

Consumer's Use Tax

- “Use” definition: the **storage, use or consumption** of **taxable** property or services and includes the **exercise of any right or power** incident to the ownership of the property
- Use Tax
 - Complementary to sales tax and does not apply if sales tax charged
 - Applies to purchases made outside the taxing jurisdiction but used within the state
 - Also applies to items purchased exempt from tax, but subsequently used in a taxable manner
- Purchases of taxable property where the seller did not collect sales or seller's use tax are subject to consumer's use tax

How States Target Possible Audits

- Nexus inquiries
- Late filed returns
- Large refund request
- Large fluctuations in tax liabilities reported
- Audits of your partners
- Recurring compliance issues

NO USE TAX REMITTED

Challenges with Use Tax Determination

- Items in question are unknown
- Ship-from information missing
- Location of where items will be used is unknown
- Tracking and documentation of who paid taxes and when
- Record maintenance and audit readiness
- Manual tax determination in purchasing or payables departments is dependent on non-tax professionals making decisions
- Employee turnover and limited training resources contribute to the problem

Vendor Tax Validation

- Risk of incorrect tax being charge as more vendors are required to register
 - Lack of certificate
 - Uncertainty of taxability
- When a vendor has charged tax on the transaction, the seller should validate that the tax is correct
 - Jurisdiction Validation – has the vendor taxed the correct jurisdiction?
 - Taxability Validation – is the item subject to tax in the jurisdiction where it is delivered and used?
 - Rate Validation – if the item is taxable, did the vendor use the right rate based on the item and jurisdiction?
- Enter the vendor tax in the voucher header in the AP system

Vendor Tax Validation (cont.)

- Implementing Corrective Actions
 - Be sure to issue exemption certificates when applicable
 - Communicate timely with vendor so they can fix the problems
 - If you short pay be sure to send communication with reasons and documentation
 - If you file a refund claim, provide all necessary documentation and do it timely

Procurement Card Transactions (P-Card)

- Corporate credit cards used to purchase goods without completing a purchase order
- Allows companies to make high-volume low-cost purchases while reducing the cost of processing purchase orders and checks

Procurement Card Transactions (P-Card)

- P-card sales tax issues
 - Sales tax information needs to be retained for state audit purposes
 - Determining when and where sale took place
 - Ascertain whether sales tax was collected by vendor
 - P-Cards are being focused on in audits by some states including AR and WI

Procurement Card Taxability Issues

- Programs can be established to minimize tax implications
- Examples of Authorized Uses:
 - Local vendors who collect tax
 - Taxable-only transactions
 - Exempt-only transactions
 - Expense purchases
 - Asset purchases
 - Travel & Entertainment

Automated Data Feeds

- Many AP departments are working with vendors to receive data files in lieu of individual invoices in order to minimize data entry time and errors
- These data feeds typically are used for high volume vendors
- These vendors could represent transactions that are not sales tax relevant transactions such as telecommunication, travel and benefits or high volume transactions like office supplies

Automated Data Feeds

- The AP department needs to ensure that key data elements needed to determine taxability are included in automated data feeds
 - Line level data from invoices, not just the total purchase amount
 - Information related to the items purchased such as material numbers or material groups

Automated Data Feeds

- The AP department needs to ensure that key data elements needed to determine taxability are included in automated data feeds (cont.)
 - Tax codes and the amount of tax charged should be included for each transaction
 - Ancillary or header items like freight need to be identified separately

Evaluated Receipts Settlement

- Evaluated Receipts Settlement (ERS) is a payment method designed to eliminate the need for a supplier to provide an invoice to the customer
- ERS payments are calculated based on the quantity received by the customer times the unit price on the purchase order
- In an ERS transaction, the vendor does not issue an invoice.
- The customer must determine the tax to be paid to the vendor

Evaluated Receipts Settlement

- For companies using an ERS process, it is vital that purchasers know the vendor's tax nexus profile
- Purchasers should maintain the taxability jurisdictions of the supplier
 - Purchasers need to be able to calculate the correct amount of sales tax on goods received as if they were the vendor

Evaluated Receipts Settlement

- Once the tax is calculated, the purchaser should remit the sales tax to the vendor for states where the vendor is registered as the vendor is liable to remit the tax to the state

Evaluated Receipts Settlement

- Note that purchasers should not remit sales tax to the vendor for jurisdictions where the vendor is not registered to collect and remit sales tax. In these cases, the purchaser must accrue and pay use tax on the taxable purchases.
- Accounts Payable processes must be able to differentiate between registered and non registered vendors by state of delivery
- Posting rules must be able to appropriately post the vendor remitted tax to the vendor payable account but accrued use tax to the tax payable account

Evaluated Receipts Settlement

- When negotiating ERS with vendors be sure to consider the following points:
 - Direct Pay Status – if the buyer has direct pay authority this will make ERS much easier as tax does not have to be paid to the vendor
 - Vendor Registered States – ensure there is a regular process to obtain updated information from the vendor including local registration

Evaluated Receipts Settlement

- When negotiating ERS with vendors be sure to consider the following points (cont.):
 - Vendor Tax Rates – be sure the vendor provides all physical ship from locations and also indicates these on the delivery documentation
 - Exemption Notification – provide all exemption certificates that could apply in advance and in a timely manner as they change

USE TAX CHALLENGES

Procurement Taxability Determination

- Determination of taxability on purchases can be based on various parameters and can vary based on the type of transaction.
 - Product Identification
 - Product Class
 - Account Number
 - Asset/Project Number
 - Cost Center
 - Usage Indicator

