Avalara

7 Reasons to Pay Attention to Consumer's Use Tax in 2015

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Agenda

1. Sales vs. Use Tax
2. 7 Reasons You Should Pay Attention
    1. It is always part of an audit
    2. High risk industries
    3. High risk activities
    4. Other use tax triggers
    5. Numerous transaction streams are impacted
    6. The rules change frequently
    7. Unusual areas of use tax non-compliance

Sales vs. Use. Tax

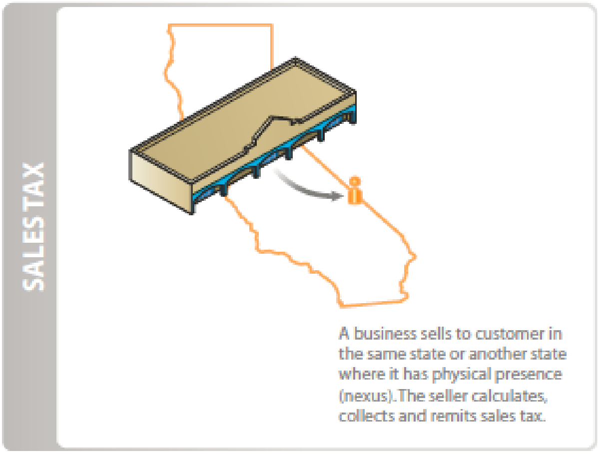
- Not all sales tax is created equal
- When a seller remits, it is sales tax or it could be the consumer's use tax in some states and in some instances
- When a user remits, it is use tax

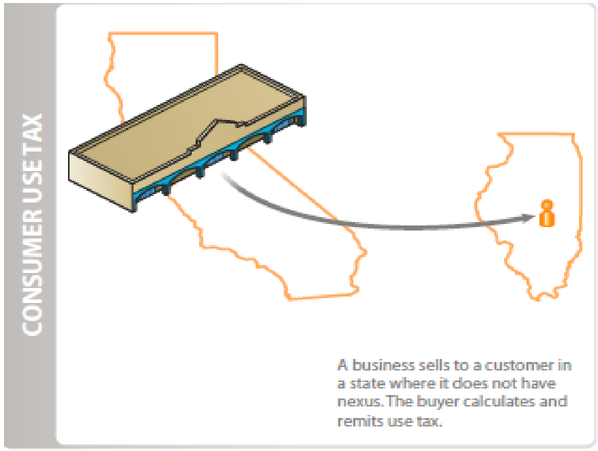
- General Rule: if sales tax is charged by a seller (e.g. retailer), no use tax is due, because it was remitted by retailer. If no sales tax was charged by the retailer, customer must review and accrue appropriate use tax

Typical Consumer Use Tax Scenario

Sales Tax vs. Consumer Use Tax

Sales tax calculation and collection is the responsibility of the seller, and occurs at the time of the transaction. Consumer use tax is the responsibility of the buyer and is calculated after the transaction (e.g., monthly or quarterly).





Purchasing

- Example:
  - ABC Corp. of Maine purchases a printer from XYZ Distributors of New Hampshire (a no-sales tax state)
  - XYZ Distributors does not have a physical presence (Nexus) in Maine, is not registered as a business in Maine, and does not collect the 5.5% Maine sales tax rate on the invoice
  - ABC Corp. owes the Maine 5.5% use tax (as the consumer) on their purchase of the printer
  - ABC Corp. must accrue the use tax and remit according to Maine’s tax remittance schedule

Reason #1: It will show up during an audit

- One of the most prominent issues in sales tax audits
- Sales tax audits are often not about sales, but instead about your purchases
- The only “sales” an auditor will likely look at are those you didn’t collect tax on
- The auditor will look at all your purchases
- The person responsible for tax in your company may not the same person who sees the purchase invoices

Reason #2: High Risk Industries

- Manufacturing
- Construction
- Retail
- Hospitality
- Distribution
- Service/Repair
- Medical/Dental

Reason #3: High risk activities

- Operating multiple business locations
- Hiring a remote sales force
- Registering in multiple states
- Customer giveaways and promotional materials

Reason #4: Other use tax triggers

- Capital fixed assets
- Journal entries and poor record keeping
- Withdrawing from inventory
- Online purchases
- PPT (e.g., furniture)

Use Tax Triggers

- Purchasing/Procurement Process
  - Non-exempt buyer purchases item for internal use from out-of-state vendor (no sales tax on invoice)
  - Buyer has Direct Pay Permit
  - The sales tax rate charged was wrong
- Inventory Management Process
  - Inventory transfers between locations
  - Removing products from inventory
- Sales Process
  - Promotional giveaways
  - Products and services that do not become part of a manufacturer’s final product and not passed on to customer

Reason #5: Numerous transaction streams are impacted

- Nearly every part of your business will be examined:
  - Purchasing
  - Accounts payable
  - Intercompany transfers
  - Inventory management
  - Acquisitions

Reason #6: Complex rules

- Rules change frequently
- Vary from state to state, and sometimes from jurisdiction to jurisdiction
- You change suppliers change or your supplier’s nexus changes

Reason #7: Areas of use tax non-compliance

- Employee purchases
- You were charged sales tax but it was the wrong rate
- You were charged sales tax, but not the right state’s
- You buy bundled transactions of taxable and exempt products and services
- You comingle your personal purchases with your business purchases
- Your Legislature or Department of Revenue change the rules.

What should you do:

- Review all your purchases
- Keep careful records and report use tax
- Regularly examine all fixed asset acquisitions for proper tax paid
- Review employee expense accounts for proper tax
- Review all year-end journal entries and reconcile yearly use tax returns
- Include use tax in the analysis when acquiring other businesses