National Association of Certified Service Providers

Input for MTC Wayfair Implementation Work Group

July 8, 2019

Richard,

Thank you for the opportunity to provide feedback to the Uniformity Committee. We believe Certified Service Providers (CSPs) are an integral part of any modern sales tax system, and ever more so post Wayfair. Whether a state is considering adoption of marketplace facilitator legislation or an amendment to their existing marketplace facilitator legislation, it is a good opportunity to consider the benefits of complimentary CSP certification measures. We think it is also important for non-SST states to consider adopting uniformity or simplification measures in order to address the direction of the Court concerning potential remaining burdens on remote commerce. The Uniformity Committee can play an important role in facilitating a review of a number of tax administration/compliance issues and to hopefully develop some best practices that states may wish to adopt.

Some things to consider as you review the role for CSPs in Wayfair implementation include:

1. We are far from and will likely never see the day when sellers only sell via a marketplace. In a post-Wayfair world all those sellers need states to provide accurate and reliable sales tax compliance solutions.
2. CSPs provide software solutions that work in all sales tax states. Certification of CSPs eliminates the compliance burden for sellers and assures accurate collections for the states.
3. Those who oppose the Wayfair decision are actively searching for legal weaknesses they can exploit to slow the adoption of Wayfair style economic nexus. Those groups don’t see the Supreme Court’s comment about SST as dicta, but instead as an opening to bring the next court challenge.
4. The Streamline states believe they are in a good place to withstand those challenges, and this year four non-SST states recently moved to provide CSP services as part of their sales tax collection structure (Pennsylvania, New Mexico, Connecticut, Illinois).
5. The Pennsylvania model, adopted by rule, began July 1 with four authorized CSPs calculating and remitting sales tax from remote sellers for the state. They structured their system so that CSPs effectively become the administrative arm for the state, allowing them to implement quickly and realize revenues sooner without large systems and staff investments.
6. The members of the NACSPs believe state revenue can be enhanced with appropriate CSP provisions in place. SST states and Pennsylvania accomplish this by providing CSP services for free or at a reduced cost for taxpayers. Many taxpayers will choose to remit to all states, regardless of thresholds, to eliminate the challenge of managing where they must collect.
7. Imposing a sales tax collection obligation on marketplace facilitators undoubtedly simplifies sales tax collection for many small sellers and states, but it doesn’t guarantee sales tax collection accuracy. CSPs provide the accuracy solution for marketplaces and for sellers who do not primarily sell on marketplaces or sell through several platforms.
8. Marketplaces too can benefit from CSP certification as many are not prepared to accurately and timely collect sales tax for all states. Some would benefit from being able to use CSPs to make the collections and remittances in their stead.
9. CSPs have successfully experienced the certification processes of 25 states and know how to deal with a variety of implementation issues. These include certification of taxability rules, liability relief provisions, local taxing jurisdiction boundary information, state provided taxability information, registration of remote sellers, simplified administrative requirements for remote sellers, returns and remittances, certification of tax compliance systems, and payment for services.

The National Association of Certified Service Providers (NACSP) has developed model draft legislation that states can use as a starting point in evaluation what a legislative solution could look like for them.

We are also providing a list of administrative issues that should be considered as possible topics of review for the Committee. We understand that states approach these issues in different ways and it will likely not be possible to develop proposals that all states can or will adopt. In some instances, it may be best to formulate multiple proposals for states to consider.

Again, thank you for the opportunity to provide input and we look forward to working with the Committee to improve sales tax administration.

Submitted by Russ Brubaker and Scott Peterson on behalf of NACSP