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factor presence nexus standard, ownership of various partnership interests, disaster relief efforts, and adoption of the Multistate Tax Commission's statements on ...

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With the continued growth of the sharing economy, millions of Americans are utilizing services offered by companies such as Uber and Airbnb, and states are struggling to apply existing tax laws to transactions for these and other new technologies. This is evidenced in Bloomberg BNA's 2017 Survey of State Tax Departments, which shows only eight states require car sharing companies to collect sales tax

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“Because the sales tax and certain other types of taxes were never written to address these new technology services that are out there, states are really looking at how do we apply not just our sales tax but our other taxes if we're not allowed to apply sales tax to these transactions,” said Brian Kirkell, Principal, RSM US LLP's Washington National Tax Office.

“Continual advances in modern technology create new types of transactions, which current state tax laws do not necessarily address or, if they do, states are inconsistent, creating complexity and risk for businesses especially where entities are operating in multiple states,” said George Farrah, Editorial Director, Bloomberg BNA's Tax & Accounting division. “Our survey provides unique insights into states' positions on these issues, and other gray areas, where states often do not explicitly address certain types of transactions in their laws, lending to the survey's tremendous appeal among tax practitioners.”

In addition to the sharing economy, new portions of the survey this year address the factor presence nexus standard, ownership of various partnership interests, disaster relief efforts, and adoption of the Multistate Tax Commission's statements on federal Pub. L. No. 86-272, which prevents corporate income tax from being imposed on certain out-of-state companies that only solicit orders in state.

Survey findings include:

- Twenty-five states indicated that the owner of a property is responsible for collecting sales tax for short-term accommodations facilitated by third-party sites, like Airbnb, while 15 states said that the third party was responsible for collecting sales tax. Some states, including Colorado, Iowa and North Carolina, noted that the owner and third party are jointly liable for the collection of sales tax.

- Only eight states indicated that they require companies like Uber and Lyft to

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- Nineteen states indicated that they use market-based sourcing to source receipts from cloud computing or Software as a Service (SaaS) transactions, while nine states reported that they use the cost of performance method and four states said that they use a sourcing method other than cost of performance or market-based sourcing.

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Sales Tax • Technology

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