



HOW FINANCE LEADERS APPLY **AUTOMATION** TO NAVIGATE NEXUS AFTER WAYFAIR

**BECOMING MORE AGILE WHILE ENSURING
COMPLIANCE AND MITIGATING RISK**

SPEAKERS



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NEARLY A YEAR SINCE THE U.S. SUPREME COURT'S *South Dakota v. Wayfair* decision, online sellers are still assessing its impact as the legislative process unfolds. Most U.S. states have enacted, will enact, or have proposed legislation that requires out-of-state online sellers to collect and remit sales and use taxes.

As more states establish or expand thresholds for economic nexus — the standards that look to criteria other than physical presence in evaluating a seller's connection to that state — companies that fail to keep up with the rapid pace of changes to sales and use tax regulations are at greater risk than ever of noncompliance, audits, and fines.

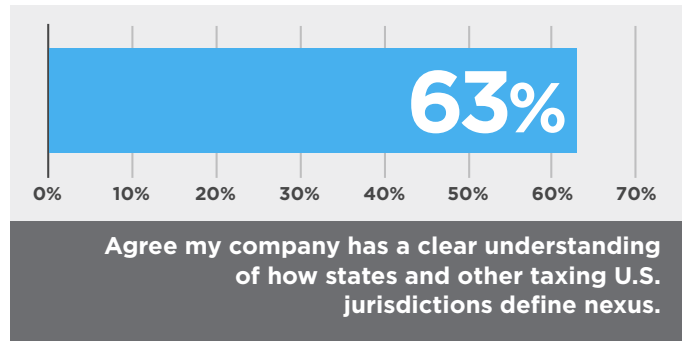
“WE’RE STILL FEELING THE IMPACT, AND WE PROBABLY WILL FOR A LONG TIME, AS STATES CONTINUE TO ADJUST THE ECONOMIC THRESHOLDS BASED ON THEIR BUDGET REQUIREMENTS.”

**—GEORGE SALIS, PRINCIPAL ECONOMIST AND
TAX POLICY ADVISOR, VERTEX, INC.**

Salis spoke during a recent Vertex-sponsored CFO webcast that provided an overview of how finance leaders can apply automation to stay on top of the latest sales and use tax rules.

The webcast kicked off with a discussion of how the U.S. Supreme Court's *South Dakota v. Wayfair* decision brought about the expansion of nexus. "This is really going to significantly change taxation for small and medium enterprises, as well as for large corporations, both domestic and foreign providers and sellers," Salis said.

Although the *Wayfair* decision sparked an expansion of nexus throughout the U.S., it is aligning with trends in the global digital economy, Salis noted. "It is expanding cross-border taxation,



Source: Live webcast audience poll

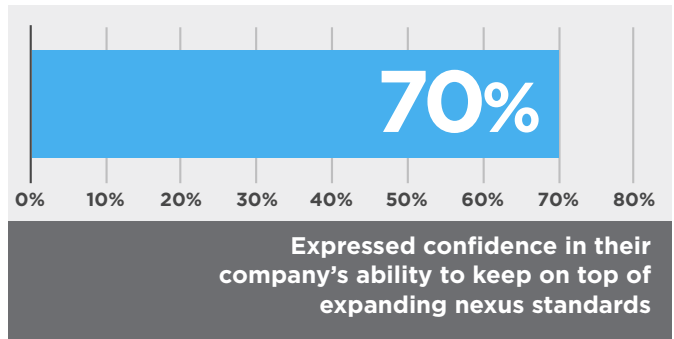
not only from within the United States, but also internationally. There is likely to be an increase of expansion to taxation of services, particularly in digital sales."

Organizations are prepared for the change in nexus rules, as nearly two-thirds (63%) of webcast attendees have a clear understanding of how states and other taxing U.S. jurisdictions define nexus.

The nexus rules are a mixed bag based on state requirements, making it challenging to ensure compliance, according to John Fontanella, Principal, The Bonadio Group. The sales thresholds don't deviate significantly from \$100,000.00, but there are differences in how sales are calculated. "Some states measure the dollar amount using gross sales. A minority use only taxable sales. Some states include services, and some states do not. Some states do not use transaction volume, instead using dollar amounts."

