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Sales Tax Checklist: What Software and Tech Companies Should Consider

Introduction

Sales and use tax generally applies to the sale or use of tangible personal property and certain services. Since software, and especially Software-as-a-Service, may not be delivered in a tangible form, many technology and software companies have considered themselves exempt from sales and use tax. But this is not always the case. In fact, many states impose sales and use tax on services provided by the technology industry.

Utilize this comprehensive checklist as a way to give your business a check up on how you're managing your sales tax obligations or as a guide to how to get started in the right direction towards compliance.

First step is to evaluate your current situation:

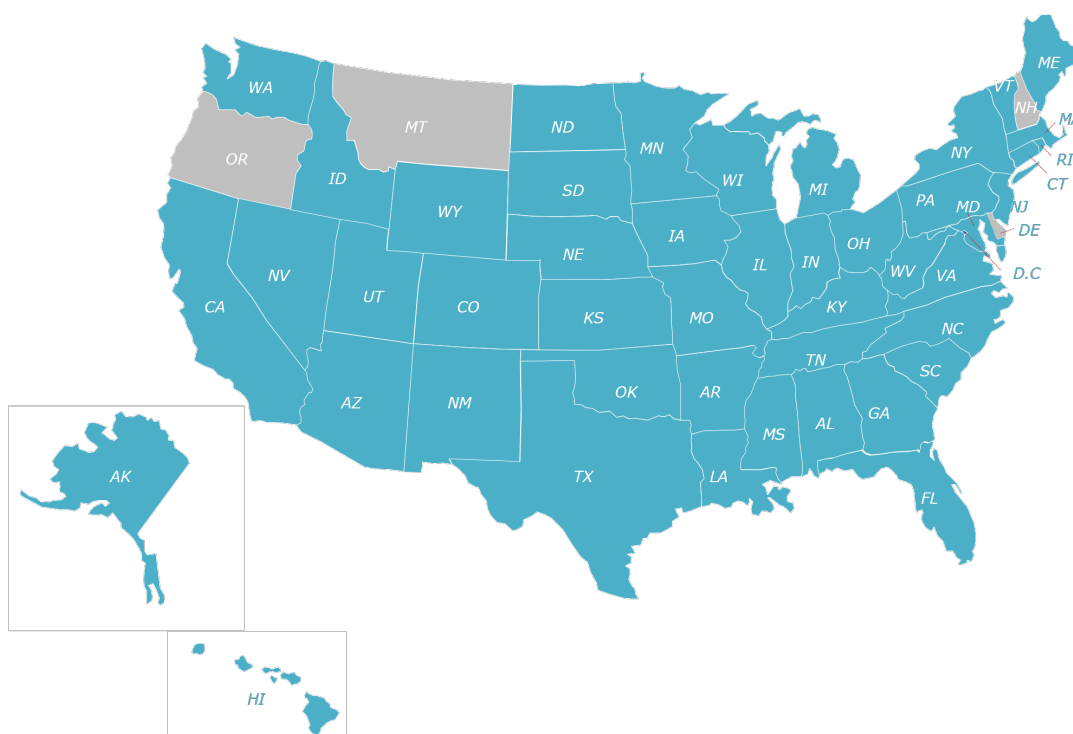## 1. Check In On Your Current Process

- Do you know everywhere that your company currently has nexus?
- Do you understand the taxability of your products/services in each of the states in which you have a customer?
- Are you registered in every state that you've established nexus and have taxable sales?
- How are you calculating sales tax? Can you manage this process within your invoicing system (or shopping cart) or do you need sales tax software to calculate the sales tax due?
- Do you have a process in place to file and manage your returns and any communications with jurisdictions?

If you can respond "yes" to the majority of the questions above, congratulations, you probably have a pretty good handle on your current sales tax situation. Be sure you continually monitor taxability laws and your economic nexus thresholds as you add new clients. If all of this ever becomes too much, consider outsourcing your sales tax compliance to an expert like TaxConnex!

If you can't answer yes to all of the above, or you're confused, you're in the right place! Utilize the rest of this piece as a guide to setting up your sales tax process within your business. Sales tax is complicated no matter the industry you are in and as states and jurisdictions continue to make changes, it often becomes too much for most businesses to manage on their own.

