



2018 State tax nexus checklist

Client name and number _____

Prepared by _____ Date _____ Reviewed by _____ Date _____

Purpose of checklist: To inform practitioners about state nexus issues involving income, franchise, sales and use taxes. It contains frequently asked questions appearing in states' nexus questionnaires. Note: The weight of interpretation given to specific questions may vary from state to state; this checklist is intended to be a broad reference tool.

Note: On June 21, 2018, the U.S. Supreme Court issued its decision in *South Dakota v. Wayfair, Inc.*, which overturned 50 years of precedent and dealt with fundamental questions of state tax jurisdiction. Understand this case and advise clients accordingly.

100) General	Yes/ Done	No/ N/A
▶ 101) If the business is a corporation, was it incorporated in this state?		
▶ 102) If the business is not a corporation, was it organized in this state?		
▶ 103) Is the business authorized by the secretary of state to do business in the state?		
▶ 104) Is the business currently filing any tax returns with the state? If so, specify the type of tax.		
▶ 105) Does the business hold shareholders', board of directors' or other corporate meetings in the state?		
▶ 106) Does the business have an office, agency, warehouse or other business location owned or leased in the state?		
▶ 107) Does the business reimburse its in-state salespersons for the costs of maintaining an in-home office?		
▶ 108) Is the business listed in any telephone directories in the state?		
▶ 109) Does the business maintain a telephone answering service in the state?		
▶ 110) Does the business use local phone numbers in the state which are forwarded to a location outside the state?		
▶ 111) Does the business make sales to customers via a toll-free number and advertise in the state?		

Yes/ No/
Done N/A

- ▶ 112) Does the business maintain a post office box in the state?
- ▶ 113) Does the business maintain a bank or investment account in the state?
- ▶ 114) Does the business have a standard form of written agreement with sales representatives? If so, enclose a copy.
- ▶ 115) Does the business own or maintain tangible personal property or equipment in the state? If yes, please indicate the amount of property in the state in the comment section below.
- ▶ 116) Does the business own, lease or maintain real property in the state?

Comments/explanations

200) Entity activities

Yes/ No/
Done N/A

- ▶ 201) Does the business have non-resident employees who visit the state?
- ▶ 202) Does the business deliver merchandise via company-owned or leased vehicles in the state?
- ▶ 203) Does the business ship its products to a third-party distributor in the state?
- ▶ 204) Has the business used the court system in this state for any reason, even as a defendant?
- ▶ 205) Has the business ever executed contracts in the state?
- ▶ 206) Does the business perform construction contracts in the state?
- ▶ 207) Does the business act as a sub-contractor in the state?
- ▶ 208) Does the business lease (as a lessor) property or equipment (e.g., rail cars, planes or trailers) which may be used in the state?
- ▶ 209) Does the business license intangible property such as patents, trademarks, tradenames, etc., for use in the state?

Yes/ No/
Done N/A

▶ 210) Does the business license software for use in the state?

▶ 211) Does the business make sales of digital content (e.g., music, videos or games) that are downloaded by residents in the state?

▶ 212) Does the company provide a warranty or service contract for products sold to customers in the state?

▶ 213) Does the business investigate, recommend or appoint potential dealers, agents or distributors of its products or services in the state?

▶ 214) Does the business provide computer programming or data processing services in the state?

Comments/explanations

300) Employee/representative activities

Yes/ No/
Done N/A

▶ 301) Does the business have any payroll within the state? If so, please indicate the amount in the comment section below.

