

Canadian businesses that sell into the US will need to take into account the decision by the Supreme Court on June 21st which looks to close a US sales tax loophole related to online merchants.

What changed?

Since a 1992 decision by the Supreme Court, individual states were barred from requiring businesses to collect sales tax unless they have a substantial connection to the state (for example, a physical office location in the state). The decision in *South Dakota v. Wayfair Inc.* on June 21st overturned this to allow that states can require collection of sales tax by retailers that do not have a physical presence in the state.

Who does this effect?

Generally, sales tax in the US is a tax on the end consumer. The impact of these changes would not be on wholesalers selling to other companies for resale, but to the retailers selling to end consumers.

Sales tax in the US is also generally only on goods sold and most services are exempt from sales tax collection. The specifics of what items attract sales tax can vary by jurisdiction so applicability of sales tax will depend on the specific facts for your situation.

What does this mean?

It means that each US state can broaden the legislation on who must register and collect sales tax, in ways they have not been able to previously. As an example, a state could now require any retailer who sells into a state, to charge sales tax, regardless of the sellers physical location.

As each state may craft their own rules, it will be important for any seller to understand the rules for each and every state with which they have any business connections in order to understand if there is a sales tax registration and collection requirement.

When does the change happen?

With the ruling, actual changes are likely to happen over time as each state decides whether, and how, to broaden their own individual rules. Though a number of states such as North Dakota and South Dakota have introduced changes, many more are likely to follow in the coming weeks and months so it is important to keep informed for any states in which your company may have business connections.