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themselves post-Wayfair. When a company or organization ("seller") determines it is in its best interest to begin complying with a state's sales tax rules, tax experts and ...

Shane Ratigan • Jan. 07, 2019



New sales tax obligations for many companies and organizations are revealing themselves post-Wayfair. When a company or organization ("seller") determines it is in its best interest to begin complying with a state's sales tax rules, tax experts and novices tend to employ short hand to describe what comes next: it's time to get "registered for sales tax."

When a seller registers for sales tax in a state or locality, the company is obtaining

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invoke obligations unrelated to sales tax collection, such as the identification of a place of service within the state. It may even require entity formation information.

Given this scenario, what do you need to know to help guide your clients?

Information. Be prepared for fairly predictable information requests that will likely include the legal business name, business address, federal EIN, state business license number, entity type and ownership information. Keep in mind that the statements and facts submitted in an application are subject to criminal or civil liability for perjury if those statements or facts are false or misleading.

Declarations. Sales tax permit registration applications often require the signor to declare certain facts regarding a seller's operations. For example, information on estimated in-state sales volumes helps a state set a seller's initial filing frequency and may provide the state some basis on which to predict future reported sales volumes.

One common required declaration requests the date on which a business began operations in a given state. Usually posed in terms such as "the date your company started doing business in our state," these questions relate to the moment a seller triggered nexus for sales tax purposes. Recall that in the sales tax world, nexus is the connection between a state and a seller that allows the state to legally compel the seller to comply with its sales tax rules to calculate and collect taxes, or maintain proper exemption documentation.

Before *Wayfair*, a seller's physical presence in a given state triggered a seller's obligation to comply with the sales tax rules. Today, a physical presence still triggers nexus post-*Wayfair*, but so does meeting a minimum volume of sales in a growing number of states. When a state sales tax permit application asks when a seller began doing business in a state, the question might be more appropriately phrased as "when did your company first trigger sales tax nexus in our state?"

Suffice it to say that this is a very important piece of data that can lead to very serious

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Streamlined Sales Tax Project. The Streamlined Sales Tax Project (SSTP) is a voluntary organization of several state revenue authorities. One important function provided by the SSTP is a central registration portal for 23 member states. The one-stop method can be a real time-saver, but note that the SSTP registration process simultaneously registers a seller in all of the SSTP states. The SSTP registration process will not re-register a seller in states it is already registered for, but a seller cannot pick and choose whether to register in SSTP states where it is not currently registered.

Takeaway for Sellers

“Register for sales tax.” This simple sounding step should not be taken lightly or without some forethought. The act of registering for sales tax collection and reporting obligates a registrant to comply with sales tax rules in a given state or locality, indefinitely.

Identifying your business or your client's business via a sales tax permit registration is a critically important moment that incurs serious obligations, risks and lost opportunities for mitigating past period exposure. On the other hand, a sales tax registration is obviously required before compliance can occur. In addition, a registration can provide protections for registrants in limiting look-back periods for future audits and the ability to issue exemption documentation for exempt purchases.

You and your clients should carefully assess the desire, need and proper approach in registering for permission to collect and remit sales taxes. Consider talking with someone who has sales tax experience before sealing that envelope or hitting “send” on a registration document. A sales tax permit registration is one arrow that is almost impossible to put back in the quiver.

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