explanation of the manner in which other interested persons may obtain a copy of the summary.

The Department of Taxation prepared and disseminated a questionnaire seeking information from small business regarding the possible impact of LCB File No R189-18 in its original form. The proposed language and questionnaire was dispersed to the following:

- Emailed by the Department to 228 members of its interested parties list.
- Emailed by the Nevada Taxpayers Association to its list of interested taxpayers.

The Department received no response from the questionnaire.

Anyone interested in obtaining a copy of the questionnaire can contact:

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3. The manner in which the analysis was conducted, including the methods used to determine the impacts of the proposed regulation on small business.

The Department used informed, reasonable judgment in determining that there will not be an impact on small businesses due to the nature of the regulatory changes. The proposed permanent regulation adopts thresholds identical to those thresholds adopted by South Dakota. The United States Supreme Court determined in *South Dakota v. Wayfair, Inc.* that having these thresholds in place prevents an impact on small businesses.

4. The estimated economic effect of the proposed regulation on the small businesses which it is to regulate:

Direct and indirect adverse effects

The Department finds that there is no reasonably foreseeable or anticipated direct or indirect adverse economic effect on small business.

Direct and indirect beneficial effects

The Department finds that there is no reasonably foreseeable or anticipated direct or indirect beneficial economic effect on small business.

5. A description of the methods that the agency considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used any of those methods.

The proposed permanent regulation presents no reasonably foreseeable or anticipated adverse impact to small business; therefore no efforts were required to reduce the impact on small businesses.

6. The estimated cost to the agency for enforcement of the proposed regulation.

The anticipated cost for enforcement is to be determined.

7. If the proposed regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money

will be used.

The proposed permanent regulation does not include new fees or increase an existing fee.

- 8. If the proposed regulation includes provisions which duplicate or are more stringent than federal, state or local standards regulating the same activity, an explanation of why such duplicative or more stringent provisions are necessary.**

The proposed regulation does not overlap or duplicate any regulation of other federal, state or local government entities.

- 9. The reasons for the conclusion of the agency regarding the impact of a regulation on small businesses.**

The Department has determined that there will be no adverse impacts to small businesses based on its analysis and that no comments were received stating that there would be an adverse impact to small business.

I hereby certify, to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small businesses and that this statement was properly prepared and the information contained herein is accurate.



William D. Anderson, Executive Director
August 10, 2018