



ALERT

State & local tax update

JULY 31, 2017

INCOME & FRANCHISE TAX

California bill to create new agencies

A bill was signed that will strip the State Board of Equalization (BOE) of all its mandated duties, responsibilities, and powers. To take over some functions, the state is creating two new agencies: The Department of Tax and Fee Administration (DTFA), which began operations July 1, 2017, and the Office of Tax Appeals (OTA), which will function beginning January 1, 2018.

Illinois tax rate changes

Effective July 1, 2017, the individual, trusts, and estates tax rate is increased from 3.75% to 4.95% and the corporate tax rate (excluding S corporations) is increased from 5.25% to 7%. Estimated tax payments for income received after July 1, 2017 must be paid at the higher rate. For taxpayers with a fiscal year ending on or after July 1, 2017, amounts earned before July 1, 2017 will be taxed at the old rate and amounts earned after July 1, 2017 will be taxed at the new higher rates. The two tax amounts will be added together to determine total tax liability. Taxpayers may select either the apportionment method (blended rate) or specific accounting method to calculate the total tax due. Taxpayers must choose their method on or before the extended due date of their tax return, and the decision is irrevocable. There is no change to the replacement tax rates.

Massachusetts late-filing penalties to be waived due to federal due date change

The due dates for Massachusetts tax returns for partnership and C corporations due on or before December 31, 2017 (2016 tax year returns) do not conform to the federal due date changes for those returns. Consequently, the Department plans to waive late filing penalties for C corporation returns filed on extension within one month of the extended due date, as long as the payment requirements for a valid extension are met.

New York State changes in Form POA

New York State has changed Form POA-1. It now only requires the taxpayer's signature, and has been condensed to one page. Taxpayers may now file Form POA-1 directly on the New York State website by creating an account, and submitting the form through their new web application process. New York will continue to accept the preceding version of Form POA-1 as long as it conforms to New York's rules and regulations.

New York driver's license suspensions for unpaid taxes upheld

The New York Supreme Court upheld the New York Department of Taxation's notice of an individual's suspension of their driver's license for unpaid personal income taxes. It was deemed constitutional pursuant to Tax Law Section 171-V which allows a taxpayer with a suspended license to apply for a restricted license which allows a person to drive for work, medical apportionments, and care for members of one's household.

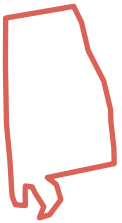
Trust earned.



SALES & USE TAX

Multiple states: Out-of-state sellers required to collect sales tax, remote seller reporting requirements and developments

NEW SALES / USE TAX REPORTING REQUIREMENTS



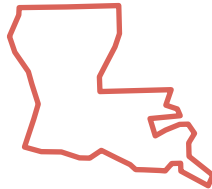
Alabama

Effective July 1, 2017 Legislation was passed that allows the Alabama Department of Revenue to now have the authority to require non-collecting vendors to notify Alabama customers of use tax obligations.



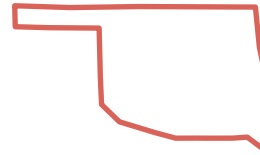
Colorado

Effective July 1, 2017 Non-collecting sellers with annual Colorado sales over \$100,000 are required to report to the Colorado Department of Revenue customer information each year. Sellers must also report customers with purchases over \$500 each year of their obligation to pay use tax.



Louisiana

Effective July 1, 2017 Out-of-state vendors with sales greater than \$50,000 annually must inform Louisiana customers at the time of the transaction that the sale is subject to use tax. Vendors must also provide an annual statement to their customers by January 31st each year indicating the total purchases for the year. An annual report must be sent to the Louisiana Department of Revenue by March 1st in addition to the customer notification.



Oklahoma

Effective February 1, 2017 Out-of-state sellers must notify Oklahoma purchasers of their total purchases for the year by February 1st each year.



Vermont

Effective July 1, 2017 Vendors with over \$100,000 in Vermont sales in the previous calendar year must provide a notice to their Vermont customers with purchases over \$500 indicating that use tax may be due. A copy must also be filed with the Vermont Department of Taxes by January 31st each year. Failure to comply could result in a \$10 penalty per notice failed to be filed.

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Colorado notice & reporting requirements for sales and use tax

The Colorado Department of Revenue has issued an emergency regulation to clarify their rules for a retailer's notice and reporting requirements that became effective July 1, 2017. All non-collecting retailers with gross sales into Colorado of \$100,000 or more in a calendar year must (1) provide a Transactional Notice to all Colorado purchasers at the time of purchase (2) provide an Annual Purchase Summary to all Colorado purchasers by January 31 of each year and (3) provide an Annual Customer Information Report to the Department by March 1 of each year.



Remote seller's economic Nexus challenged in Wyoming court

Similar to legislation already enacted in Massachusetts, South Dakota, and Tennessee, effective July 1, 2017, a new Wyoming law (House Bill 19) went into effect that requires the collection of Wyoming sales tax for sellers of tangible property, admissions and taxable services on such sales into Wyoming. This new law applies to all seller's, even to remote sellers without a physical presence in the state, if either of the following criteria is met in the current or previous calendar year:

1. The seller's gross receipts exceeds \$100,000;
2. The seller had 200 or more separate transactions into Indiana.

Two trade groups, Washington-based NetChoice and the American Catalog Mailers Association (ACMA), have filed a lawsuit challenging the constitutionality of Wyoming directly contradicting the U.S. Supreme Court's 1992 decision in *Quill Corp v. North Dakota*, which prohibits states from imposing sales and use tax collection on sellers without physical presence inside of the state. These same trade groups have previously filed against Massachusetts, South Dakota, and Tennessee, and prevented their tax collection from being enforced to date.

In response to the filing, on July 7, 2017, the Wyoming Attorney General filed its own action to obtain a declaratory judgment that finds the law valid under state and federal law. By filing its own action, the state has enjoined the enforcement of imposing the gross retail tax collection on remote sellers who don't remit voluntarily.

Remote seller's economic Nexus challenged in Indiana court

Following the lead of Wyoming and the other states mentioned above, effective July 1, 2017, a new Indiana law (House Bill 1129) went into effect that requires the collection of Indiana gross retail tax for sellers of tangible property, electronically transferred products, or services on such sales into Indiana. This new law applies to all sellers, even to remote sellers without a physical presence in the state, and has the same criteria as Wyoming - if either of the following criteria is met in the current or previous calendar year:

3. The seller's gross receipts exceeds \$100,000;
4. The seller had 200 or more separate transactions into Indiana.

The same two trade groups that filed in Wyoming and the other states, NetChoice and the American Catalog Mailers Association (ACMA), have filed suit seeking declaratory judgment, asking an Indiana trial court to find that the State of Indiana is directly contradicting the U.S. Supreme Court's 1992 decision in Quill Corp v. North Dakota.

Similar to the other states' laws, the Indiana law does authorize the Indiana Department of Revenue to bring its own action to obtain a declaratory judgment that finds the law valid under state and federal law. If the state does file its own action, it would serve as an injunction prohibiting the Department of Revenue from enforcing the gross retail tax collection on remote sellers who don't remit voluntarily. The state has yet to file, but as with all other states with the same laws, they are expected to do so soon.



GROSS RECEIPTS TAX

Washington expands business and occupation (B&O) tax nexus

Effective July 1, 2017 the economic nexus for business and occupation (B&O) tax is extended to taxpayers engaged in retail sales, as long as the taxpayer has more than \$267,000 in receipts from Washington or at least 25 percent of taxpayer's total property, payroll, or total receipts in Washington.