KBF
CERTIFIED PUBLIC ACCOUNTANTS

SALES AND USE TAX NEWSLETTER

1st Quarter 2021 Edition

KBF's quarterly newsletter updates clients on sales and use tax news, developments, and trends from around the country.

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CHICAGO
Economic Nexus

Beginning July 1, 2021, the city of Chicago will apply an economic nexus threshold of $100,000 in revenue from the four most recent calendar quarters to out-of-state businesses for purposes of collecting Chicago's amusement tax, as applied to video streaming, audio streaming and on-line games, and Chicago's personal property lease transaction tax, as applied to nonpossessory computer leases and software as a service.

City of Chicago, Information Bulletin – Nexus and Safe Harbor, Issued January 21, 2021

FLORIDA
Economic Nexus - Legislation

Florida lawmakers made a deal that would use sales tax revenue generated by the new economic nexus threshold to restore the state's unemployment compensation trust fund to pre-pandemic levels. Since the monies generated by the Florida bill (Senate Bill 50) will be used to replenish the unemployment fund, Florida business owners will avoid large increases in their unemployment taxes.

Effective July 1, 2021, Florida will join the majority of sales tax states that impose collection duties on out of state sellers. The Florida law provides an economic nexus threshold of $100,000 of taxable sales during the previous calendar year (with 2020 as the initial threshold year). Sales made through and taxed by a Marketplace Provider do not count towards the $100,000 economic nexus threshold and should not be reported as sales by the remote seller. There is no threshold for a minimum number of transactions to create nexus.

KANSAS
Economic Nexus - Vetoed

On April 16 2021, Kansas Governor Laura Kelly vetoed Senate Bill 50 that would have established, as of July 1, 2021, a $100,000 minimum sales threshold for triggering the requirement to collect and remit sales tax by out of state sellers and marketplace facilitators. In addition to the sales tax economic nexus threshold, the bill also included several income tax provisions that would result in $284 million in tax deductions. The Governor raised concerns over cutting taxes as the state continues to recover from the pandemic. However, a legislative veto override remains a possibility. The bill cleared the Senate on March 30 by a veto-proof vote of 30-10, but fell three votes short of the two-thirds needed in the House.

MARYLAND
Digital Advertising Tax

Maryland is the first state to adopt a specific tax on the revenues derived from digital advertising. The Maryland law (House Bill 732) imposes a tax on gross revenues derived from digital advertising services in Maryland. The tax, imposed as scaled rates between 2.5% and 10%, applies to persons that have (1) global annual gross revenues of $100 million or more; and (2) digital advertising revenues sourced to Maryland of $1 million or more. Senate Bill 787 has delayed the effective start date for this tax until January 1, 2022.

A coalition of tech and business groups filed a lawsuit challenging the tax. The lawsuit argues that the tax is unconstitutional as it singles out advertisements on digital platforms, which makes it a discriminatory tax on electronic commerce in violation of the Internet Tax Freedom Act.

Sales Tax on Digital Products, Digital Codes, and Streaming Services

Effective March 14, 2021, Maryland will now tax sales of digital products, digital codes, and streaming services. Maryland's Office of the Comptroller has issued guidance on the law (House Bill 932) and has determined that the tax will be imposed on receipts from electronically delivered software and remotely accessed software or software as a service (SaaS).

Business Tip #29 Sales of Digital Products and Digital Code

MASSACHUSETTS
Accelerated Sales Tax Remittance

Effective April 1, 2021, businesses that have collected and remitted more than $150,000 in sales tax or room occupancy and meals tax in the preceding calendar year will be required to remit tax collections through the twenty-first day of the month no later than the twenty-fifth day of the same month. The accelerated remittance timeline will not apply to businesses with less than $150,000 in sales tax or room occupancy and meals tax in the preceding calendar year.

A 5% penalty of the amount of an underpayment will be imposed unless the underpayment is due to a reasonable cause. A penalty will not be imposed if the payment made on or before the twenty-fifth day of the same month is not less than 70% of the total tax collected during the filing period.

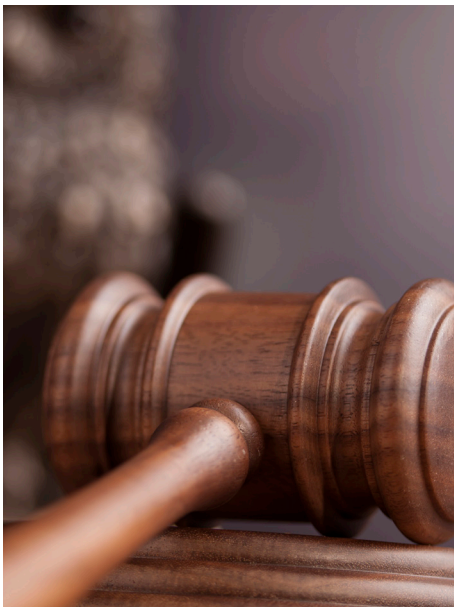
Businesses that have collected and remitted more than $150,000 in Massachusetts sales tax or room occupancy and meals tax in 2020 will want to put a system in place prior to April 2021 to ensure they are able to timely file and remit the accelerated sales tax payments.

(H.B. 5164; Press Release, Office of Governor Charlie Baker and Lt. Governor Karyn Polito, December 11, 2020)

MISSOURI
Economic Nexus - Legislation

In March, the Missouri Senate and House passed similar bills (SB 153, HB 554) that, effective January 1, 2023, would require remote vendors with more than $100,000 in annual sales into the state to collect and remit the state's 4.225% use tax on purchases by Missouri-based buyers. Both measures would cut income taxes to offset the additional revenue generated by taxing remote sales.

In previous sessions, anti-tax lawmakers argued that passing a Wayfair bill was essentially enforcing a new tax and opposed such legislation unless taxes were cut in other areas.



NEVADA
Amnesty

The Nevada Legislature enacted Senate Bill 3 which provides for a onetime penalty and interest amnesty program beginning February 1, 2021 and ending May 1, 2021 for persons and companies doing business in Nevada who may have a current tax liability. The amnesty program shall relieve a business and/or persons who have not paid a tax, fee or assessment required to be paid to the Department of all the monetary penalties and/or interest imposed with regard to the unpaid tax, fee, or assessment for period end dates March 31, 2020 and prior due on or before April 30, 2020 for quarterly filers and period end dates May 31, 2020 and prior due on or before June 30, 2020 for monthly filers.

If you are an **unregistered business** you must register with the Department either by applying online or by sending a completed and signed Nevada Business Registration and Supplemental Registration form, file tax returns for the periods since your business began operation, but not earlier than 8 years back, and pay the additional tax only.

If you are a **registered business** and found a mistake that needs to be corrected which increases any tax due, you must file an amended amnesty return showing the corrections as far back as necessary, but not earlier than 3 years. Instructions on how to amend a return can be found on the Department's website.

Tax Amnesty Program FAQs (nv.gov)

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