Halstead™
WHOLESALE JEWELRY SUPPLIES SINCE 1973.

<u>Our Company by the Numbers</u>

- 1 state with physical presence, Arizona. Only 5% of our sales are in-state.
- $6 million in annual gross sales, predominantly wholesale
- 46 years in business, second generation family-owned C-Corp
- 30 employees, 8 of which have more than a high-school education; President with 2 master's degrees, 2 part-time accountants, 1 software developer, 1 network administrator, and 3 marketing employees
  - We do not have a compliance department, a legal team, or a sales tax department.
  - We operate an independent shopping cart and do not use marketplace facilitators. We had no sales tax software prior to the Wayfair ruling.
- 32 states including all 24 SSUTA states – where we are registered and filing interstate sales tax in good faith.
- $154,500 cost of Wayfair compliance implementation in the last 16 months, amounting to $5,150 per employee.
- $2.52 cost per $1 of sales tax collected across all 32 states totaling $61,368 of tax in the last 16 months.
- $61,200 per year in expected costs for sales tax compliance moving forward.
- 9.26% in price increases to our customers in the last year to stay abreast of rising costs, which exceeds our cumulative price increases over the prior 5 years combined.
- Tennessee and Wyoming have threatened us with seizures and legal action due to TaxCloud sales tax errors that took 5 months to resolve. The amounts in questions were less than $100 combined.

<u>Wayfair Impact Fact Sheet</u>

- 0 federal agencies overseeing interstate sales tax and income tax, or the necessary software.
- Local businesses can choose their physical location where they are subject to one sales tax jurisdiction, audit risk from one state, and legal recourse through one state's courts. Remote sellers, simply by accepting sales, can be subject to 12,000 taxing jurisdiction, audit risk from 50 states, and legal threat from 50 separate state court systems. That is not parity.
- Most states' new sales tax nexus laws affect ALL interstate commerce, including manufacturers, wholesalers, and distributors.
- Sales tax compliance expenses and other interstate taxes will likely eliminate our taxable income for the state of Arizona and the federal corporate income tax. Additionally, we may exit the retail market space to reduce exposure, which would result in layoffs. Lost jobs would reduce payroll taxes, both at the state level and the federal level.
- We have experienced consistent problems with TaxCloud, the Certified Service Provider (CSP) sales tax software we "elected" to use, which is certified exclusively by SSUTA, a non-federal entity. They have no accountability because we are financially liable for their errors with all states outside of SSUTA. There is a conflict of interest when getting resolution with SSUTA states since those states finance the software. We have no recourse and really no meaningful choice.
- Since the Wayfair Decision, Hawaii, Massachusetts, Oregon, Pennsylvania, and Texas have passed legislation for the collection of corporate income tax on the basis of economic nexus. To get around P.L. 86-272, they may refer to it as a franchise tax, a business and occupation tax, a gross receipts tax, a doing business tax, or any other type of tax to avoid calling it corporate income tax. But the result is the same, businesses with no physical presence in a state are being taxed by departments of revenue in states where they receive no benefit from the

tax revenue. Equally important, those businesses have no voting presence. The United States fought the Revolutionary War over this issue.

- Nexus laws and tax obligations are changing every month. It is impossible to plan a solid operating budget in this environment.
- Anecdotally, in our network of small businesses, roughly 10% are trying to comply, 30% are not even aware that they are supposed to be collecting sales tax due to this being discussed as an online retail issue, and the remaining 60% are keeping their heads down expecting congress to do something. Extrapolating those numbers out, a frighteningly large number of companies have been out of compliance for over a year now. What happens when those companies come under the scrutiny of multiple departments of revenue?
- How many noncompliant businesses are at risk among your constituents?
- The Streamlined Sales Tax Governing Board has 7,200 businesses registered with them. According to the SBA, there 30,200,000 small businesses in the US. How many businesses are failing to comply? Why are they not complying? Cost, time required, awareness, confusion due to complexity of 12,000 taxing jurisdictions regulations, undue burden? We are overwhelmed by this monumental task.

