Business expansion and sales tax nexus

Crossing borders can lead to crossed signals when it comes to tax compliance

Avalara
Tax compliance done right

Whitepaper

Planting your company flag in fertile new ground is one way to expand your business. But it can also bring up a crop of new compliance issues. Selling to customers out of state (or out of country), hiring remote employees, growing beyond your borders, and extending the reach of your business may obligate you to collect and remit sales and use tax more than you anticipated.

Crossing borders is one thing; crossing wires with tax authorities is another. Avoid venturing into uncharted territory by being fully aware and prepared to deal with new tax requirements that spring up from growth.

Brick by brick

Physical storefronts are still a strong draw for shoppers, even as internet and mobile sales continue to dominate. Retailers that expanded in 2019 trended to big box and discount stores like Target, Costco, and TJX (TJ Maxx, Marshalls, HomeGoods), apparel brands Madewell, Lululemon, and Nordstrom as well as grocery chains Whole Foods Market (acquired by Amazon) and Aldi. Several well-known pure play ecommerce brands have also opened physical stores in recent years including ModCloth, Allbirds, Casper, Warby Parker, and Amazon.

That's a lot of floor space – and a lot of nexus.

Most companies are aware that having a physical presence in a state, such as a store, office, or warehouse triggers an obligation to collect and remit sales tax in that state. But many may not be aware that more nebulous activities like using drop shippers or third-party fulfillment programs, or selling online can still be considered substantial nexus in some states.

Additionally, sales tax nexus can now be established solely through economic ties to a state, or economic nexus. Since the landmark June 2018 United States Supreme Court decision in South Dakota v. Wayfair,

Inc. all but two of the 45 states with a state sales tax have adopted economic nexus. Laws and thresholds vary by state, which can make compliance exponentially difficult if you have to register to collect and remit sales tax in more states.

Nexus can even follow you after you move your business. Several states have trailing nexus, which means that even if you pull up stakes, you're still tethered to that state for sales tax, sometimes for up to a year or more.

Brand by brand

When Steinhoff International acquired Mattress Firm, the South Africa-based seller of furniture and home goods gained a foothold in the U.S. market, adding 3,500 stores and 80 distribution centers in 48 states to its already impressive portfolio. It also signed on to a slew of new U.S. tax regulations vastly different from those of South Africa's EPA or the European Union.

Companies looking to add international brands to their portfolio need to understand the compliance obligations and transaction tax laws of the countries where acquired companies currently operate. Take Priceline Group, for example. The online travel giant, which has been rapidly acquiring metasearch properties around the world, recently came under fire in Vietnam for tax compliance issues related to its agoda.com subsidiary.

Mergers are intense times; it's easy to overlook sales tax in this process. Tax automation ensures you don't let compliance fall through the cracks. Learn more about how mergers and acquisitions can impact tax compliance.

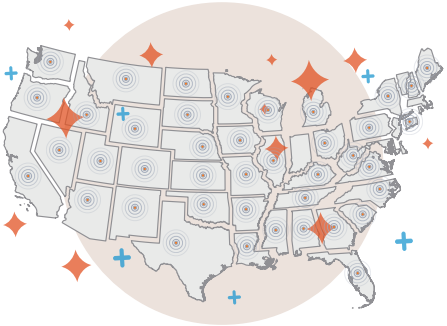
Country by country

When you ship orders overseas, you open the door to a whole new set of compliance challenges. First, value-added tax (VAT) and goods and services tax (GST) are applied differently than U.S. sales tax. Second, transaction tax procedures vary widely by country, taxing authority, and

jurisdiction. And third, there can be additional fees associated with cross-border sales including export duty and tariffs called landed cost.

Understanding how each country categorizes, taxes, or exempts different products and services; who's responsible for paying those taxes; who collects; where and when to remit payment; and how to document these transactions properly is daunting. Unfortunately, taxing authorities, customers, and auditors don't care about your troubles. They only care that you get it right. Often, companies will resort to hiring intermediaries or export agents to help them, which can add greatly to business expansion costs. An automated cross-border tax compliance solution may well be worth considering if your growth plans extend overseas.

Digitally delivered products and services, like streaming media, can also add to cross-border compliance confusion. When Netflix expanded into Europe, it partnered with global cable and mobile phone providers to gain instant access to millions of new customers – and a host of new tax headaches. The European Union changed how VAT was applied to broadcasting and electronic services in 2014, basing tax on the location of the customer, not the provider. So instead of charging one VAT rate, Netflix and other distributors of digital content now need to apply a different tax rate to each transaction based on where customers consume content.



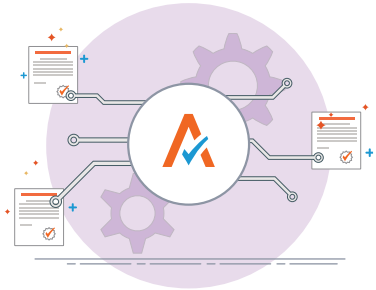
Person by person

Having geographically dispersed salespeople or employees who provide services to customers is common among companies of all sizes, as is the practice of hiring contract staff. This "liquid workforce," as Accenture calls it, can be a smart option for companies that need flexibility in how they staff projects or serve customers.

Employing remote staff and contract staff can provide flexibility as you grow, but it can also increase your obligations to collect and remit sales tax under state nexus laws. In a FlexJobs blog post, co-founder of Eucalypt Media, Kathryn Hawkins explains this process: "When you hire out of state, you have to register your business there and make sure you're meeting all of that state's tax reporting and employment

compliance rules: it could mean things like collecting sales tax on services that aren't taxed in [y]our home state, for instance."

Employees or contractors who cross state lines to sell to or service customers can also create a connection between your business and those states, requiring you to register and collect sales tax. Auditors are getting more aggressive about these activities. Several states including California, Florida, Missouri, Oklahoma, Texas, and Utah have auditors working across state lines.



Expand your horizons with tax automation

Businesses who have a relatively small physical footprint can usually get away with more modest means of managing tax compliance, such as relying on state department of revenue schedule notices and updating rate tables. But once you're required to collect in five or more states – never mind overseas – keeping track of different tax types, rates and rules, tax documents, remittance policies, and filing schedules can become overwhelming, and that can lead to incorrect calculations, overlooked nexus, and other costly errors. Tax automation software like Avalara alleviates these burdens, keeping you compliant as you grow and expand your business, so you can put down roots without digging yourself into a hole when it comes to managing transaction tax.

To learn more about Avalara's products, visit:

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Avalara helps businesses of all sizes get tax compliance right. In partnership with leading ERP, accounting, ecommerce and other financial management system providers, Avalara delivers cloud-based compliance solutions for various transaction taxes, including sales and use, VAT, excise, communications, and other indirect tax types. Headquartered in Seattle, Avalara has offices across the U.S. and around the world in the U.K., Belgium, Brazil, and India.