

Unmasking the Complexities of Sales Tax Registration

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Introduction

The process of sales tax registration, a seemingly straightforward task, can pose hidden perils for businesses operating in the United States. When an entity's activities in a U.S. state meet specific physical or economic nexus criteria, sales tax registration becomes mandatory. These criteria can be established through various means, such as physical presence in the state or reaching defined economic thresholds in sales activity.

The sales tax registration process encompasses several critical aspects, including the timing of registration, scope of disclosures, considerations of prior activities and potential exposure, and compliance readiness. This article aims to shed light on the often-overlooked intricacies of sales tax registration, highlighting common inquiries, key considerations, and best practices for navigating this essential but complex process.

The Sales Tax Registration Process

Registering for sales tax in the United States involves the completion and submission of state-specific forms, primarily available online through the state's department of revenue websites. Companies must be prepared to furnish various pieces of information during the registration process, which typically includes:

- **Contact Information:** This includes the company's name, mailing address, telephone number, and other relevant contact details.
- **Commencement Date:** The date on which the company began its business operations within the state.
- **Other Registrations:** Information on any other registrations the company holds with the state.
- **NAICS Number:** The North American Industry Classification System code that categorizes the company's industry.
- **Information About Prior Acquisitions:** If the company was previously acquired by another entity.
- **Responsible Parties:** Details about officers, directors, shareholders, and other individuals responsible for sales tax compliance, including their personal information.



Being designated as a responsible party in the sales tax registration carries additional responsibilities and personal liability. Responsible parties must understand that this designation makes them personally accountable for any unpaid sales tax if the company cannot cover the liability.

Unique Challenges for Foreign Businesses and Parties without SSNs

Foreign businesses that lack a Federal Employer Identification Number (FEIN) or individuals without Social Security Numbers (SSNs) may encounter heightened scrutiny during the registration process. They should be prepared to provide alternative requested information to meet registration requirements.

Considerations in Home Rule States

Several states, such as Alabama, Alaska, Arizona, Colorado, and Louisiana, operate as "home rule" states. In these states, individual cities within the state administer their own sales taxes. Companies with nexus in these states must assess whether they have additional local registration and compliance obligations at the city level.

Addressing Prior Sales Tax Exposure

Companies that previously had nexus and registration requirements in a state but failed to register in a timely manner should consider two critical steps:

- **Assessing Exposure:** Evaluate potential sales tax exposure, including interest and penalties, which can collectively add up to 35% of the outstanding tax liability.
- **Seeking Resolution:** Discuss options with a tax advisor, including participation in Voluntary Disclosure Agreement (VDA) programs, tax amnesty, compromise agreements, or filing past returns with penalty abatement. VDAs, in particular, are designed to promote compliance and offer benefits to taxpayers by limiting exposure for retroactive tax liability, reducing or abating interest and penalties.

Compliance Readiness

Preparedness for sales tax compliance is a vital aspect of the registration process. Approximately a month after registration, companies are expected to file sales tax returns for the preceding month. Therefore, it is crucial to identify a person with sales tax expertise who will be responsible for filing timely returns. If a company uses compliance software tools, it is essential to ensure that these tools are operational at the time of registration. Companies with existing compliance software should verify that the new state is included in their future filings. Failure to do so may necessitate manual preparation and submission of returns.

Recommended Best Practices

- **The registration process may not always be as straightforward as it appears.** To navigate the complexities associated with sales tax registration effectively, consider the following best practices:
- **Nexus Evaluation:** Identify the precise date when nexus and registration obligations arose in a particular jurisdiction, considering all economic and physical operations within the state.
- **Electronic Registration:** Most states offer electronic registration, which is generally quicker and more efficient than hard copy registration methods.
- **Marketplace Sales:** For states that do not require registration if all sales are exclusively through a marketplace platform, be vigilant if the company starts making sales outside of the platform, as this may trigger registration requirements.
- **Accurate Information:** Ensure that information submitted in the registration form is accurate and that the correct tax type is selected. Inaccuracies may lead to notices and audits.
- **Security Considerations:** Set up and use a generic email address (e.g., tax@company.com) to manage notifications and access to the registration process.
- **Prior Operations:** Companies with past operations that did not timely register should evaluate product and service taxability and quantify their sales tax exposure up to the date the registration requirement was triggered.
- **Compliance Tools:** If a company uses compliance software, confirm its operational status at the time of registration.
- **Responsiveness to Updates:** Keep information up to date with the state, particularly concerning changes in responsible parties to avoid personal responsibility and liability for unpaid sales tax.

Conclusion

The process of sales tax registration holds complexities that can catch businesses off guard. Beyond the seemingly simple act of completing a registration form lies a web of nuances and considerations that should not be underestimated. Businesses must be diligent, accurate, and proactive in their approach to sales tax registration, as it can impact compliance obligations, financial liability, and overall business operations. Navigating these complexities with an awareness of potential pitfalls and adherence to best practices is key to a successful and smooth sales tax registration process.

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