Summary of Costs to Halstead since the Wayfair Decision through October 2019

$ Spent on Compliance Through July 2019	$ 154,500.10
Sales Tax Collected by Halstead Through July 2019*	$ 61,367.65

We have spent $2.52 for every $1.00 we have collected in Sales Tax

We are a small company of 30 employees, meaning we have spent $5,150.00 per employee to collect sales tax so far

1) **One-Time Upfront Expenses**

Software Integration (RKL Consulting fees to integrate with Sage 500)	$ 9,457.50
Back Taxes to Hawaii (July-September)	$ 797.52
Billing Discrepancies	$ 89.40
Postage for Customer Notices (collecting exemption certificates)	$ 1,875.00
Sales Tax Legal	$ 25,622.00
Total One-Time Expenses	$ 37,841.42

2) **Costs to Date for Halstead**

Labor	$ 114,226.26
TaxCloud Fees**	$ 2,432.42
One-Time Upfront Expenses (from section 1)	$ 37,841.42
Total Expense To Date	$ 154,500.10

3) **Ongoing Monthly Expenses Into the Foreseeable Future**

Labor	$ 5,000.00
TaxCloud Monthly Fees (approximation due to inconsistent monthly billing)	$ 100.00
Ongoing Monthly Expenses	$ 5,100.00

Annualized Monthly Expenses Moving Forward $ 2,040.00

Equal to $1912.5 per employee per year

*Launched sales tax software October 26, 2018. Effective date for most states was Oct. 1, 2018.

**These fees are low after considerable negotiation plus manually filing for states where fees would be very high.

Recommendations for Federal Action

- Co-sponsor H.R. 1933 in the House, S. 2350 in the Senate, or similar legislation and push it to hearing and mark-up in House Judiciary or Senate Finance.
- Creation of a single federal oversight agency to provide small businesses assistance with compliance, oversee software providers, and provide workforce development for accounting and legal expertise on interstate sales tax.
- Individual states or this federal oversight agency must provide notice to all companies that potentially meet threshold in 1 or more tax collecting states. Businesses should not be held liable for anything prior to notice being delivered and signed for. States currently take no responsibility for their lack of outreach. Interstate sales tax and economic nexus are entirely new and therefore require greater effort by Revenue Departments to bring companies into compliance.
- Compel states to pay the direct costs of sales tax software implementation, data calls, filing fees, and ACH remittance fees directly to software companies.
- Liability indemnification for small businesses to protect from software shortcomings and errors. Software companies must be financially responsible for their failures, including back-taxes and penalties that result. A federal oversight agency should be responsible for certifications. Current certification is arranged by the states and the software providers themselves, which is a conflict of interest that fails to ensure accountability.
- Limitations on new nexus definitions for income, doing business, and gross receipts taxes. Reiterate Public Law 86-272. Reintroduce the BATSA bill.
- Protection from multiple state audits within a single year – a business' home state must authorize any and all out-of-state audit attempts. States need to provide basic protections for their constituent small businesses.
- Due process for small businesses to seek relief in their own state courts or via a single federal oversight agency.
- Removal of exempt, nontaxable wholesale and manufacturing sales from threshold definitions. Gross sales definitions sweep companies filing $0 sales tax returns into the compliance net at great cost to both revenue departments and businesses with no revenue gain.
- Progressive nexus threshold based only on **retail** sales to vary dependent on the complexity of the state in question. For example, if Texas has a single local tax rate for remote sellers, then they are able to set the threshold at $100,000 in **retail** sales. If California has 323 different jurisdictions and different rates between jurisdictions, then they must set the threshold at a much higher level because their system is significantly more burdensome. $100,000 in **retail** sales for the 1st jurisdiction and rate, then increase the threshold by $25,000 in **retail** sales for each additional jurisdiction or rate, effectively setting the threshold at $8,150,000. This incentivizes simplification to lower the threshold. Non-retail sales should not be part of the equation in any form whatsoever.

  Formula for setting Retail Sales Threshold
  $100,000 + $25,000 x N = Threshold
  N = the number of tax jurisdictions + the number of tax rates across those jurisdictions

- Simplification of extraordinarily complex network of tax rates. **One state, one rate**. Congress must reconcile penny parity with undue burden. Technology was pitched as the solution to undue burden, but in our experience, it completely fails to deliver on promised automation. One state, one rate simplification would level the playing field and satisfy states' revenue needs without imposing extraordinary burden on small businesses.
- Simplification of patchwork of standards for exemption certificates. States individually determine what standards must be met, meaning we, as a business, must adhere to 45 sets of standards of exemption certificates. Many of our customers resell under event licenses, collecting tax at that time, but pay us tax because their state does not recognize that event license as a source of sales tax exemption. The implication is

that our customers pay us tax, then turn around and charge their customers tax, creating a double taxation issue.

- Sellers who use a marketplace facilitator, by the very fact that they are using that service, should be exempt from sales tax when they are buying the materials that they are selling though the marketplace facilitator. This creates a double taxation scenario in many states as well.

