



NexusClear^(SM)

Bringing Clarity to Your Sales Tax Obligations

Sales tax is confusing enough. Now, the game has changed. The states where you file sales tax returns will increase due to the recent Wayfair Supreme Court ruling. You are left wondering what to do next. It's like you're driving down a foggy road and can't see more than three feet in front of you. You know the road is there but aren't sure where the next curve may be. All you want is for the fog to lift so you have clarity on where to go and what to do.

Whether you currently collect and file sales tax in multiple states or it hasn't applied to you before now, there are new rules to follow. Many states have already enacted legislation while some are in process and others will do so next year. In addition to filing in more states, the workload has also increased for those who sell wholesale.

Determining where you have nexus (a link between your business and the taxing authority), at what level, and when it becomes effective is confusing and time-consuming. It doesn't have to be. You can easily become NexusClear.

LEARN THE FACTS

If your product or service is taxable in any jurisdiction where you have as little as \$100,000 in sales or 100 transactions, then you will likely be required to collect and remit sales tax even if the service is provided outside of the taxing jurisdiction. Yes, that's 100 transactions, regardless of price.

The rules around when you will need to start collecting are still being established in many jurisdictions. In some cases, nexus is established based on prior year sales and in others, it's based on sales over the past two months. You need to understand your nexus and keep up with all the new rules to ensure you're fully compliant.

If you sell directly to end users, your sales tax liability is expanding. As soon as you meet the transactions or sales threshold in any one state, you will eventually need to collect and remit sales tax to that state.

If you sell directly to resellers, the expanded liability applies to you, which means you need to collect exemption certificates from those additional customers and retain them as proof that you are not required to collect sales tax.

If you sell to both end users and resellers, not only do you have to collect additional certificates from your resale customers, you have to also understand what additional states you may be required to collect and remit sales tax for. Being able to separate out these sales by type to make the needed determinations is key.

ALL SELLERS AFFECTED AND CERTAIN SERVICE COMPANIES ARE EARLY TARGETS

While all businesses are impacted by this court decision, some will be targeted more aggressively. Those that sell tangible goods on their own through standard business operations, as well as those who sell directly over the internet including through marketplace providers like Wayfair, Amazon, eBay, Etsy, etc., must be vigilant in timely compliance.

There are some service companies that will have higher odds of initial enforcement including those that provide:

- Computer services
- Software as a Service (SAAS)
- Sales of software
- Mailing services
- Data processing
- Electronic information services

However, that doesn't mean that other service providers aren't at risk. There is still a chance your services may be taxable in two states and not taxable in the remaining 48. If you meet the threshold in those two states, you'll need to collect sales tax in those states only. Since different services are taxable in different jurisdictions, this becomes complicated for you to research and maintain compliance on a state-by-state basis on your own.

LIFT THE FOG AND SEE NEXUSCLEAR

The bottom line is that you have to remit sales tax from the day the legislation is effective in any state – whether you collected it or not! The sooner you collect tax from the buyer, the less money you will be on the hook for personally. Not to mention, you'll limit any interest and penalties that may be assessed.

An examination of your current sales by dollar volume and jurisdictions will allow you to see through the fog so you can develop a plan to comply with the rules in each state where you now have nexus. With four NexusClear options to choose from, you can find the level of support you need based on the capacity and knowledge of your internal team.

	Silver	Gold	Platinum	Diamond
Transaction volume calculations by state	X	X	X	X
Determination of where to file	X	X	X	X
Nexus rule by state where nexus exists	X	X	X	X
Guidance on getting set up to pay sales tax		X	X	X
Advice on prioritizing next steps		X	X	X
Proactive monitoring for new nexus obligations			X	X
Assistance with sales tax registrations			X	X
Review of nexus creating activities prior to Wayfair ruling				X
Assistance with exposure mitigation for liabilities pre- or post-Wayfair ruling				X
<i>Add-on service:</i>				
Assistance with collection of exemption certificates	X	X	X	X

WITH CLARITY COMES PEACE OF MIND

For guidance and support on how to see through the fog, count on Windham Brannon. Not only will we help you understand your nexus, but we are also prepared to help you understand the greater state and local tax landscape, so you can prioritize next steps. If you are short on the resources needed to make the determinations, proactively monitor changes and chase down exemption certificates, we can provide the support your team needs.

CONTACT US

To learn how you can see NexusClear, contact our state and local Practice Leader, Tim Clancy, at 678.510.2804 or tclancy@windhambrannon.com