



Sales Tax FAQs

Why is Hawk Labs collecting sales tax?

Hawk Labs will begin collecting sales tax as a result of the Supreme Court ruling in June 2018 of “South Dakota vs Wayfair” case.

What is the “South Dakota versus Wayfair” case?

On June 21st, 2018 the Supreme Court ruled in favor of the state of South Dakota who had sued the on-line retailer, Wayfair, relating to sales tax collection and filing obligations for remote sellers. This ruling paved the way for states to enforce “economic nexus” which means that sellers may be required to collect and remit sales tax in states where they do not have a physical presence such as an office, employees or inventory.

Does this ruling apply to all states?

No, the ruling does not apply to all states, at least not yet. But the ruling does set the precedent for any state to revise their statutes to implement economic nexus and put the obligation for sales tax collection on the seller. At the time of writing, 29 states have established nexus regulations.

When does the legislation go into effect?

The legislation went into effect starting June 2018 for South Dakota and several other states have been implementing new regulations in the second half of 2018 and early 2019. Additional states are working through the legislative process to change their statutes to implement this change in nexus and sales tax collection. Hawk Labs will begin collecting and remitting sales tax for the effected states beginning on March 1, 2019.

Is the sales tax rate the same in all areas?

No, the sales tax rate is determined by the individual state rate and any additional local sales taxes. To complicate the issue, each state has different nexus criteria meaning the seller may be required to collect sales tax in some states but not in others.

How does this ruling effect Hawk Research Laboratories and its customers?

Under the new ruling, ***Hawk Labs is now legally obligated to collect and remit sales tax from its customers in those states where it meets the nexus requirements.*** Beginning January 21, 2019, for customers with ship-to addresses in any of the fourteen effected states, Hawk Labs will begin collecting sales tax and remitting it to the appropriate state jurisdictions. To determine the sales tax rate Hawk is required to collect from you, enter your zip code in the sales tax calculator available on www.hawklabs.com/SDvsWayfair.



What a Use Tax?

A Use Tax is a type of tax levied by numerous state governments. It is essentially the same as a sales tax but is applied not where a product or service was sold but where a merchant bought a product or service and then converted it for its own use, without having paid tax when it was initially purchased. Customers purchasing products from Hawk Labs in states other than Illinois should have been filing Use Tax with their local taxation authorities where necessary.

I have been paying Use Tax. Do I still have to pay it even if Hawk Labs is now collecting sales tax?

No. Hawk Labs will now collect sales tax in those states where they are legally required to do so, customers with ship to addresses in those states do not have to pay use tax on purchases from Hawk Labs.

I currently report and pay my own state Use Tax. How do I continue to pay my sales tax obligation so that Hawk Labs does not collect the sales tax on my behalf?

If a customer's ship to location is in a state where Hawk Labs meets the nexus requirements, then Hawk Labs is legally obligated to collect and submit the sales tax for that state. A customer with a ship to address in that state does not have the option to opt out of sales tax collection by the seller unless they charge sales tax to their end customer and file with their state.

I already charge my customers sales tax on the refinishing services I provide. Does Hawk Labs still collect sales tax even if I have a ship to address in one of the fourteen states where Hawk Labs is legally obligated to collect sales tax?

If a Hawk Labs customer is charging sales tax to their customers on their products and services, then Hawk Labs does not need to collect sales tax as local sales taxes are already being paid by Hawk's customer. Hawk's customers must submit to Hawk Labs a copy of their resale certificate, also known as a tax exemption certificate, which allows Hawk's customers to buy goods without Hawk collecting local sales tax. The refinisher is then solely responsible for submitting state and local tax returns.

I heard that some states don't charge a sales tax on services. Why is Hawk Labs still collecting sales tax?

The state and local sales tax rules may differ between different jurisdictions. Some jurisdictions may charge sales tax only on products but not on services and some may charge sales tax on both. Hawk Labs is legally obligated to collect sales tax in those 14 states currently identified. This may change in the future as nexus regulations are revised and changed by the states.

How do I get a Resale Certificate?

A business owner can typically apply for a resale certificate with their state tax department. Once you receive your tax exemption certificate, the state will start sending you monthly or quarterly statements. The physical location of your business is what determines where you apply for the resale certificate, rather than the state in which you formed the company. Therefore, if you sell your refinishing services in



more than one state, you will need to apply for resale certificates in the all states in which you operate - it does not matter where your business was incorporated.

If I am in a state that is not impacted by the nexus sales tax, do I still need to pay use tax to my state?

Yes. You will still need to file and pay use taxes to your state if Hawk Labs has not collected sales tax. The only exception to paying the use tax is if you collect sales tax from your customer when you perform the refinishing service. You will need to have a resale certificate issued by your state, file and remit the taxes to the state and local authorities per local regulations.

What are the consequences of not paying Use Tax or Sales Tax?

Non-payment of use or sales tax can have serious financial consequences. Tax auditors can calculate or estimate tax payments due going back many years as there is no statute of limitations on audits and no limit on the lookback period. This can amount to a significant back-tax bill plus fees and penalties. Non-payment may result in having a tax lien appear on your business and personal credit report. Both types of credit would be ruined, especially if the lien is on your credit for years. In the worst case, the state can seize seller assets when businesses don't remit the required sales taxes.

Will my other out-of-state suppliers now also be charging me sales tax?

Yes, very likely you will see other suppliers starting to charge state sales tax. If a supplier meets the threshold criteria for economic nexus to collect sales tax in your state, then they are legally obligated to collect and remit sales tax for that state.

I sometimes do jobs in other states and have the Hawk Labs products shipped directly to the job site. Will Hawk Labs collect sales tax on these purchases?

Sales tax collection is based on the Ship To address. If a customer purchases products from Hawk Labs and has them shipped to a job site in another state, Hawk Labs may be required to collect sales tax if they meet the minimum nexus threshold in that state. There may be cases where customers pay no sales tax on shipments to their usual shipment address but will be required to pay sales tax on deliveries to jobsites out of state.

Will purchases made on-line through a website also be subject to sales tax?

Yes. E-commerce will now have to collect sales tax like traditional sellers if they meet the threshold criteria for economic nexus in each state. A seller is legally obligated to collect sales tax if they meet the criteria whether the products are sold through e-commerce or traditional channels.



This is all very confusing. Who can I talk to in my state to get clarification and answers?

Please click on the link to access a list of phone numbers for each state where you can speak to your state's tax representative. <https://blog.taxjar.com/state-sales-tax-phone-numbers/>

Hawk Labs also strongly recommends that you speak with a tax advisor who is familiar with your local regulations and sales tax requirements.

