



M2K - USA Sales Tax Series

Introduction to Sales and Use Tax

ALERT #1

Foreword

Sales and Use tax compliance is a major challenge for businesses operating in the United States. Unlike many countries with a single national sales tax, US sales tax being a local levy, there are **thousands of taxing jurisdictions**. This means businesses must navigate a maze of different tax rates, taxability rules, filing schedules, and exemption requirements just to sell the same product in different states.

The complexity doesn't stop there. The **2018 Supreme Court Wayfair decision** changed the game by requiring businesses to collect and remit sales tax even if they have no physical presence in the state. Now, simply exceeding a certain number of sales or revenue in a state can trigger a tax obligation, making it even harder for remote sellers and online businesses to keep up. States have moved quickly to enforce these "economic nexus" rules, and the risk of audits and penalties for non-compliance is higher than ever. Further, certain states levy sales tax on enumerated services, which is unknown to many businesses operating in the United States.

M2K's US Sales Tax Series is designed to educate the readers/ businesses & simplify the complexities. In the series, we will explain how sales and use taxes work, when should you get registration, what are the compliances that would apply, etc.

Introduction to Sales Tax



Sales tax is a consumption tax imposed on sale of goods and certain services to end consumers.

Sales made along the supply chain (i.e., for resale) are generally not taxable.

The United States does not have a national-level sales tax. These taxes are administered at the state and local level and each jurisdiction has its own rates, rules, & filing requirements. In addition to state-level tax, many local jurisdictions (cities, counties) impose their own sales taxes.



Most states tax sale of tangible personal property (physical goods) and some states tax supply of enumerated services. Real property (such as land, buildings) and intangible property (such as stocks, intellectual property) are generally not subject to sales tax.



Sellers must collect and remit sales tax (unless certain exemptions apply) to the states where they trigger nexus, which can be physical nexus, economic nexus, affiliate nexus, etc.



The economic burden of sales tax is borne by the consumer, but the tax is collected and remitted by the seller.



Introduction to Use Tax



- ❖ The use tax acts as a complement to sales tax and it is payable when goods or services are used in a state and sales tax was not collected by the seller at the time of sale.
- ❖ Use tax is commonly triggered in the following circumstances:
 - Buyer orders goods from outside of his state and the seller did not charge sales tax because the seller did not trigger nexus in the buyer's state.
 - Buyer orders goods from a physical store outside of his state and transports the goods to his state of residence / business.
- ❖ Unlike sales tax, the purchaser bears the burden of remitting the use tax directly to the state where the purchase is sourced.
- ❖ Some states require the purchaser to disclose the use tax paid in their income tax returns whereas some states require the purchaser to file a separate use tax return.

States without sales & use tax



Five states do not impose any general statewide sales and use tax, whether on goods or services.

Alaska

Delaware

Montana

New
Hampshire

Oregon

Of the 45 states remaining, currently four states (Hawaii, South Dakota, New Mexico & West Virginia) tax services by default. In the remaining 41 states and the District of Columbia, services are not taxed by default and are taxable only when they are explicitly mentioned in the statute.

Exemptions from sales tax




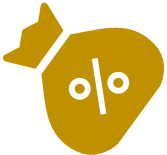

What should businesses do?



Stay tuned for more updates on Sales & Use Tax

Please find below the list of alerts proposed to be released in the series (every Tuesday & Thursday).

General overview

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1. Introduction to sales & use tax
 2. Situs of sale
 3. Sales tax exemptions
 4. Determining nexus
 5. Registration & compliances
 6. Voluntary disclosure agreement
 7. Sales tax on software & SAAS

State wise overview

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|----------------|--------------------|--------------------|
| 1. Delaware | 18. Kansas | 35. North Dakota |
| 2. New Jersey | 19. Kentucky | 36. Ohio |
| 3. California | 20. Louisiana | 37. Oklahoma |
| 4. Alabama | 21. Maine | 38. Oregon |
| 5. Alaska | 22. Maryland | 39. Pennsylvania |
| 6. Arizona | 23. Massachusetts | 40. Rhode Island |
| 7. Arkansas | 24. Michigan | 41. South Carolina |
| 8. Colorado | 25. Minnesota | 42. South Dakota |
| 9. Connecticut | 26. Mississippi | 43. Tennessee |
| 10. Columbia | 27. Missouri | 44. Texas |
| 11. Florida | 28. Montana | 45. Utah |
| 12. Georgia | 29. Nebraska | 46. Vermont |
| 13. Hawaii | 30. Nevada | 47. Virginia |
| 14. Idaho | 31. New Hampshire | 48. Washington |
| 15. Illinois | 32. New Mexico | 49. West Virginia |
| 16. Indiana | 33. New York | 50. Wisconsin |
| 17. Iowa | 34. North Carolina | 51. Wyoming |
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Thank You



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