Recommendations for State Level Action

- Engage with AZ remote seller small businesses at the retail, wholesale, distribution, and manufacturing levels to get feedback from constituent companies who have experience implementing this mandate from multiple states. Lawmakers have made quick assumptions about implementation that are not always well-informed.
- Meet the criteria established by the SCOTUS Wayfair ruling that were not included in the first iteration of state nexus legislation in Arizona. Language below is taken straight from page 23 of the majority opinion. In the absence of federal congressional action, this is the law of the land.
    - "South Dakota is one of more than 20 States that have adopted the Streamlined Sales and Use Tax Agreement. This system standardizes taxes to reduce administrative and compliance costs: It requires a single, state level tax administration, uniform definitions of products and services, simplified tax rate structures, and other uniform rules."
    - "It also provides sellers access to sales tax administration software paid for by the State."
    - "Sellers who choose to use such software are immune from audit liability."
- Sales tax nexus threshold definition restricted to retail sales to exclude wholesalers, distributors, and manufacturers. There is no legitimate reason to impose additional burdens on those types of businesses.
- Explicit definition of nexus for AZ income tax assessment on remote sellers that complies with higher de minimis definitions under 1959 federal statute, Public Law 86-272. Clarity is needed.
- Remove the burden of annual TPT license renewal. Arizona is one of very few states with this onerous procedure.
- Notice to all companies both in-state and out-of-state that potentially meet a threshold definition. Noncompliance is most likely high because interstate businesses simply do not know about this new liability.
- Noncompliance among constituent businesses poses significant risk to the state economy.
- Request data from state economists on the number of Arizona businesses with interstate sales (including retail, wholesale, distributors, and manufacturers), revenue tiers for those businesses that would indicate meeting thresholds, states where they have physical presence, compliance rates with interstate tax laws, implementation costs for interstate sales tax administration, and ongoing annual costs for interstate sales tax administration. Everyone is guessing on compliance rates thus far. Data is needed.
- Accountability and tracking of remote seller licensing and sales tax collections compared to the $85 million additional revenue estimate. Actual collections will need to be balanced against costs to the Department of Revenue and other agencies, costs to Arizona businesses, and the decreases in their Arizona business income and payroll taxes due to those new compliance costs and interstate tax liabilities. It is important to distinguish between marketplace facilitator revenues and independent business revenues by business size.
- Appointment of a single state agency funded by new remote seller sales tax collections to provide Arizona small businesses assistance & protection with the following new challenges:
    - Multi-state sales tax compliance education and training for businesses
    - Workforce development for accounting and legal expertise on interstate sales tax & nexus
    - Resource connection with service providers and agencies
    - Grants to cover high up-front software integration costs
    - Oversight and accountability for state certified software providers
    - Legal aid for foreign state overreach
    - AZ notice & review of foreign state assessments & audits. See New Hampshire SB 242.
- Texas is a model state with a uniform tax rate for remote sellers to simplify tax collection H.B. 2153, effective October 1, 2019. One state, one rate would reduce the compliance burden.

Impact From Costs of Implementation, Compliance, and Downsizing

Cost to Halstead					$ (154,500.10)
Cost to Arizona					
Loss in Corporate Income Tax due to Implentation and Compliance Costs					$ (6,952.50)
Loss in Payroll Tax due to Downsizing*					$ (2,486.67)
Gain in Sales Tax					$ -
Loss in Insured Constituents**					$ (27,360.00)
					$ (36,799.18)
Cost to US Treasury					
Loss in Corporate Income Tax due to Implentation and Compliance Costs					$ (33,905.05)
Loss in Payroll Tax due to Downsizing*					$ (33,548.85)
Loss in Insured Constituents**					$ (27,360.00)
					$ (94,813.90)
Employee Cuts*					
		Gross Wages	Insurance	Retirement	Pay Package
Earnings & Benefits		$ 138,148.56	$ 27,360.00	$ 3,367.21	$ 168,875.77
Tax Implications					
		FICA	Medicare	Federal Withholding Tax	Arizona Withholding Tax
Loss in Payroll Taxes		$ 17,130.42	$ 4,006.31	$ 12,412.12	$ 2,486.67
Gain to Extraterritorial Sales Tax Collecting States (Not Arizona)					$ 61,367.65
Average Gain to Those States					$ 2,045.59

Arizona Is Giving Up $36,799.18 In Revenue So That Other States Can Collect An Average Of $2,045.59

The US Treasury Is Giving Up $94,813.90 In Revenue So That States Can Collect An Average Of $2,045.59

What is the Tradeoff Cost to Your State?

*Our staff is already stretched thin and when someone quits to move to another company, we are not replacing them, though we desperately need to. Through attrition, we plan to decrease the size of our staff from 32 to 27. This is directly attributable to the costs associated with Wayfair compliance costs.

**We insure our employees. By reducing our staff, we are in fact reducing the employment pool in Arizona. Those lost insured positions imply that currently insured individuals will be looking to the state and federal government for insurance assistance.