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Balance sheet

Sales Tax Nexus for Multi-State Filers

By Barb Krout

If a business does any activity outside of their home state, it needs to understand nexus to ensure the proper filing responsibility in the other states. Nexus is the degree of contact between a business and a state that allows a state to impose taxes. Having nexus for income tax purposes does not necessarily mean a taxpayer has nexus for sales tax purposes.

Historically, sales tax was one of those taxes that required a business to have a "substantial or physical presence" in a state before the company was required to collect and remit the sales tax. This presence included the solicitation of sales by employees or contractors within the state, having employees or independent contractors who reside in the state, exhibiting at a trade show in the state (some states allow up to 14 days at a trade show before nexus is established) and using company vehicles for delivery in the state. Today, states are revisiting that traditional notion and expanding to also look at a business affiliation with another business who is the remote seller. The business may not have any connection with a state other than through financial relationships with businesses that facilitate sales with its customers; examples include the internet and mail order sellers (federal law currently exempts internet and mail order sellers from collection responsibility unless they have a physical presence in a state).

Sourcing the revenue in the different states where you do business can be tricky because not all states follow the same rules. Some states, including Ohio, use the cost of performance as the method to calculate the sales tax. This method is used by most states and provides that if the majority of costs are incurred in one state, then all of the revenue generated from the service is sourced at that state. If costs are spread out over multiple states, then each state is allocated an appropriate percentage of the revenue based on the amount of the work performed within the state. The other method is the market based method. This method is based on the state in which the services are delivered to the customer; it does not consider the states where the costs were incurred.

Ohio is a member of the Streamlined Sales Tax Project (SSTP) effective January 1, 2014. SSTP is a multi-state effort to make sales tax laws, rules and systems more uniform among the states. The goal is to make it simpler for those who sell across state lines to collect and remit sales tax to each of those states. Ohio estimates that it loses an estimated $350 million annually on untaxed sales by out-of-state vendors. If you believe you are not compliant with the multi-states nexus rules, contact our office and we will assist you. You may be eligible for a voluntary disclosure program which will help you avoid penalties.

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