

Sales Tax & Business License Nexus – Unwinding the Complex Rules

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Today's Presenters



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To Get Us Started...

Poll Question #1:

✓ ***How many states does your company do business in?***

- ◆ 1 – 15
- ◆ 16 - 40
- ◆ You name it, we're probably there

Poll Question #2:

✓ ***Are you confident that you are licensed and registered properly?***

- ◆ Not very confident, we've had some problems
- ◆ I think we're OK, but there are some locations I question
- ◆ We've got this covered – call me if you have questions!



Today's Discussion

- **Nexus Definitions – Examining for clarity**
- **Sales Tax and Licensing Nexus – 1st Cousins perhaps?**
- **Nexus Interpretations – Some core essentials**
- **Initial Registration & Filing – Getting it right the first time**
- **Consequences – What if you fail to collect, report, & renew?**
- **Remediation Steps – Systematically resolving issues**
- **Questions and Answers**



Nexus Definitions and Table Stakes

- ✓ **Income, Property, Sales & Use, BL “Definitions”**
 - ❑ **Income tax nexus** – is income derived from sources within the state or are employees engaged in more than solicitation?
 - ❑ **Property tax nexus** – where is property located, and if moveable, where was it located at a given time?
 - ❑ **Sales tax nexus** – where is the company’s physical presence?
 - Amazon enlightenment
 - ❑ **Business license nexus** – where is the business operating?
 - Retail HVAC with service vehicles
- ✓ **Company default - income tax nexus = sales tax nexus?**
- ✓ **Sales tax nexus and BL nexus are closer “relatives”**
- ✓ **BL nexus implies Sales Tax nexus, but not in reverse**



Examples of Nexus & Confusing Interpretation



- ✓ *3rd party agents referring business and/or performing installations*
- ✓ *Selling handsets and telecom services – nexus for both?*
- ✓ **Contractors vs. Subcontractors – which has the licensing requirement?**
- ✓ **New products or services released which alter the license mix**



Delivery Method of Your Product/Service May Impact Your Sales Tax Nexus



- ✓ **Key issues in sales tax**
 - ❑ *Delivery by common carrier vs. company vehicle*
 - ❑ *Use of local companies to install or provide service*
 - ❑ *Telecommunications service*
- ✓ **Fitness company ships w/ common carrier but has “coaches” who refer business to them**



The Manner in Which You Conduct Your Business Will Impact Your Licensing “Nexus”

✓ *Key issues with licenses*

- ❑ What are you doing in the municipality?
- ❑ Have a location, line of biz, employees, inventory, conduct selling activity?

✓ *Some relevant examples*

- ❑ Communications company offering new products and services.
- ❑ What license do you need – can one local license fulfill your responsibility across the state?





Register Properly and Avoid Future Risk

- ✓ **Sales tax registration requirements**
 - ✓ Initial registration
 - ✓ Renew religiously
 - ✓ “When did you first have taxable sales in the state?”
- ✓ **Business license registration requirements**
 - ✓ Research your new locations and audit your existing
 - ✓ Proactively renew
 - ✓ “When did you start business activity”
- ✓ **Easy for states/locals to share info and enforce**



Failure to Properly Determine Nexus Leads to a Failure to Collect and Remit Sales Tax

- ✓ ***Consequence can be a shift of responsibility***
 - ❑ *Sales tax is designed to be a financial obligation of the consumer*
 - ❑ *Ignoring sales tax responsibilities shifts financial burden to the seller*
- ✓ ***Determine your level of exposure and then determine your next steps***
 - ❑ *Prospective compliance*
 - ❑ *Anonymous jurisdiction contact*
 - ❑ *Amnesty availability*
 - ❑ *Voluntary disclosure*
 - ❑ *Legal representation*



Remediation & Getting Out of Hot Water with a Sales Tax Failure

- ✓ ***“Here comes the sales/use tax auditor” – now what?***
 - ❑ ***Quantify and fully understand the level of risk***
 - ❑ ***Get the proper representation right away***
 - ❑ ***Determine the appropriate remediation strategy***
 - ***Voluntary Disclosure or Amnesty***
 - ***Negotiation or Court***
- ✓ ***A story to remember – auditing gone extreme***



Failure to Properly Determine Business License Requirements... What's the Big Deal?

- ✓ ***“Hard cost” consequences can be significant***
 - ❑ *GRT or Privilege Tax can build material financial risk*
 - ❑ *Penalties, interest, fines, and location closures impact revenue and profits*
 - ❑ *Loss of “grandfathered” provisions or tax breaks*
- ✓ ***“Soft cost” consequences can be equally as damaging***
 - ❑ *Published announcement of offenders*
 - ❑ *Posted notices on establishment*
 - ❑ *Negative PR in the community and on the web*
- ✓ ***React quickly to the municipality warnings***
 - ❑ *Work to quickly manage or control the remedy*
 - ❑ *Avoid going to court and the accompanying reputation blemish*



Remediation & Getting Out of Hot Water for Business Licenses and Permits

- ✓ ***“Local authorities are sniffing around” – now what?***
 - ❑ *Identify what you need to be fully compliant*
 - ❑ *Get existing licenses & permits properly displayed*
 - ❑ *Coordinate your defense plan across municipalities*
- ✓ ***Increasing rate of identification and enforcement***
 - ❑ *Better off proactively resolving vs. being caught*
 - ❑ *Get the proper representation right away*
 - ❑ *Determine appropriate remediation strategy & get going*



Questions and Answers

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