Procurement Taxability Determination

- Expense Purchases - item master taxability based on:
 - Item number
 - Location of use
 - Nature of use

Procurement Taxability Determination

- Non-Stock Purchases
 - Lack of item identification
 - Non-standard identification
 - Cost Center/ Profit Center
 - GL Account

Procurement Taxability Determination

- Asset Purchases
 - Project vs. Item taxability could vary
 - Nature of item
 - Use of item
 - Bundling of contracts

USE TAX AUTOMATION TOOLS

Key Components of Any Solution

- Taxability Determination
- Vendor Tax Validation
- Rate Determination
- Tax calculation
- Tax Accrual
- Transaction Detail Reporting

Automated Solutions for Use Tax Determination

- Automated tax systems
 - Limit the risk of error
 - Aim for about 80% accuracy
 - Consistent decisions are driven by automated generalizations
 - Tax Matrices
- Evaluate the cost
- Real time and Batch options for integration
- Evaluation of Tax Software Functionality and Partners

Automation and Compliance Alternatives

- Manual review and identification
 - Selective Vendor Accrual
 - Selective GL Account Accrual
- Create Excel Spreadsheet or copies of invoices put to side
- Mark vendor invoices with stamp or use tax accrual account

Automation and Compliance Alternatives

- Managed Compliance Agreements
 - In lieu of specific transaction evaluation for use tax
 - Determine a use tax accrual rate based on a sample review to report use tax
 - To limit risks, participate in state approved program
 - State sets up specific guidelines
 - Taxpayer or third party performs the audit work
 - State reviews the taxpayer's work
 - Could be used with an automated solution

Automation and Compliance Alternatives

- Simplified Automated Process
 - Involve Purchasing to indicate taxable or exempt on PO
 - AP inputs a simple code on AP Invoice
 - 0=Taxable and tax charged
 - 1=Taxable and no tax charged
 - 2=Exempt and no tax charged
 - 3=Exempt and tax charged
 - Tax department accrues tax on all coded "1" and files refund claims on all "3"

ERP Accounts Payable Solution

- Most ERP systems have some sort of tax functionality
- Depending on your needs, this could be sufficient
- Typically rely on AP Staff to make taxable/exempt determination and select the correct tax code
- Likely requires maintenance of tax rates within the ERP in order for tax calculation and accrual to post

Automated Tax Engine Solutions

- Batch vs. Interactive (real-time) options
- External “bolt-on” solution to ERP/AP system
- Includes tax rates including effective dates
- Includes special rate rules like max taxes in most cases
- More sophisticated solutions include taxability rules

Automated Tax Engine Solutions

- Allow mapping of data elements to create tax rules
- Some solutions allow “if-then” rules to allow for assumptions when data is unavailable

Procurement Card Use Tax Solutions

- Use Tax Accrual Percentages
 - In lieu of actual determination, use test to determine percentage for accrual
 - Similar to Managed Compliance Agreement
 - Update based on business and law changes

Procurement Card Use Tax Solutions

- Automated Use Tax Integrated with Reconciliation
 - Tax Included Check Box
 - Jurisdiction assigned to card holder or cost center
 - Taxability based on “usage code” input by card holder
 - Generate extract file and process in tax solution in a batch process

Automated Solutions Third Party Vendors – Tax Calculation Engines

- AccurateTax - www.accuratetax.com/
- Avalara - www.avalara.com/
- CCH Sales Tax Office – <https://taxna.wolterskluwer.com/sales-and-use-tax/tax-calculation-software/sales-tax-office>
- Second Decimal PinPoint- <http://www.seconddecimal.com/>
- Sovos – www.sovos.com
- Thomson Reuters/OneSource - <https://tax.thomsonreuters.com/en/corporation-solutions/indirect-tax>
- Vertex - www.vertexinc.com

TIPS FOR SUCCESS

Key Components of a Project

- Have a defined project plan with goals and objectives
- Include a broad project team (AP, PO, Master Data, Finance, Tax, ERP)
- Develop comprehensive requirements and definitions
- Be open to creative solutions and change
- Develop and conduct thorough testing

Pay Now or Pay MORE Later

- Don't just guess, ask questions
 - What is being purchased?
 - Who requested the purchase?
 - How will it be used?
 - Where will it be used?
 - Is there an exemption certificate on file?

Helpful Hints

- Involve Purchasing or Requisitioner to put good description on PO or Req
- Add a "usage" indicator on the PO to help identify functional area (Manufacturing, R&D; Quality Control)
- Identification of tax amounts by g/l account number
- "Use tax paid" stamp or g/l coding for invoices where use tax is accrued
- Separately enter vendor charged tax in ERP

Process Changes to Implement Post-Wayfair

- Buyers should have a formal regular process of reviewing tax paid to vendors.
- Review or implement a vendor tax validation process.
- If you're using a managed compliance rate, review to see if vendors are charging you tax.
- Monitor for vendors that you buy exempt items from to make sure you've issued the right exemption certificates to them.
- As more suppliers start charging tax, the opportunity for reverse audits will increase. This is an area of opportunity for refunds.

Summary

- Relying on the state to determine use tax due during audit is no longer accepted
- When tax decisions are made accurately
 - The company saves money
 - Vendors are more satisfied
 - There is less impact to resources
 - Audits do not result in large tax liabilities
 - Penalties and interest are minimized
- Automation can increase accuracy at different levels depending on sophistication of solution

Sales and Use Tax Whitepapers

- Visit www.salestaxinstitute.com/iofmap2019
 - Nexus Whitepaper
 - Sales Tax Administration Whitepaper
 - Best Practices in Transaction Tax Systems Implementation

Q & A

- Questions?

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