

Sales Tax Registration Deep-Dive



SALES TAX
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On-Demand Webinar



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When to Register for Sales Tax

Nexus

- Defines a level of connection between a taxing jurisdiction and an entity
- Controlled by U.S. Constitution under the Due Process Clause and the Commerce Clause
- Supreme Court has shaped the definition of Nexus
- “Substantial physical presence”
 - Activities of individuals or presence of property
 - Still relevant post-Wayfair

Nexus (cont.)

- Maintaining, occupying or using permanently or temporarily, directly or indirectly or through a subsidiary, an office, place of distribution, sales or sample room or place, warehouse or storage place or other place of business
- Having a representative, agent, salesman, canvasser, or solicitor operating in this state under the authority of the retailer or its subsidiary on a temporary or permanent basis

Nexus (cont.)

- The U.S. Supreme Court's decision in *South Dakota v. Wayfair* struck down the physical presence requirement.
- Remote seller nexus legislation has proliferated in recent years:
 - Economic nexus
 - Marketplace nexus
 - Notice and Reporting Requirements
 - Click-through nexus
 - Affiliate nexus

Nexus (cont.)

- Steps for Nexus Evaluation
 - Do I have physical presence in the state?
 - If yes, need to register for sales tax and maybe income tax
 - No physical presence then look for remote seller activities
 - Click Through
 - Affiliate
 - If yes, need to register for sales tax, likely not income tax
 - No remote seller activities, then economic
 - Sales Thresholds
 - Marketplace collection
 - If yes, need to register for sales tax, likely not income tax
 - No activities that require registration
 - Does the state have notice and reporting requirement?
 - Or is it easier to collect?

Nexus (cont.)

- Resources
 - Remote Seller Nexus Chart
 - <https://www.salestaxinstitute.com/resources/remote-seller-nexus-chart>
 - Economic Nexus State Guide
 - <https://www.salestaxinstitute.com/resources/economic-nexus-state-guide>
 - Remote Seller Resource Page
 - <https://www.salestaxinstitute.com/resources/remote-seller-resources>



The Registration Process

Registration

- For remote sellers that sell on a marketplace, the evaluation as to whether they need to be registered will be based on:
 - Does the state impose the collection responsibility on the marketplace facilitator?
 - Does the seller make sales only on collecting marketplaces?

Registration

- After a nexus study has been conducted to determine where a taxpayer has a presence, registration must occur.
- Every state has different questions on their application form.
- Populate a questionnaire with the common information to aid in completing the applications
- TOOL: Registration Questionnaire

Registration

- The taxpayer needs to determine which taxes it will be required to collect or pay.
 - Some states differentiate between sales tax, seller's use tax and consumer's use tax on both their registration application and return.
 - How the taxpayer registers can impact the return they are required to file and the rate they are required to collect.
 - If you're an e-commerce seller, you should be registered for seller's use tax generally but a few states like CO are requiring sales tax.

Examining Registration Forms

- What tax type are you registering for?

From PA business registration application:

SECTION 3 – TAXES AND SERVICES

ALL REGISTRANTS MUST CHECK THE APPLICABLE BOX(ES) TO INDICATE THE TAX(ES) AND SERVICE(S) REQUESTED FOR THIS REGISTRATION AND COMPLETE THE CORRESPONDING SECTIONS INDICATED ON PAGES 2 AND 3. IF REACTIVATING ANY PREVIOUS ACCOUNT(S), LIST THE ACCOUNT NUMBER(S) IN THE SPACE PROVIDED.

	PREVIOUS		ACCOUNT NUMBER
<input type="checkbox"/> CIGARETTE DEALER'S LICENSE	_____	<input type="checkbox"/> SALES, USE, HOTEL OCCUPANCY TAX LICENSE	_____
<input type="checkbox"/> CORPORATION TAXES	_____	<input type="checkbox"/> SMALL GAMES OF CHANCE LIC./CERT.	_____
<input type="checkbox"/> EMPLOYER WITHHOLDING TAX/1099 MISC	_____	<input type="checkbox"/> TRANSIENT VENDOR CERTIFICATE	_____
<input type="checkbox"/> FUELS TAX PERMIT	_____	<input type="checkbox"/> UNEMPLOYMENT COMPENSATION	_____
<input type="checkbox"/> LIQUID FUELS TAX PERMIT	_____	<input type="checkbox"/> USE TAX	_____
<input type="checkbox"/> MOTOR CARRIERS ROAD TAX/IFTA	_____	<input type="checkbox"/> VEHICLE RENTAL TAX	_____
<input type="checkbox"/> PROMOTER LICENSE	_____	<input type="checkbox"/> WHOLESALE CERTIFICATE	_____
<input type="checkbox"/> PUBLIC TRANSPORTATION ASSISTANCE TAX LICENSE	_____	<input type="checkbox"/> WORKERS' COMPENSATION COVERAGE	_____
<input type="checkbox"/> SALES TAX EXEMPT STATUS	_____		

