

[Date]

[Client Name]

[Client Address]

[City, State, Zip Code]

## **Re: Tax Opinion Regarding State Sales Tax Nexus for Affiliate Marketing Activities**

Dear [Client Name],

You have requested our opinion regarding whether the activities of [Company Name] (the "Company") through its affiliate marketing program constitute "nexus" for sales and use tax purposes in the state of [State Name].

### **Scope of Review**

In rendering this opinion, we have reviewed the Company's business operations, the specific terms of its affiliate agreements, and the volume of sales generated by affiliates residing in [State Name]. Our analysis is based on the current statutes, regulations, and judicial interpretations in [State Name], including the standards set forth following the U.S. Supreme Court decision in *South Dakota v. Wayfair, Inc.*

### **Factual Summary**

The Company is an online retailer with no physical offices, property, or employees in [State Name]. The Company utilizes third-party affiliates who place links on their websites to the Company's products. These affiliates are compensated on a commission basis for successful referrals.

### **Analysis**

Historically, "Affiliate Nexus" (or "Click-Through Nexus") laws established that a remote seller is deemed to have nexus if they enter into agreements with residents of a state who refer potential customers for a commission, provided certain revenue thresholds are met. Furthermore, "Economic Nexus" laws now establish a sales tax obligation based solely on the volume of sales or number of transactions into the state.

Based on the data provided for the period of [Date] to [Date]:

- The Company's gross revenue from sales into [State Name] was \$[Amount].
- The total number of separate transactions into [State Name] was [Count].
- The total revenue specifically attributed to affiliate referrals was \$[Amount].

### **Opinion**

Based on the foregoing, it is our opinion that:

[Select One: The Company DOES / DOES NOT] meet the threshold for nexus in [State Name].

[Explanation: e.g., Because the Company exceeded the \$[Threshold] economic threshold, it is required to register for, collect, and remit sales tax. / Because the Company's affiliate-driven revenue remained below the state's de minimis threshold, it currently lacks a collection obligation.]

### **Limitations**

This opinion is based on the facts provided and the law as it exists today. Tax laws are subject to frequent change. This letter is intended solely for the use of the Company and may not be relied upon by any other party.

Sincerely,

[Signature]

[Name of Tax Professional/Firm]

[Title]