A Taxing Issue



The explosion of e-commerce results in companies selling across state lines, even for startups.

The law that was taken to the Supreme Court -- and its landmark decision in June 2018 -- changed everything for companies that sell to other states.

Companies pay sales tax for tangible goods, but what happens to it after that?

How difficult an issue is it for companies of every size? The answer: it's very difficult and very complex.

It's so complex that most CPAs don't want to deal with it, but it demands expertise and organization, as most large companies have to file and pay their sales tax monthly for every state where they have "nexus."

Nexus means "connection." Economic nexus is a "new" key factor in determining if a company needs to collect and remit sales and use tax in a different state other than the one where it's physically located.

Sales tax compliance is one of the most challenging specializations in accounting. Except for Sales Tax Guru Dena Oberst.

"Nexus is the connection between you and another state," says Dena Oberst, President and CEO of Gable – The Sales Tax Gurus (aka Gable Tax Consulting Group Inc.). "There are two major types of nexus: physical and economic. Physical presence doesn't have to be an office or an employee – those are the lowest thresholds – and are obvious. But physical presence could be a third-party repairman servicing your warranty, or it could be a third-party installer or an independent sales rep, who goes door to door in multiple cities. There are so many scenarios. In the age of COVID, it could be an employee who decided to move in with grandma in Arizona while working remote, and now you have a physical presence in that state."

Physical presence is "any type of activity in that state." This can include a trade show appearance in one state, even if you were in the state for three days. It could be a board retreat in another state, or it could be a one-day sales junket in a third, where you never went back again.

"This is why companies must be very careful where they plan activities, especially if the location is not one where they previously had nexus," Oberst says. "If



Dena Oberst is among the most well-respected and accomplished sales tax gurus in the country, yet she certainly doesn't resemble a tax geek.

you're a small business and you've figured out where you do or do not have some type of physical presence, then the next activity that would give you a filing responsibility is called 'economic nexus,' and it's based off gross sales or number of transactions."

This is the law that changed dramatically in 2018 -- so businesses must now calculate their gross sales by state. If they've reached any of the economic nexus thresholds – which vary by state – "they need to collect and pay sales tax from that point forward," Oberst says.

It's exhausting.

Since the Supreme Court passed the South Dakota v. Wayfair ruling, 45US taxing authorities have changed their laws setting economic nexus at varying rates. So how does a company doing e-commerce keep track of its sales, sales tax rates, the economic nexus thresholds, the filing requirements, and actually prepare, file, and remit payment for these 45 taxing jurisdictions– often monthly?

The answer: Handling sales tax processing is extremely difficult even for companies with large in-house accounting and tax departments and "very few CPAs want to deal with it," Oberst says. "There are corporate CPAs who will gladly do income tax filings every day but want no part of sales tax management and compliance."

That's how Oberst fell into this expertise.

Her journey to becoming a sales tax guru is intriguing. Believing she would be a CPA her whole life led her into a job on the industry side in the sales tax department of a national uniform and textile rental company right out of college and not long after to accounting giant Arthur Andersen.

"When I was at Arthur Andersen, it was a top-tier firm," she says. "At the time, we had the best-of-the-best clients and I had

the opportunity to look at the internal sales tax departments of the largest companies in the world. I was lucky to get insight into what was working and what was not. From there, I could create best practices and build on them."

Yet she didn't feel this was going to be her future; instead, she planned to gain the required experience to get her CPA exam and do income tax, like so many of her colleagues.

"In the beginning of my career I struggled with whether or not to pursue my CPA and specialize in Income Tax, but I had a lot of multi-state sales tax experience and companies kept hiring me for it. It's not that I didn't like it, I loved it, but I didn't want to be pigeonholed so early in my career. It wasn't until a mentor told me, 'Dena, you need to specialize and then take what you know because no one else knows it.'"

That advice clicked and she became certified by the tax software company Vertex. She had already been an expert user but went on to become an instructor and implementor.

"That's where it took off," she says.

She became one of the few sales tax compliance experts at Arthur Andersen. Three decades later, this specialization has only grown more difficult and major accounting firms still don't know how to smoothly deliver the services.

"I've been doing this for over 29 years, and I've watched every single public accounting firm enter and exit the sales tax compliance business more than twice. They're in it, then they sell it and get out of the business, then they realize it's something clients need, so they build it again and then sell again because they cannot figure out how to make money at it. It's all about efficiency and it goes right back to scaling your business, technology, people, and the process standardization."

Oberst has built her niche by being full service and doing the heavy lifting and accepting clients' data in every form.

"There are firms that do what we do but they don't do it to the extent that we do it," she says. "We will take their financial data – even if it's on a paper napkin – so we're not forcing them to put it in a format that is difficult for the client as most sales tax firms do. We have highly skilled technical abilities, and we use the best software tools to handle the data."

Sales tax isn't just about how much but how often as well. Every state and often city and county have different requirements and it's the job of your sales tax expert to make sure businesses are compliant in all of them. This can mean filing every month and not all jurisdictions accept digital files or money transfers so they must be done via snail mail and checks.

"We offer every level of service, including banking," which means her company will process the sales tax payments on behalf of her clients. For smaller- and start-up businesses, there are two commonly used sales tax systems, such as Avalara and TaxJar, that can integrate with their billing systems to calculate sales tax.

The economic nexus thresholds for some states can be as high as $500,000, and for most states as low as $100,000.

For aspiring business owners who are considering starting out selling via Amazon, Walmart.com or Etsy, there is now a marketplace facilitator law in all but three states.

This requires selling platforms to collect and remit sales tax on behalf of their sellers, providing them a high level of relief. However, as Oberst points out, if compliance and filings are overtaxing in-house accountants, "we ease the burden of keeping companies compliant in every region they have nexus." — By Susan Belknapp, California Business Journal

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