From KY business registration application:

The following questions will determine your need for a Sales and Use Tax Account, the schedules you may need to file, and/or your need for a Transient Room Tax Account, Motor Vehicle Tire Fee Account, Commercial Mobile Radio Service (CMRS) Prepaid Service Charge Account, Utility Gross Receipts License Tax Account, and/or Telecommunications Tax Account.

Registration

- Locations

From IL business registration application:

If you have other locations in Illinois from where you do business, complete and attach Schedule REG-1-L.

From IL Schedule REG-1-L:

Step 1: Identify each permanent location.

Permanent Location 1:

DBA name: _____

Address: _____

Street address - No PO Box numbers

Apt. or suite no.

City **IL** State ZIP

County: _____

If in Madison or St. Clair county, list township: _____

Contact: _____ Phone: (____)____ - _____

Starting date for this location: ____/____/____

Check all of your activities at this location:

- Retail sales
- Aviation Fuel
- Vehicles:
- Sales
- Renting/leasing
- Check if your rental/lease agreements are for more than 12 months:
- Hotel room rental to the public for periods less than 30 days.
- Do you charge for telecommunication services? ___yes ___no
- Other: _____

Step 2: Identify each changing location

A changing location is one that constantly changes (e.g., door-to-door sales, home party sales).

Step 3: Identify each temporary location

Examples include fairs, festivals, or special events. Seasonal sales (e.g., trade-shows, holiday sales, concession stands) are considered a temporary location.

Registration

- Locations

From FL business registration application:

37. List the locations where you employ workers in Florida.

Address:	City:	County:	Number of employees:
Principal products or services:	If services, indicate if <input type="checkbox"/> Administrative <input type="checkbox"/> Research <input type="checkbox"/> Other: _____		
Address:	City:	County:	Number of employees:
Principal products or services:	If services, indicate if <input type="checkbox"/> Administrative <input type="checkbox"/> Research <input type="checkbox"/> Other: _____		
Address:	City:	County:	Number of employees:
Principal products or services:	If services, indicate if <input type="checkbox"/> Administrative <input type="checkbox"/> Research <input type="checkbox"/> Other: _____		

Registration

- Entity Information
 - Sales Tax Registrations are by legal entity
 - If there is a dba, listing it on the application will help with identification and issuance of exemption certificates particularly if that is the name your business is known under
 - Trade name registration proof may be required (DC)
- Locations
 - In state locations should be listed in states where required
 - In origin states, this will result in location filing set up by state

Registration

- Many application forms request an average annual liability.
 - Used to determine filing frequency
- Read forms carefully when answering the average annual questions.
 - Tax liability vs. sales
 - If the form asks for sales, you need to determine whether it is asking for taxable sales or gross sales and whether it is asking for in-state sales only.

Examining Registration Forms

- Average amount of liability vs. sales

From HI business registration application:

Type	Annual Estimated Tax Liability	Filing period
GE/Use	\$0 — \$2,000	Semiannually
TA	\$2,001 — \$4,000	Quarterly
RVST	More than \$4,000	Monthly
GE One-Time Event		Monthly

From KY business registration application:

66. Estimated gross monthly sales tax collected in Kentucky:

\$0.00–\$1,199.99

\$1,200.00 or more

From ID business registration application:

12. Date sales or use will begin in Idaho	month	year
13. Estimated monthly taxable sales		

Examining Registration Forms

- Filing Frequency

- Some states don't request the average liability but ask you to identify your filing frequency.
- TOOL: Filing Frequency Threshold

From HI business registration application:

Filing Frequency	Monthly	Annual tax exceeds \$4,000.00
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- Due Dates

- The filing frequency will dictate the due dates for returns
- Returns are due in the month following the end of the period on the specified due date
- Returns must be filed by the due date and the tax paid by the due date
- TOOL: Sales Tax Return Due Dates

Registration

- Most applications also request the date that business began in the jurisdiction.
 - Used to determine if returns are due for prior periods
 - If a prior period is listed, expect to receive these returns with interest and penalty notices.
- Nexus date
 - If registration form is being filed for a business that has had nexus for some period of time, careful attention must be given to answering the date question.

