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where they aren't required to collect and remit sales tax. You, and your clients, could be wrong.

Gail Cole • Mar. 19, 2018



You might think your retail or ecommerce clients have no legal obligation in states

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Use tax notice and reporting requirements differ from state to state, but all strive to make it so onerous for a business to not collect that it willl voluntarily tax and report sales instead. Quite a feat, given how complicated sales tax compliance can be.

States stand to gain from use tax notice and reporting requirements no matter what the business decides. If it chooses to comply with the use tax reporting rather than collect and remit sales tax, states will obtain the information they need to more easily enforce use tax compliance on the consumers

Why ask non-collecting sellers to remit consumer use tax information?

State laws require consumers to remit use tax to state tax authorities whenever a seller doesn't collect tax on a taxable transaction at the time of sale. However, use tax compliance is extremely low — fewer than 2 percent of taxpayers report it — and it's difficult for states to enforce. For starters, they'd have to audit everyone to discover who failed to pay sales tax on taxable purchases. It would be a painstaking process, and the costs would outweigh the benefits.

Yet retailers have all that information: They know who purchased what, where, and whether tax was paid. And now they need to share it with states with use tax notice and reporting requirements.

What is non-collecting seller use tax notice and reporting?

These laws typically require non-collecting sellers to notify customers about their potential use tax liability, provide customers with an annual purchase summary, and provide the state with a customer information report. The precise nature of these

requirements varies by state: Some states may ask sellers to do more or provide more

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amount paid, and the item type. Here's a [sample annual purchase summary](#) for Colorado. Most states with these laws require the seller to inform the purchaser that the total amount of their purchases will be shared with the state tax department, and that purchasers are required to pay any tax due on their taxable purchases. Sellers generally aren't responsible for sharing the taxability of the products sold, though they can include that information if they know it. As a result, consumers need to know which of their purchases are taxable and which are exempt to properly remit use tax. The state may also require non-collecting sellers to include instructions for remitting use tax revenue.

Annual customer information report. Finally, non-collecting sellers are required to submit an annual customer information report to the state department of revenue by a certain date. At a minimum, these must contain each purchaser's name, billing and shipping addresses, and the total annual dollar amount of their purchases in the state. Some states may require additional information. To get a clearer idea of what a state could require, take a look at [Colorado's use tax reporting instructions](#).

Which states have use tax reporting requirements for non-collecting businesses?

To date, use tax notice and reporting laws have been enacted in the following states (listed with effective date):

- [Alabama](#) (July 1, 2017)
- [Colorado](#) (July 1, 2017)
- [Louisiana](#) (July 1, 2017)
- [Oklahoma](#) (November 1, 2016)
- [Pennsylvania](#) (March 1, 2018)
- [Puerto Rico](#) (July 1, 2017)
- [Rhode Island](#) (August 17, 2017)

- [Vermont](#) (July 1, 2017)

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They are. The first use tax notice and reporting requirements were established in 2010 in Colorado. These were challenged and did not take effect until after the Supreme Court of the United States [let them stand](#). Other states have merely followed Colorado's lead.

What now?

Before your business clients decide to comply with use tax notice and reporting requirements — or not — they should have a clear understanding of what these laws are and what impact they'll have on their business. Check out this detailed report about non-collecting seller use tax reporting to help educate you.

<http://bit.ly/2ouc6ES>.

Sales Tax

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