



State of Utah

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Utah State Tax Commission

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Commissioner

BARRY C. CONOVER
Executive Director

June 21, 2018

Revenue and Taxation Interim Committee
Utah Capitol Building
350 North State Street 120 State Capitol
Salt Lake City, Utah 84114

Revenue and Taxation Interim Committee Chairs,

Utah Code §59-12-103.1 requires that the commission shall report to the Revenue and Taxation Interim Committee by electronic means addressing actions taken by the Supreme Court of the United States related to tax collection on remote sales and stating the following:

- 1.the amount of revenue collected at the time of the report; and
- 2.estimated the state sales and use tax rate reduction that would offset the amount of state revenue estimated to be collected for the current fiscal year and the next fiscal year.

On June 21, 2018 the U.S. Supreme Court issued the decision in South Dakota v. Wayfair, Inc. which held:

“. . . the Court concludes that the physical presence rule of *Quill* is unsound and incorrect. The Court’s decisions in *Quill Corp. v. North Dakota*, 504 U. S. 298 (1992), and *National Bellas Hess, Inc. v. Department of Revenue of Ill.*, 386 U. S. 753 (1967), should be, and now are, overruled.

. . . South Dakota’s tax system includes several features that appear designed to prevent discrimination against or undue burdens upon interstate commerce. First, the Act applies a safe harbor to those who transact only limited business in South Dakota. Second, the Act ensures that no obligation to remit the sales tax may be applied retroactively. Third, South Dakota is one of more than 20 States that have adopted the Streamlined Sales and Use Tax Agreement. This system standardizes taxes to reduce administrative and compliance costs: It requires a single, state level tax administration, uniform definitions of products and services, simplified tax rate structures, and other uniform rules. It also provides sellers access to sales tax administration software paid for by the State.

Sellers who choose to use such software are immune from audit liability. *Any remaining claims regarding the application of the Commerce Clause in the absence of Quill and Bellas Hess may be addressed in the first instance on remand.*

The judgment of the Supreme Court of South Dakota is vacated, and the case is remanded for further proceedings not inconsistent with this opinion.” (*emphasis added*)

As of June 21, 2018 the Commission has not collected any revenue as a direct result of the Supreme Court’s decision in South Dakota v. Wayfair, Inc. The Tax Commission intends to work in consultation with the Governor’s Office of Management and Budget and the Office of Legislative Fiscal Analysts to develop a consensus estimate of the state sales and use tax rate reduction that would offset the projected amount of new sales and use tax revenue resulting from the Supreme Court’s decision for the current fiscal year and the next fiscal year.

Upon receipt of this report, Utah Code §59-12-103.1 states that the Revenue and Taxation Interim Committee shall review the actions taken by the Supreme Court and direct the Commission regarding the day on which the commission is required to collect the tax.

Sincerely,



John L. Valentine, Chair

Utah State Tax Commission