Examining Registration Forms

- What is the start date?

From MN business registration application:

1 Date of first Minnesota taxable sale, lease, service or use tax obligation:

<input type="text"/>	<input type="text"/>	<input type="text"/>
month	day	year

From TX sales tax registration application:

30. Enter the date that you will begin making sales or begin other operations subject to Texas sales and use tax. (Date cannot be more than 90 days in the future.)

Month	Day	Year
<input type="text"/>	<input type="text"/>	<input type="text"/>

Registration

- Registration applications frequently ask if the business was acquired and prior registration.
- If there was an acquisition, the nature of the acquisition could impact any prior period exposure.
 - A Stock transaction means the buyer purchases all assets and liabilities and will have continuing obligation
 - An Asset transaction is purchasing only the assets. However, due to successor liability provisions, the buyer could still be held liable.

Examining Registration Forms

- Prior ownership

From NJ business registration application:

2. **Did you acquire** Substantially all the assets; Trade or business; Employees; of any previous employing units? Yes No

If answer is "No", go to question 4.

If answer is "Yes", indicate by a check whether in whole or in part, and list business name, address and registration number of predecessor or acquired unit and the date business was acquired by you. (If more than one, list separately. Continue on separate sheet if necessary.)


Name of Acquired Unit _____	_____	ACQUIRED	PERCENTAGE
	N.J. Employer ID	<input type="checkbox"/> Assets	_____ %
Address _____	_____	<input type="checkbox"/> Trade or Business	_____ %
	Date Acquired	<input type="checkbox"/> Employees	_____ %

Examining Registration Forms

- Officers SSN or Driver's License
- Officer Home Address

From KY business registration application:

15-16. OWNERSHIP DISCLOSURE-RESPONSIBLE PARTIES (REQUIRED FOR ALL BUSINESS STRUCTURES)

 See instructions regarding required responsible parties for your business structure

Full Legal Name (First Middle Last)			Full Legal Name (First Middle Last)		
Social Security Number (REQUIRED)	FEIN (if Responsible Party is another business)		Social Security Number (REQUIRED)	FEIN (if Responsible Party is another business)	
Driver's License Number (if applicable)	Driver's License State of Issuance		Driver's License Number (if applicable)	Driver's License State of Issuance	
Business Title	Effective Date of Title		Business Title	Effective Date of Title	
Residence Address			Residence Address		
City	State	Zip Code	City	State	Zip Code
Telephone Number	County (if in Kentucky)		Telephone Number	County (if in Kentucky)	

Registration (cont.)

- If there is a secretary of state line on the registration form, don't automatically assume that you need to register with the secretary of state.
- Secretary of State registration is typically a legal evaluation.
- Registering with the secretary of state unnecessarily could result in additional filing and fees

Examining Registration Forms

- Secretary of State registration
 - Is it required?
 - Registered agent

From IL business registration application:

7 Illinois Secretary of State identification number:

___ - ___ - ___ - ___ - ___ - ___ - ___

From KY business registration application:

8. Secretary of State Information *(if applicable)*

Kentucky Secretary of State Organization Number			<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Date of Incorporation/Organization	State of Incorporation/Organization		If you are an Out-of-State Entity, Date of Qualification with the Kentucky Secretary of State's Office						
			<hr/>						

California Secretary of State Registration Rules

- Without excluding other activities that may not constitute transacting intrastate business, a foreign corporation shall not be considered to be transacting intrastate business within the meaning of subdivision (a) solely by reason of carrying on in this state any one or more of the following activities:
 - Maintaining or defending any action or suit or any administrative or arbitration proceeding, or effecting the settlement thereof or the settlement of claims or disputes.
 - Holding meetings of its board or shareholders or carrying on other activities concerning its internal affairs.
 - Maintaining bank accounts.
 - Maintaining offices or agencies for the transfer, exchange, and registration of its securities or depositaries with relation to its securities.
 - Effecting sales through independent contractors.
 - **Soliciting or procuring orders, whether by mail or through employees or agents or otherwise, where those orders require acceptance outside this state before becoming binding contracts.**
 - Creating evidences of debt or mortgages, liens or security interests on real or personal property.
 - Conducting an isolated transaction completed within a period of 180 days and not in the course of a number of repeated transactions of like nature.

