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Gail Cole • Dec. 02, 2019



Because sales tax rates and rules vary by location, it's impossible to determine which rates and rules apply to a sale without knowing how the sale is sourced.

States can source sales by the location of the seller (the origin of the sale, aka origin sourcing), or the location where the consumer receives the item or service (the destination of the sale, aka destination sourcing). Most states use destination sourcing.

The handful of origin-sourcing states are Alabama, Illinois, Louisiana, New Mexico

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business. Both destination- and origin-sourcing rules deliver the same rate — the one in effect at the location of the store where the customer receives the product.

However, destination sourcing can be a bear for businesses that ship products to customers nationwide and have an obligation to collect in multiple states. There are more than 12,000 different local sales tax jurisdictions in the United States, and each has a distinct rate and reporting code. Some even have their own product taxability rules, but that's [a story for a different time](#).

Origin-sourcing states pose a different sort of problem.

Although in-store over-the-counter sales are taxed at the rate in effect at the store, the rate for delivery sales may be different. And therein lies the problem. Even in origin-sourcing states, sellers that deliver to different locations in the state and meet the definition of being “engaged in business” in those districts must collect the rate in effect at the point of delivery. The same is true for services.

Businesses unaccustomed to delivering items for consumers may not realize they need to charge the rate for the delivery address and therefore may collect the wrong rate. If they report the sale as occurring in their jurisdiction (i.e., the brick-and-mortar store where the order was taken), they'll attribute it to the wrong jurisdiction.

Similar issues arise when services are sold — and performed in — different jurisdictions. This is often the case with installation, maintenance, and repair services, which usually need to be performed on-site, perhaps in a jurisdiction other than the home base of the service provider.

Sellers accustomed to making deliveries or providing services in multiple jurisdictions probably have this down, but since no one is infallible, mistakes happen. Furthermore, businesses and jurisdictions sometimes disagree about the

source of the sale when businesses with multiple locations take internet, mail, or

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The measure would allow a municipality or county that receives a disbursement of tax proceeds from the Illinois Department of Revenue to hire a third party to “review financial information related to the disbursement.” The goal? Ensure the municipality or county “receives the correct disbursement.”

A handful of businesses do this kind of work: Contract with a local government to ensure it (the locality) is getting the tax revenue it's due. Currently, in Illinois at least, these businesses don't have access to taxpayer tax returns or records. If SB 1881 becomes law, they will.

To safeguard the information, the third parties would have to sign confidentiality agreements, swear to not share the information or use it for personal gain, promise to destroy it within a certain time frame, and so forth. SB 1881 devotes a lot of ink to what such businesses can and can't do with taxpayer information.

Any findings would have to be presented to the municipality or county annually (keeping taxpayer information confidential, of course). Although frankly, just what they'd present is unclear, because “no claim of specific tax savings or revenue generation may be made in the summary.” It would be “based only on unaudited financial information.”

What could third parties do?

Third-party audit firms would review information provided to the municipality or county from the Illinois Department of Revenue, to ensure the department properly allocated and distributed the local sales tax revenue it received from taxpayers.

In the event the third-party auditor finds a potential underpayment, it would alert the Department of Revenue, which would then investigate to determine whether an error had been made (i.e., if the third-party reviewer uncovered a valid case). If so,

the Department of Revenue would be able to conduct a “limited-scope audit” on the

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taxpayers' books, records, or actual returns. And neither could audit, assess tax against, or engage in collection actions against any taxpayer — at least not with respect to taxes administered by the department.

A local government would not be permitted to share any financial information received with another local government or third party.

If Illinois Governor JB Pritzker signs SB 1881, the state's Department of Revenue would begin accepting applications from third parties no later than January 1, 2021. The bill is the “local government revenue recapture certified audit pilot program.”

The measure would also establish a pilot program — “a partnership between taxpayers, Illinois certified accountants, and the Department” — to provide guidance to taxpayers and enhance voluntary compliance.

It would establish a five-year certified audit program to address the underpayment of local occupation and use taxes, beginning January 1, 2021.

For the most part, taxpayers are trying to do their best; they're not trying to scam the system and pay less sales tax. But some local taxes are hard to get right, and so mistakes happen.

Whether SB 1881 significantly reduces misreported revenue remains to be seen. In the meantime, businesses should strive to get sales tax right.

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Gail Cole began researching and writing about sales tax for [Avalara](#) in 2012 and has been fascinated with it ever since. She has a penchant for uncovering unusual tax facts, and endeavors to make complex sales tax laws more digestible for both experts and laypeople.

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