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which is a lot of work. Instead, many companies take the risk that they won't get caught, while others assume they are exempt from sales tax collection because they are ...

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For every taxable transaction making its way through the marketplace, somebody should be collecting sales tax.

Your clients that have businesses selling into the resale, wholesale or exempt entity

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caught, while others assume they are exempt from sales tax collection because they are selling to a reseller or non-taxable entity instead of the end-user.

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How can companies ensure, without documentation, that they are dealing with a licensed reseller or tax-exempt entity? Without documented proof, the company should be taxing the transaction and collecting. Yet, few companies operate in this fashion if they perceive they are pure resellers, wholesalers or selling to exempt customers.

How Did We Get Here?

The rule of thumb here is vendors should either collect the tax or get the document. It is only with documentation in hand that companies can demonstrate a transaction is tax-exempt, relieving them of collection duties.

However, in this era of moving pieces, even that simple directive is not easy to manage. At the root of the problem is a complicated patchwork of nexus rules and sales tax regimes that vary from state to state, leading to uncollected sales taxes.

Securing sales tax exemptions is far from tidy. For example, not every state exempts the same thing for the same entity and does not universally accept exemptions or resale certificates issued by other states. Wholesalers can't rely on their vendors to collect sales tax and the [uniform sales and use tax exemption certificate](#), a product of the Multistate Tax Commission, only covers about 24 states and may be insufficient proof in non-participating states. This means an exemption certificate secured by an entity in one state may not satisfy requirements for a sale into another state.

Responsibility for collecting sales tax falls on various entities throughout a

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goods or services are now much more likely to be required to collect sales and use tax in these states. This summer's U.S. Supreme Court decision to uphold South Dakota's economic nexus law in *South Dakota v. Wayfair* makes all remote sellers potentially subject to collecting sales tax.

The threshold for requiring an out-of-state seller to collect and remit sales and use tax is "substantial nexus" within the state. With no universal, clear and complete definition of substantial nexus, every party in the food chain has work to do to see if they need to collect sales tax or get an exemption.

Which Certificate, When?

Click-through nexus, use of affiliates and agents, negotiated direct pay permits, unsigned and expired certificates, and licensing can all trip up parties to the transaction and create sales tax risk along the way. A business with nexus in Virginia selling to a third party that holds an exemption certificate in Colorado might not be able to validly exempt the sale in Virginia.

Then, there is the question of which certificate to secure. There are three primary categories:

1. Exemption certificates used by wholesalers selling to non-profits and tax-exempt entities.
2. Resale certificates issued by buyers that are not selling to end-users; these are also available through the [Multistate Tax Commission](#).
3. Direct pay permits negotiated between sellers and the state.

Getting it Right

Businesses and their providers can get a handle on sales tax exemptions by taking stock of their sales tax footprint and expansion activities in advance of deciding

whether to collect the tax or get the doc.

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other exemption/resale certificate issues so you don't get caught under audit.

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Judy Vorndran leads the state and local tax (SALT) practice at [TaxOps](#), helping clients navigate the morass of SALT issues with the goal of making it less “Taxing!” She is a recognized thought leader and award-winning instructor to clients and tax professionals with a steady focus on finding ways to simplify complex SALT issues and areas of state tax controversy. Judy monitors the legislative, judicial and regulatory tax landscape to assess the tax impact on businesses, and has helped successfully change the laws in a number of states and jurisdictions. Previously, Judy was the first national tax resource at a Top 100 CPA Firm, where she launched the firm’s SALT practice. She also spent 14 years exclusively focusing on SALT at PwC and Deloitte, extensively traveling the country helping clients implement best practices and reduce SALT risks. Contact her at jvorndran@taxops.com.

Sales Tax

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