



M2K - USA Sales Tax Series

Registration & compliances

ALERT #5



Foreword



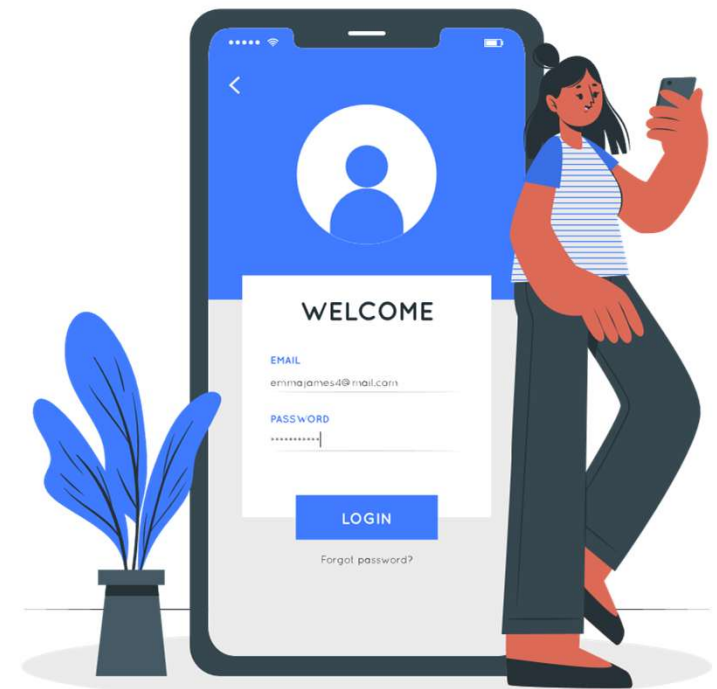
Sales and Use tax compliance is a major challenge for businesses operating in the United States. Unlike many countries with a single national sales tax, US sales tax being a local levy, there are **thousands of taxing jurisdictions**. This means businesses must navigate a maze of different tax rates, 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.

When to register

- ❑ Sales tax registration is required in cases where the business triggers nexus i.e., physical nexus, economic nexus, etc. Registration may be required even if no taxable sales are made in that particular state.
- ❑ A business purchasing tangible personal property for resale (e.g., wholesalers) must provide a resale exemption certificate to avoid paying sales tax on those purchases. To issue a valid resale certificate, the business may require a sales tax license, regardless of whether it meets the nexus thresholds.
- ❑ Certain states (such as New York) require even the seller to be registered to accept an exemption certificate (such as a resale certificate) issued by the purchaser.
- ❑ Registration may also be required to file use tax returns and discharge use tax liability



Sales tax compliances



- Once sales tax registration is obtained, the seller will be allotted a sales tax permit / license.
- The seller should determine the appropriate tax rate and start collecting sales tax from the customers (if applicable).
- The seller should file the sales tax returns (either monthly or quarterly or annually, depending on the volume of business).
- The seller should remit the collected sales tax to the relevant state.
- The seller should keep detailed records of sales, tax collected, exemption certificates, etc.
- If the seller has overpaid tax, the seller can file a claim for a refund with the state authority.

Use tax compliances



Use tax must be self-assessed and remitted to the state tax authority by the purchaser.



Some states require individuals to report the use tax on their state income tax return. Some states require separate consumer use tax returns to be filed.



Purchases which are exempt from use tax (due to usage in manufacturing processes, etc.) require proper maintenance of exemption certificates.

Consequences of non-compliances



In most of the states, the statute of limitation for sales and use tax is 3 years. However, certain states impose a longer statute of limitation if the taxable sales are misreported by more than the prescribed threshold. Further, certain states propose a longer statute of limitation if no return was filed.



States may demand payment of unpaid taxes, along with interest calculated from the due date of payment.



Late filing or late payment of taxes could also result in significant penalties (penalties for non-compliance is generally 25% of tax liabilities).



Non-compliance can also lead to suspension of license to carry on business in the state



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). In case you have missed the previous alerts, click on the [hyperlink](#).

General overview

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

- | | | |
|----------------|--------------------|--------------------|
| 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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