2. Track Your Nexus Footprint

• Do you know where you've established physical nexus?

  i. Where do you have office locations?

  ii. Do you have employees in other states?

  iii. Do your employees or contractors travel to other states to conduct business or perform services?

  iv. Do you store inventory other states?

  v. Do you sell licensed software that is loaded onto a customer's computer?

• Where have you established economic nexus?

  i. In which states do you have clients/customers?

  ii. Have you reached the revenue or transaction threshold in those states?

  iii. Who can monitor this in the future?

Sales and Use Tax Quick Facts:
- The 2018 South Dakota v. Wayfair decision laid the groundwork for all recent changes to sales and use tax
- The concept of economic nexus states that any business crossing a certain sales threshold into a state must collect and remit taxes
- The threshold in most states is $100,000 in sales or 200 transactions

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3. Determine the Taxability of Your Revenue Streams

Once you've established where you have sales tax nexus you must determine if your products or services are taxable within those states. Are you selling any of the following items?
- Soft ware delivered electronically
- "Software as a service" (SaaS) or cloud-based solutions
- Voice over Internet Protocol telephony
- Information services

4. Register for Sales Tax and Mitigate Previous Liability

- Have you found states where you should have been collecting sales tax but are not?
    i. Determine the extent of your liability prior to registering
    ii. Determine if a VDA is right for your business
- Complete registrations for each state in which you have established nexus at the state department of revenue. Information needed but not limited to:
    i. FEIN number
    ii. Social security numbers of proprietor/principal officers
    iii. Address for business locations
    iv. Estimated tax liability/gross sales

3 Main Benefits to VDAs

1. **Elimination of liability**

2. **Established compliance**

3. **Penalty abatement**

Responsible party laws mean tax liability can also trickle down to the person whose duties involve managing and paying taxes or any other person who has the authority or ability to control business payments and decisions. This liability extends beyond the business to their personal assets, which could be claimed to satisfy a sales tax liability of the business.

Now that all that is covered, you need to ensure you have the right processes in place to calculate, collect and remit.

5. Apply the Correct Sales Tax to Your Invoices

- Does your current ERP or billing solution support sales tax calculations?
- Is a tax rate subscription service sufficient or will you need to purchase a separate sales tax calculation software to calculate the correct sales taxes?
- Will any changes need to be made to your sales process to ensure quotes include sales tax?
- Will any software/program additions needed to charge sales tax require development work? How long will it take to be up and running? Do you have support in place?

6. Create a Process to File and Pay

- Who will file returns when they are due?
- What is your filing frequency for each state? Is it monthly, quarterly, or annually?
- Who will be in charge of responding to state and jurisdictional notices and updating appropriate processes?
- How will you archive your previous returns (in case of audit)?

7. Manage the Constant Changes

- Are you prepared in the case of a future audit? Who will manage this and respond appropriately?
- What happens if you have a question related to sales tax? Who will you ask?
- Who will be in charge of monitoring your economic nexus activity?
- Who will stay up-to-date on changes in taxability laws?
- Will you have to hire someone to manage this for you? Or does it make more sense to outsource?

Frequently changing tax rules, new forms, updated tax rates, and thousands of jurisdictions lead to an overwhelming responsibility. Many technology and software companies lack the internal expertise to effectively manage this constantly changing landscape. Often this leads to the need to hire an internal team to manage sales tax needs or look for outsourcing options to ensure you stay compliant.

TaxConnex provides the sales and use tax expertise and support that you need through a remarkably experienced network of practitioners with years of accounting and tax experience. We act as your outsourced sales tax department, giving you dedicated support to take sales tax completely off your plate. Get in touch to learn how we can help!

Can You Really Manage All This?

About TaxConnex™

TaxConnex ™ is how businesses finally get sales tax off their plate – no matter how many states they're in or how often regulations change. Sales tax is more complicated than ever, especially in a post-Wayfair world. Yet the providers who claim to simplify sales tax often still leave the hardest parts – and the liability – up to you. When you work with TaxConnex, it's all on us. This means you get all the know-how, all the backup, and none of the risk. It's only possible because of our proprietary platform and network of sales tax experts.

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