New Jersey Secretary of State Registration Rules

- In general, corporations required to file include:
 - Every corporation existing under the laws of the State of New Jersey; and
 - Every foreign corporation which either:
 - holds a general Certificate of Authority to do business in New Jersey issued by the New Jersey Division of Revenue;
 - holds a certificate, license or other authorization issued by any other New Jersey department or agency authorizing the corporation to engage in activity in New Jersey;
 - **does business in New Jersey**;
 - employs or owns capital in New Jersey;
 - employs or owns property in New Jersey; or
 - maintains an office in New Jersey.

Registration (cont.)

- Applications must be completed accurately to the best of your knowledge.
- Applications are signed/submitted under penalty of perjury

Examining Registration Forms

- Signature – who needs to sign?

From NJ business registration application:

25. Contact Information: Person _____ Title: _____
Daytime Phone: () _____ - _____ Ext. _____ E-mail address: _____
Signature of Owner, Partner or Officer: _____
Title _____ Date: _____

Registration

- Registration application forms can be obtained from the Department of Revenue of the jurisdiction.
- State by State Sales Tax Registration Guide is included in the bonus tools provided with this webinar.

Registration (cont.)

- Registration Process
 - Online
 - Preferred method;
 - May be only option;
 - Some states provide registration number immediately
 - Virginia provides the registration number immediately after submitting the registration.
 - Paper forms – may be necessary if can't skip questions online that don't apply (Sec of State, SSN)

Registration – Online Process

- Many states use a similar portal for online sales tax registrations:

From DC online registration form:

The screenshot shows the 'FR-500 New Business Registration' portal. The breadcrumb trail is 'Home > FR-500 New Business Registration'. The progress indicator shows '1. Instructions' and '2. Business Information' (the current step). The form is titled 'Business Information' and includes the following fields:

- Organization Type: A dropdown menu with 'Required' written above it.
- ID Type: Three radio buttons labeled 'FEIN', 'ITIN', and 'SSN'. A yellow 'Required' callout points to the SSN option.
- ID: A text input field with 'Required' written above it.
- Confirm ID: A text input field with 'Required' written above it.
- Business/Legal Name: A text input field.
- Register Accounts Using Doing Business As (DBA) / Trade Name: A checkbox that is currently unchecked.

The 'Physical Address' section is titled 'Address where your business is physically located' and includes:

- Street: A text input field.
- Street 2: A text input field.
- Unit Type: A dropdown menu.
- Unit Number: A text input field.
- City: A text input field.
- State: A dropdown menu showing 'DC - DISTRICT OF COLUMBIA'.
- Zip Code: A text input field.
- Country: A dropdown menu showing 'USA'.
- Send mail to another address: A checkbox that is currently unchecked.

At the bottom of the form, there are buttons for 'Save Draft', 'Cancel', '< Previous', and 'Next >'. A 'Verify' link is located below the address fields.

Registration – Online Process (cont.)

- However, online forms can vary widely among states:

From MD online registration form:

New Registration

*** Required**

*** 1.** What type of ownership does your business have?

- Sole Proprietorship
- Partnership
- Non-Profit Corporation
- Maryland Corporation
- Limited Liability Company
- Non-Maryland Corporation
- Governmental
- Fiduciary

*** 2.** Have you paid or do you anticipate paying wages to individuals, including corporate officers, for services performed in Maryland? Yes No

*** 3.** Please enter your nine-digit federal identification number (FEIN). If you are a sole proprietorship or applying for a sales and use tax license only and do not have a FEIN, enter your Social Security number (SSN):

FEIN: - -

SSN: - -

*** 4.** All applicants must enter the nine-digit Social Security number of the individual owner of the company or officer or agent of a corporation responsible for remitting the taxes

- -

If you need to apply for a FEIN, you can click on the link below and follow the directions to obtain this number from the IRS. [Apply for a FEIN.](#)

From SC online registration form:

Business Tax Application [Form Instructions](#)

Select the type of registration:

- Register a new South Carolina business or Remote Seller
- Register additional South Carolina tax accounts
- Register a tax preparer with no business tax filing requirement with the South Carolina Department of Revenue.
Examples include out of state third party tax preparers and individual tax preparers with no business tax accounts with the South Carolina Department of Revenue.