▶ 302) Does the business have employees, independent contractors or representatives who perform any of the following activities in the state:

1) Solicit orders with or without the authority to approve

2) Engage in managerial or research activities

3) Secure deposits on sales

4) Make collections on regular or delinquent accounts

5) Repossess items or property of the business

6) Offer technical assistance and training to purchasers of its products before or after the sale

7) Repair, service or replace faulty or damaged goods

8) Install or assemble its products

9) Inspect the installations of the business products by its customers or users of its products

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- 10) Pick up or verify destruction of damaged or returned merchandise from customers or users of the business products
 - 11) Coordinate delivery of merchandise, whether or not special promotions are involved
 - 12) Distribute replacement parts
 - 13) Conduct credit investigations or arrange for credit and financing for purchasers of its products
 - 14) Rectify or assist in rectifying any product, credit, shipping or a similar complaint arising from the purchase or use of its products
 - 15) Service or maintain displays of its products
 - 16) Accept returned merchandise for customers
 - 17) Sell tangible personal property
 - 18) Make "on-the-spot" sales of company products
 - 19) Perform engineering or design functions
 - 20) Check the inventory of customers and/or advise customers or distributors about minimum inventory levels and/or remove obsolete, damaged or outdated goods
 - 21) Handle complaint forms and forward them to the proper location for processing? If yes, provide a copy of the form.
 - 22) Process complaints
 - 23) Investigate, recommend or appoint potential dealers, agents or distributors of the company in the state
 - 24) Arrange financing for customers in the state or through lenders located in the state
 - 25) Conduct training courses, seminars or lectures
 - 26) Attend or participate in trade shows
 - 27) Meet with suppliers of goods and services in the state
 - 28) Establish or maintain a market in the state

Comments/explanations

400) Miscellaneous

Yes/
Done No/
N/A

▶ 401) Has the business previously filed tax returns in the state? If so, please specify the type of tax in the comment section below and if the returns were consolidated or combined (if the business is a member of an affiliated group of corporations).

▶ 402) Does the business have any affiliates who conduct business in the state and does the business perform any services for the company in the state?

▶ 403) Does the business make internet sales through an in-state affiliate or referral agent ("Amazon law")?

▶ 404) Does the business provide or use fulfillment services in the state?

▶ 405) Does the business sell or rent customer lists in the state?

▶ 406) Does the business contract with a third party that is located in the state to print and distribute promotional materials to current and potential customers in and outside the state?

▶ 407) Does the business drop ship orders from the state?

▶ 408) Do employees have samples in the state? If yes, provide the average value of the amount.

▶ 409) Does the business have any goods, property or equipment on loan in the state (e.g., signs, display cases, tools and dies, molds, patents, etc.)?

▶ 410) Does the business reserve the right to an inspection of the customer's facilities or products after delivery?

▶ 411) Does the business provide sales or service manuals to customers, distributors or agents?

▶ 412) Does the business advertise in the state? If so, list the different advertising media used.

▶ 413) Does the business do any localized advertising (cooperative or otherwise) in the state?

▶ 414) Does the business have any employees or representatives who use their in-state home:

1) As a business address

2) To receive business callers

3) To store inventory

4) To maintain books/records

5) To maintain company property

Yes/ No/
Done N/A

- ▶ 415) Does the business have a consigned stock of goods in the state?
- ▶ 416) Does the business operate a mobile store in the state?
- ▶ 417) Does the business hold title to property in the state until the purchase price has been paid?
- ▶ 418) Does the business maintain a security interest/mortgage in property until the contract price or amount borrowed has been paid?
- ▶ 419) Does the business have agents or independent contractors selling products or services in the state and are they forbidden from selling or promoting the competitors' services?
- ▶ 420) Does the business give approval to servicing distributors and dealers within the state where customers can have products serviced or repaired?
- ▶ 421) Does the business receive a management fee from a related or unrelated entity in the state?
- ▶ 422) Does the business own an interest in a pass-through entity that has operations, conducts business or owns real property in the state?
- ▶ 423) Do delivery persons assist with the set up or installation of the business' products?
- ▶ 424) Are products shipped to the state in returnable containers?
- ▶ 425) Did the business engage in multiple transactions with residents in the state in the current or prior calendar year, or does the business plan to in the future? If yes, please indicate the number of transactions in the comment section below.

Please also indicate the amount of gross receipts from the total transactions in the state projected in the current calendar year or that occurred in the prior calendar year.

Comments/explanations

