

SALES TAX AND YOUR ECOMMERCE BUSINESS

Ecommerce has transitioned into a catch all term used to describe a business model that highlights the selling of tangible goods/products over the internet. This type of model can vary dramatically from one business to the next, but the consistent theme is utilizing the internet to reach and sell to customers that historically would have been unreachable. The internet and ecommerce have provided businesses with a previously untapped resource. Physical location is no longer a constraint on business growth.

As you utilize the internet and technology to promote growth, inevitably other areas of responsibility grow as well. One very important area of responsibility that grows almost as exponentially as your ecommerce revenue is your sales tax collection obligation. Historically (prior to June 2018), sales tax nexus was determined in a large part by physical presence. As a seller, you would have been required to collect and remit sales tax only in the states where you had a physical presence (property or payroll). Sales tax was not your responsibility for the sales shipped into a state where you lacked physical presence.

Surprisingly, in June 2018, the U.S. Supreme Court handed down a much-anticipated decision in the South Dakota v. Wayfair case. The court ruled that if a taxpayer met the state's definition of economic nexus, the taxpayer had sufficient contact and/or connection with that state to create substantial nexus and therefore was required to collect sales tax on sales shipped into the state.

The effects of this decision stretch much further than large online retailers. Small businesses across the country found themselves scrambling to evaluate their "economic nexus footprint". Many of them didn't understand nexus much less have the tools and expertise to evaluate their own.

KNOW YOUR BUSINESS

Business models operating within the Ecommerce space can have dramatically different sales tax obligations. It is important not only to fully understand what your business does but how it does it. Below is small (non-exhaustive) but important list of questions that must be answered:

- What do I sell (multiple product types or industries)
- How do I sell (website, a marketplace, catalog, phone)
- Who do I sell (retail, wholesale, taxable, exempt)
- What technology is in place (accounting, ERP, tax engine)
- Shipping details (FOB origin/destination)

The answer to the above questions will directly affect the sales tax processes of your ecommerce business. Products in certain industries may be taxable across the board so the focus may be on rates, collections, and filings. Other industries may weigh heavier on exemptions so there may be more focus on exemption certificate management. If you sell through a marketplace, then you may not have a collection responsibility whatsoever. However, you could sell through that marketplace and still be required to collect tax on your sales through that marketplace, your own website, and phone/catalog orders. The devil is truly in the details.

WRAP UP:

Ecommerce business models will inevitably have growing sales tax obligations. Almost all states that administer a state level sales tax have some version of economic nexus requirements for remote retailers. As the business grows, so too will the sales tax requirements. It is important to remember that there is more than one right way to manage sales tax compliance. The key is not to avoid those obligations, but to address and act accordingly.

The days of turning the other sales tax cheek are over. Whether you keep in-house, outsource, or a combination, it is clear that sales tax for the ecommerce world is new phenomenon that is here to stay. Taxing jurisdictions will continue to search for new innovative ways to raise revenue and the compliance responsibilities for those will ultimately always fall on the business.