In addition, the measurement period varies between the states. "One state might measure it on the prior calendar year's sales amount. Some have a rolling calculation, looking back at your last 12 months to determine if you hit the *Wayfair* parameter."

“EVERY DAY YOU DO NOT COMPLY, YOUR LIABILITY GOES UP, AND UP, AND UP.”
—JOHN FONTANELLA, PRINCIPAL, THE BONADIO GROUP



Source: Live webcast audience poll

HOW FINANCE LEADERS CAN ASSESS AND MITIGATE RISK

While a majority of the audience was knowledgeable about nexus rules — **70% expressed confidence in their company’s ability to stay abreast of shifting nexus standards** — there is clearly an opportunity to improve and expand their risk awareness.

Failure to comply is one of the more obvious risks of not keeping up with the new sales and use tax regulations. “Every day you do not comply, your liability goes up, and up, and up,” Fontanella said. “And not complying and seeing if you can get into a program with the state that will allow you to eliminate penalties and start fresh also carries risk.”

Risks also arise when companies introduce or expand the availability of subscription-based products and services. “Whenever you have

subscription-based products and services, there will be changes in how transactions and gross revenue are being counted,” according to Salis.

Some suggestions for mitigating risk include:

- **Gather data on gross revenue and/or the number of transactions in states where you sell remotely**
- **Prioritize the states where you have the most economic presence and create a plan to register to collect and remit**
- **Review current processes, control, and data sources to meet new compliance requirements**
- **Create a plan to register, collect, and remit sales tax**
- **Consider the need for voluntary disclosure in states with effective dates that have already passed.**

EQUIPPING FOR THE FUTURE

CFOs need to position their companies to comply not only with current rules, but to be able to accommodate future sales and use tax regulations. It is not enough to automate the process, but find a solution that is appropriate for your business, Salis said. “The best solution is the one that best fits your business model. That is the most important consideration, because small and medium enterprises have a business model that is distinct from large businesses. A small operation comprising of five states is very different than a large operation, such as Amazon, that comprises international and 50-state e-commerce.”

Salis pointed to some of the granular details that are needed to “solve the *Wayfair* pain”: up-to-date rates, jurisdictional tax information changes; sales tax holidays; product tax abilities and exemptions; shipping address; address validations according to zip codes.

You need precise GPS zip codes, for example, because in some states such as Florida the boundaries are frequently changing, which can impact rates. “You need automation that provides exact rate calculations that go from

“YOU NEED AUTOMATION THAT PROVIDES EXACT RATE CALCULATIONS THAT GO FROM COUNTY TO COUNTY, LOCALITY TO LOCALITY, AND STATE TO STATE.”

—GEORGE SALIS, PRINCIPAL ECONOMIST AND TAX POLICY ADVISOR, VERTEX, INC.

county to county, locality to locality, and state to state,” Salis said.

Another critical automation feature: an exemption certificate manager with flexibility to add, subtract, and move different exempted products.

Flexibility to adapt to changing rules is also important when evaluating solutions, Salis concluded. “Now that we have economic presence, public law is subject to change at a future time, and your tax technology needs to keep up with those changes. It’s not just automating the process, it’s choosing the best automation for your own business model to have the best compliance experience possible.”



CONCLUSION

As companies continue to navigate tax changes in the wake of the *Wayfair* decision, automation is essential to meet current and evolving requirements regarding online sales. Waiting to see what happens, or ignoring the compliance issues, can have serious consequences for your business.

Leaders are recognizing the need to automate and update their processes for a seamless transition to the new nexus standards and future changes to sales and use tax regulations.

KEY TAKEAWAYS FROM THIS WEBCAST:

- Prior to *Wayfair*, domestic and foreign vendors selling in U.S. states remotely, and with no physical presence, had no concerns or any need to implement sales tax collection compliance. This has now changed significantly and it will continue to shift much more in the near future. It is important to evaluate your U.S. operations in light of these changes.
- There are consequences for domestic and inbound Foreign Vendors (FV) with significant U.S. sales within the margins of *Wayfair* economic threshold regulation, which will continue to increase and expand over the next several years. Expect state laws for all remote FV and marketplace facilitators to also experience greater compliance administrative and reporting burdens.
- Economic presence will always be required for taxable nexus. What has changed is the type of presence, whether digital, economic and/or business activity, that constitutes a user contact in a particular jurisdiction.