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Gail Cole • Feb. 13, 2020

Many businesses share the goal of increasing sales and expanding into new markets. But, now that most states tax sales by out-of-state sellers, such growth often brings new sales tax collection obligations.

Taxing remote sales is relatively new. Since the first states established their sales tax systems in the 1930s, states have had limited taxing authority over businesses based in other states. Indeed, the Supreme Court of the United States ruled more than once during the 20th century (notably in National Bellas Hess, Inc. v. Department of Revenue of the State of Illinois and Quill Corp. v. North Dakota) that states could not require a business to collect and remit sales tax unless the business had a physical

Today, approximately 18 months after the seminal ruling, 43 states and Washington, D.C. have economic nexus laws or rules requiring out-of-state businesses with a certain amount of sales in the state to register their business, collect and remit sales tax, and file returns. Florida and Missouri will likely soon follow suit.

The five remaining states — Alaska, Delaware, Montana, New Hampshire, and Oregon — don't have a statewide sales tax. However, local governments in Alaska are interested in requiring remote retailers to collect and remit their local sales taxes.

All this is to say that if you're in the business of making sales, you could already be liable for sales tax in states where you make sales but aren't collecting. And if your business is growing, your collection obligations could grow, too.

The importance of economic nexus thresholds

Except in Kansas, all state economic nexus laws or rules provide an exception for small sellers. To that end they've all established an economic nexus threshold: Sell below the threshold and you don't have economic nexus; sell above it and you probably do.

Thresholds vary from state to state and include:

- $100,000 in sales (e.g., Massachusetts and North Dakota)
- $100,000 in sales *and* 200 transactions (e.g., Connecticut)
- $100,000 in sales *or* 200 transactions (e.g., South Dakota and Wisconsin)
- $150,000 in sales (e.g., Arizona)
- $250,000 in sales (e.g., Alabama)
- $500,000 in sales (e.g., California and Texas)

Keep in mind that states include different transactions in their thresholds; electronically delivered products, digital goods, exempt sales, or services should be included when calculating the threshold in some states but not others. Some states

The importance of tracking your sales

If you haven’t crossed an economic nexus threshold but do make sales into states where you don’t collect, it’s important to monitor your sales in those states closely. In some states, you need to register with the tax authority and start collecting sales tax as soon as you cross the threshold. As in, tax must be applied to the very next sale.

It appears you must register with the tax department before the *next invoice* after crossing the threshold in the following states:

- Arkansas
- California
- District of Columbia
- Georgia
- Idaho
- Indiana
- Maine
- Mississippi
- South Dakota
- Utah
- Wyoming

In Ohio, you must register the day after you cross the threshold. The remaining states give you a bit more time: 30, 60, or 90 days after crossing the threshold, by the next quarter, or by January 1 of the following year.

Do the above states really expect businesses to register so quickly after they cross their economic nexus threshold? What will they do if you don’t?

I don’t know. I do know that these policies seem to suggest that states expect

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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