Taxpayer Information

Type of Ownership: Corporation

ID Type: **Required**

Legal Business Name: **Required** Legal Name or Last Name

Incorporation Date: **Required**

Incorporation Country: USA

Incorporation State: SOUTH CAROLINA

Are you registering as a Remote Seller?

Have you applied for or received a non-profit charter with the South Carolina Secretary of State?

Will the corporation request or has it received a subchapter S election with the Internal Revenue Service?

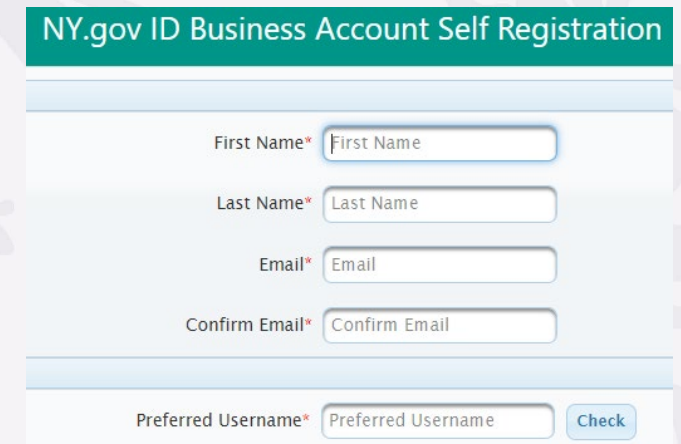
Is this an entity that is filing an 1120-H, 1120-REIT, or 1120-POL for federal tax purposes?

Is this an entity that pays taxes to the South Carolina Department of Insurance?

Registration – Online Process (cont.)

- Some online registration forms require authentication through an email address.
 - Example: New York
- The email address may also become the account login so you can't change the email.
 - Example: Rhode Island
- Consider setting up an email address like salestax@company.com so it is easier to administer.

From NY online registration form:



NY.gov ID Business Account Self Registration

First Name*

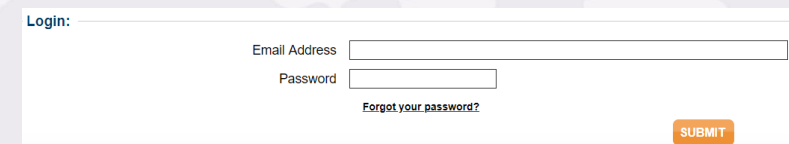
Last Name*

Email*

Confirm Email*

Preferred Username*

From RI online registration form:



Login:

Email Address

Password

[Forgot your password?](#)

Registration (cont.)



- Streamlined Sales Tax (SST) Registration Process
 - Consideration should be given to registering through the SST system for participating states.
 - 2019 change allows registrants to select which states to register in
 - Significantly few questions and requirements especially helpful for foreign entities as no requirement for FEIN or social security numbers for officers
 - Can use for registration even if not using a CSP

Registration (cont.)

- Streamlined Sales Tax (SST) Registration Process
 - Benefits
 - Limited questions
 - Ability to easily update information for all states when needed
 - Can identify remote seller or not
 - Risks/Limitations
 - Limited start date to only up to 60 days in the past
 - Participating states where you don't register could discover you but they don't receive notification that you didn't register
 - Future Functionality may include ability to register non SST states through the system

Streamlined Sales Tax Online Registration Form

- If foreign and no FEIN can use the system
- Doesn't require officer SSN or home addresses
- Registration Date vs. Remote Seller Begin Date

State	Register	Registration Date	Already Registered	Remote Seller
	select all <input checked="" type="checkbox"/>		select all <input type="checkbox"/>	select all <input type="checkbox"/>
Arkansas	<input checked="" type="checkbox"/>	09/01/2019 	<input type="checkbox"/>	<input type="checkbox"/>
Georgia	<input checked="" type="checkbox"/>	09/01/2019 	<input type="checkbox"/>	<input type="checkbox"/>

Registration (cont.)

