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TAX AND WEALTH ADVISOR ALERT: SALES TAX COLLECTION IN WISCONSIN STARTS OCTOBER 1ST–ARE YOU READY?

Beginning October 1, 2018, Wisconsin will enforce sales tax collection from out-of-state sellers who sell taxable products and services in Wisconsin even if they have no physical presence in Wisconsin. Previously, Wisconsin could not enforce collection for sellers who sold taxable products and services in Wisconsin but who did not have a physical presence, i.e. through having a store or warehouse in Wisconsin. This allowed many retailers to sell over the Internet without charging sales tax. In theory, Wisconsin residents should have claimed and paid tax on those purchases when they filed their income tax returns each year, but compliance rates by residents (in most states across the country) were abysmal.

Thanks to a recent United States Supreme Court decision, *South Dakota v. Wayfair*, states across the country now can enact laws to enforce collection against sellers whether those sellers have a physical presence in the state or not.

You're likely wondering, is this decision good or bad for my business? If you're a business located in Wisconsin, this decision may help your business. Your competitors may have sold products and services in Wisconsin without charging customers for sales tax, but because you had a physical presence here, you would have charged sales tax. Now, the playing field will be leveled, and both you and your competitor will have to charge sales tax. However, this goes both ways; if you sell products or services in other states where you don't have a physical presence, you may now have to charge sales tax on those sales. You will have to learn the local rules in each state, and charge, collect, and remit sales tax in those states. The administrative burden may seem overwhelming.

The Supreme Court approved an exception for small businesses and businesses doing a small amount of business. The exception applies to those who do not have annual sales of products and services of more than $100,000 in a state or who make less than 200 sales per year in a state. This exception will not apply if the business has a physical presence. States could enact their own exceptions similar to this one discussed by the Court.

While we wait to see how the states will react, we will continue counseling our Wisconsin-based clients to ensure their compliance with out-of-state rules, and we will advise our out-of-

state clients to ensure their compliance with Wisconsin sales tax collection–starting October 1st!