



FAQS FOR NON-COLLECTING RETAILERS (REMOTE SELLERS) FOLLOWING *WAYFAIR* DECISION

In this document, the Rhode Island Division of Taxation presents answers to frequently asked questions (FAQs) for non-collecting retailers (including remote sellers) following last month's United States Supreme Court ruling involving sales and use tax (South Dakota v. Wayfair, Inc., et al.).

1. What is the effect of the *Wayfair* decision?

The United States Supreme Court ruled in *South Dakota v. Wayfair* on June 21, 2018, that a state can require remote sellers (often referred to by Rhode Island and some other states as “non-collecting retailers”) to collect and remit the applicable sales or use tax on sales delivered to locations within the state – regardless of whether the seller has a physical presence in the state.

2. Who is a non-collecting retailer?

A “non-collecting retailer” is any person that meets the definition set forth in Rhode Island General Laws § 44-18.2-2. (Note: Some states refer to a “non-collecting retailer” as a “remote seller”.)

3. Are all non-collecting retailers required to register in Rhode Island?

Rhode Island General Laws § 44-18.2-3 requires all non-collecting retailers who in the previous calendar year made \$100,000 or more in gross revenues from sales in Rhode Island or 200 or more transactions in Rhode Island to either (1) register for a Rhode Island sales tax permit and collect and remit the sales or use tax in Rhode Island or (2) comply with various notice requirements in the statute.

4. When must a non-collecting retailer be registered in Rhode Island?

Whether and when a taxpayer must register depends on whether their business activity falls within Rhode Island General Laws § 44-18.2-3 and whether the taxpayer chooses to register or file notices to its customers. Please review the statute for more detail:

<http://webserver.rilin.state.ri.us/Statutes/TITLE44/44-18.2/44-18.2-3.HTM>.

5. How do non-collecting retailers register to collect and remit sales and use tax for Rhode Island?

Non-collecting retailers (including remote sellers) can register to begin collecting and remitting Rhode Island's sales and use taxes by:

- Completing the Streamlined Sales and Use Tax registration form available at www.sstregister.org;
- Completing Rhode Island's registration form available at http://www.tax.ri.gov/forms/2017/Misc/TX_BAR_092017.pdf; or
- Using a Certified Service Provider (CSP) (more information at <http://www.streamlinedsalestax.org/index.php?page=csp-and-other-providers>).

The screenshot shows the website for the Streamlined Sales Tax Governing Board, Inc. The header includes the organization's name and a Google Custom Search bar. A navigation menu is located below the header, with links for Home, About Us, Public Notices, Library, Registration (SSTRS), Remote Sellers, State Info, Committees, Technology, Certified Service Providers, Online Taxability Matrix and Certificate of Compliance, and FAQs. The main content area is titled "Streamlined Sales Tax Registration System (SSTRS)" and features a sub-menu for "Registration (SSTRS)" with the following options: Register Here, Update Your Registration, Cancel Your Registration, and How to Change Entity Type, Legal Name or Business Identification Number in the SSTRS. A photograph of two people looking at a document is also present.

6. Are non-collecting retailers that are already registered in Rhode Island affected by the *Wayfair* decision?

Non-collecting retailers that were registered prior to the *Wayfair* decision are not impacted by this decision and should continue to collect and remit the applicable sales or use tax as they have in the past in accordance with Rhode Island law.

7. Are non-collecting retailers required to collect and remit tax on all sales made into Rhode Island, including those made over the Internet?

See #3 and #4 above. Rhode Island General Laws § 44-18.2-3 indicates that if a non-collecting retailer is registered to collect tax in Rhode Island, it would be obligated to collect tax on all taxable sales made into Rhode Island, including sales made over the Internet.

(Note: The Internet Tax Freedom Act, originally enacted in October 1998 and made permanent on February 24, 2016, does not prohibit Rhode Island from taxing sales made over the Internet.)

8. How often does Rhode Island require non-collecting retailers to file sales and use tax returns?

A sales and use tax return must be filed by the 20th day of the month following the month for which the return and tax are due.

Alternatively, sales and use tax returns may be filed quarterly if the taxpayer's total average sales or use tax liability during each of the last six months totaled less than \$200 per month. Taxpayers should contact the Division if they plan to file returns quarterly instead of monthly; the Division can provide information on due dates and other details.

9. How do non-collecting retailers file sales and use tax returns in Rhode Island?

Rhode Island sales and use tax returns can be filed in person at the Division or by mail.

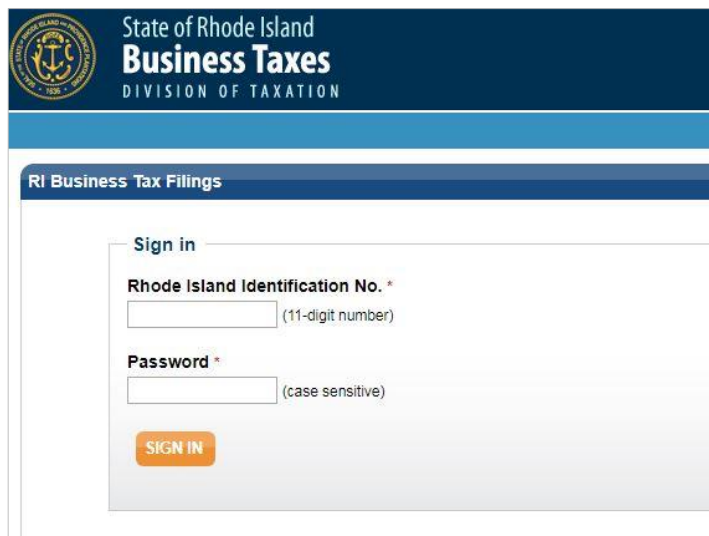
Blank returns are available at

http://www.tax.ri.gov/taxforms/sales_excise/sales_use.php.

