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**NOTICE TO REMOTE SELLERS REGARDING SALES TAX
AND *SOUTH DAKOTA V WAYFAIR***

August 1, 2018

Revised: August 9, 2018

For decades, U.S. Supreme Court precedent required an out-of-state (or remote) seller to have physical presence in a state before that state could require the seller to collect, pay, or remit sales tax on sales into that state.¹ However, on June 21, 2018, the U.S. Supreme Court overturned those precedents in *South Dakota v Wayfair*, holding that physical presence is no longer required.² Specifically, the Court concluded that South Dakota's law, which mandates the collection and remittance of sales tax if the seller had sales exceeding \$100,000 or 200 or more transactions with South Dakota purchasers in the prior calendar year, is constitutional. In other words, the Court upheld "economic presence" nexus for sales tax.

Consistent with *Wayfair*, effective after September 30, 2018, Treasury will require remote sellers with sales exceeding \$100,000 to – or 200 or more transactions with – Michigan purchasers in the previous calendar year to remit sales tax. Treasury will waive failure to file and deficiency penalties for returns and payments due prior to December 31, 2018, so long as the taxpayer incurring those penalties has nexus solely due to RAB 2018-16 and *Wayfair*; interest will not be waived. Details of this policy change and the nexus standard for remote sellers are published in [Revenue Administrative Bulletin 2018-16](#). Additional information for remote sellers will be posted at www.michigan.gov/remotesellers.

¹ *National Bellas Hess Inc v Dep't of Rev of Ill*, 386 US 753 (1967); *Quill Corp v North Dakota*, 504 US 298 (1992).

² 138 SCt 2080 (2018).