- Registration Certificate
 - Number is used to complete resale certificates to provide to suppliers for inventory and items incorporated into property to be sold
 - Certificate is required to be posted in your physical location
 - Maintain original copies in a safe place in case you need to cancel registrations
 - Use this number for online marketplaces and tax engines to turn on the state

Sales Tax Bonds

- When filing for a sales tax permit, the state may require the individual to post a sales tax surety bond.
- In Mississippi, any taxpayer operating a business from their home or from a temporary location (less than 90-day lease), is required to post a cash or surety bond prior to receiving a sales tax permit to engage in business. The cash bond or approved surety bond shall be in an amount sufficient to cover the estimated tax liability for a six-month period. Similarly, any taxpayer operating a new or used mobile home dealership is required to post a cash or surety bond prior to receiving a sales tax permit. (MS Reg. 35.IV.1.03)

Sales Tax Bonds (cont.)

- In Iowa, the Director of Revenue may require any person liable for retail sales tax to file a bond to secure the payment of any tax or penalties. A new applicant for a sales tax permit may be required to file a bond if:
 - the applicant's financial status reveals that the applicant would not be able to remit the tax on time;
 - the applicant was delinquent or caused a collection problem under a prior permit; or
 - the new applicant is owned or controlled by the same persons that owned or controlled a previously delinquent permit holder.
 - (IA Sec. 423.35; IA Rule 701 11.10(423))

Sales Tax Bonds (cont.)

- Some states may impose a “deposit” or sales tax prepayment but not a bond
- Some states require an application fee
 - Connecticut - \$100
 - Arkansas - \$50 if have any physical activity in the state
 - SST can't require application fee if register through SST System



Updating Your Sales Tax Registration

Things that can Trigger a Registration Change

- The following items require a complete change of registration:
 - Name change
 - FEIN change
 - Corporate entity change
 - Mergers & Sales of business units
- You may need to notify the Secretary of State before the registration change can happen if registered with Secretary of State
- You may need to surrender your old registration certificate

Things that can Trigger a Registration Change (cont.)

- Other updates to keep current on – the following just require an update to the existing registration, not a whole new registration:
 - Address changes
 - Officer changes – states are getting strict on this so keep this current
 - Preparer changes
- If a registration is closed due to the sale or merger of an entity, you will be required to file a final return and return your license
- States are beginning to cross check information
 - Illinois has a power of attorney (POA) form and process. If the person that signs the POA is not listed as a responsible party on mytax.illinois.gov, the state rejects the POA.

New Mexico Business Owner Held Personally Liable for Unpaid Tax

- A trucking business owner became personally liable for New Mexico gross receipts tax after failing to update his business registration when he changed the business from a sole proprietorship to an LLC.
- In 2016, the taxpayer was issued a tax lien from the New Mexico Department of Revenue for unpaid tax, penalty, and interest.
- The lien was issued to the individual rather than the company, as the taxpayer was listed as a sole proprietorship with the Department.
- The Department found that the taxpayer never formally updated his business registration in response to converting the business to an LLC. As a result, the lien was deemed properly assessed to the sole owner and the taxpayer was held liable for the gross receipts tax.
- (In the Matter of the Protest of Casias, New Mexico Taxation and Revenue Department, (May 30, 2017))



Consumer's Use Tax Registration

Consumer's Use Tax

- With expanded nexus profiles, companies need to consider whether a consumer's use tax registration is also required
- Remote sellers may have obligation for use tax due to samples, loaner equipment or marketing materials shipped into a state

Consumer's Use Tax

- “Use” : 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

Consumer's Use Tax

- Purchases of taxable property where the seller did not collect sales or seller's use tax are subject to consumer's use tax
 - The determination of the correct local rate to apply generally follows the seller's use tax rules
 - However, in some states, if the seller and purchaser are located in the same state, special rules may apply
 - In some instances, the tax is imposed on the seller and if the purchaser did not provide an exemption certificate to the seller, the purchaser does not owe the consumer's use tax. This is very state specific and the particular rules must be reviewed in detail.

Use Tax Base

- The value of the items that are subject to sales or use tax
- Generally defined as the total amount of the sales price, without any deduction for the cost of the goods sold, interest paid, other expenses or transportation
- Taxable and Non-Taxable components must be separately-stated or the entire cost becomes subject to tax. There are a few exceptions to this rule if the taxable component is incidental to the non-taxable portion.

Thank you for watching!



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