Returns may be mailed to: Rhode Island Division of Taxation, One Capitol Hill, Providence, R.I. 02908.

You have the option to file and pay online instead of by check. To do so, you must first sign up for electronic tax filing and payments (see screenshot at right).

If you choose the electronic option, sign up with the Division of Taxation as soon as possible, because it can take three business days for the online account to be established. (If you wait too late to sign up, you could miss the deadline for filing and payment.) For more about filing online: <https://www.ri.gov/taxation/business/index.php>.

The screenshot shows the 'RI Business Tax Filings' page. At the top, there is a dark blue header with the State of Rhode Island seal on the left and the text 'State of Rhode Island Business Taxes DIVISION OF TAXATION' on the right. Below the header is a white box with a blue border containing a sign-in form. The form has a 'Sign in' heading, a 'Rhode Island Identification No. *' field with a '(11-digit number)' hint, a 'Password *' field with a '(case sensitive)' hint, and an orange 'SIGN IN' button.

Also, if you pay electronically on the actual due date, make sure to pay by 4:30 p.m. Eastern time to avoid penalties and interest.

Note: If a non-collecting retailer registered through the Streamlined Sales Tax Registration System and uses a Certified Service Provider (CSP) to perform its sales and use tax functions (i.e., CSP Services), the CSP will file monthly sales and use tax returns on behalf of the non-collecting retailer.

10. Are non-collecting retailers required to collect both the state and local sales and use taxes?

Rhode Island only has a state sales and use tax. There are no local city or town sales and use taxes for which the non-collecting retailer would be responsible.

11. Will non-collecting retailers be subject to audits by the department?

Non-collecting retailers (including remote sellers) may be subject to audit, just like any other person.

12. Does the *Wayfair* decision affect purchasers in Rhode Island?

Purchasers in Rhode Island may see an increased number of non-collecting retailers that begin charging the applicable state sales or use tax. This action will help reduce the number of purchases each individual purchaser is required to track and remit the use tax on directly to Rhode Island. However, if a non-collecting retailer does not charge the

appropriate state tax on a taxable item in Rhode Island, the purchaser is still responsible for reporting and paying the applicable use tax on the purchase price directly to the state. Payment can be made with [Form T-205, "Consumer's Use Tax Return"](#), or with the personal income tax return.

13. What sales and use tax resources are available for non-collecting retailers and other newly registered sellers?

The following resources are available:

- <http://www.tax.ri.gov/Non-collecting%20retailers/index.php>
- <http://www.streamlinedsalestax.org/>

14. Is there any help available?

If a non-collecting retailer registered through the Streamlined Sales Tax Registration System (SSTRS) needs help with calculating the tax, preparing its returns, and remitting the appropriate sales and use taxes in any of the Streamlined member states, Streamlined has contracts with various Certified Service Providers (CSP). These CSPs can handle nearly all of a non-collecting retailer's sales and use tax responsibilities, including:

- Registering the business in all of the states;
- Setting up, installing, and integrating their tax calculation software with the non-collecting retailer's order entry systems to calculate the applicable state and local sales and use taxes at the time of the sale;
- Preparing and filing the sales tax returns for each state;
- Making the required remittances; and
- Responding to any notices the non-collecting retailer receives from the states relating to these taxes.

Best of all, this is done at no charge for those states where the seller is a non-collecting retailer. To learn more about the CSP program, see the FAQs related to Certified Service Providers at www.streamlinedsalestax.org.

15. Has the Rhode Island Division of Taxation posted other information regarding non-collecting retailers (remote sellers)?

On June 27, 2018, the Division of Taxation posted an Advisory titled: “Division reminds remote sellers about registration options”. It is available at <https://go.usa.gov/xUCx4>.

On the same date, the Division posted a Tax Administrator’s Statement, “Rhode Island response to U.S. Supreme Court’s *Wayfair* Decision”, at: <https://go.usa.gov/xUCxZ>.

The Division also has established a section of its website to provide information on non-collecting retailers and related topics: <https://go.usa.gov/xRGwT>.

ABOUT THIS PUBLICATION

This publication is an informal summary of how some of the provisions of Rhode Island tax law are applied. This publication is for general information purposes only; it is not a substitute for Rhode Island General Laws, or for Rhode Island Division of Taxation regulations, rulings, or notices.

If you have questions about Rhode Island sale/use tax, contact the Division's Excise Tax section at (401) 574-8955, or email: Tax.Excise@tax.ri.gov. The Division is open to the public from 8:30 a.m. to 3:30 p.m. business days.