

Colorado Sales & Use Tax Salida Chamber of Commerce

Presenter:

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What Makes Colorado So Difficult?

- * Varied State vs. Local Laws and Rates
- * State and State-collected (statutory) cities, counties and special districts
- * 71 Self-collecting Home-Rule Cities
- * Destination Sourcing Effective June 1st, 2019
- * Mailing addresses that don't reflect true city

Why Does It Matter?

- * Increased Compliance Burden
- * Nexus (“Doing Business”)
- * Multiple Audits
- * Use Tax
- * Address Verification

Increased Compliance Burden

- * Multiple city registrations may be required.
- * State-wide collection for all state-collected jurisdictions.
- * Increased documentation and licensing requirements for local jurisdictions
- * Zero returns are often mandated.
- * Address issues lead to errors in determining the correct city and rate.
- * Overpayment or undercharging can result and pose audit risk for both the vendor and the purchaser.

Nexus

- * Wow! This is a tough area for businesses.
- * Physical Presence
 - * AKA “Doing Business” or “Engaged in Business”
- * Economic Nexus
 - * Multi-state licensing, collection and remittance
 - * Home-rule cities in Colorado

Nexus

- * Definitions of “Doing Business” vary by home-rule city.
- * Deliveries in company vehicles and installations are usually triggers.
- * One installation or more than one delivery can be considered sufficient.
- * Home-Rule cities that adopted CML’s Economic Nexus Model Code - No physical presence required!

Multiple Audits

- * State, Cities & Hired 3rd Party Contract Auditors
 - * Some home-rule cities use their own auditors while others use contract auditors.
 - * If you are picked for audit by a contract auditor city, other cities may be invited to participate in the audit!
- * The Auditor may notify the State or other cities.

Don't Forget About Use Tax

- * Use Tax applies to service businesses including contractors and nearly every other business!
- * Don't believe the Myth!
Reality: Internet purchases are not tax exempt.
- * Rate Differentials
 - * Tax is due if the rate you paid is lower than your local home-rule city's rate.
- * Food for office/business use
- * No Salida or Chaffee County Use Tax

CO State Changes 6/1/19

- * State-wide collection for all state-collected jurisdictions
- * Formerly collect for the jurisdictions you and your customer have in common plus applicable home-rule cities.
- * Report sales by branch id

CO State and Local Audits

- * CO State audits can cover all DOR tax types
- * City audits - It's about documentation
 - * Local issues focus - more detail required
 - * Invoicing
 - * "Ship To" delivery address vs. "Bill To" address
 - * Verification
 - * Prove taxable purchased items were never in their city.
 - * Prove how the delivery was made and where it went.
 - * Occupation Privilege Tax and other tax types too

Sales Tax Audit Issues

- * Having incomplete sales invoices with no documentation to support pickup or delivery
- * Not identifying the sales tax charged to a specific taxing jurisdiction
- * Not breaking out installation labor clearly on sales invoices
- * Not having written training materials regarding sales tax for personnel to use when preparing sales invoices or ringing up merchandise in a POS system
- * Not keeping copies of valid resale certificates on file when customers provide them

Sales Tax Audit Issues con't

- * No documentation substantiating the reasons for exemption from sales tax (i.e.-resale certificate, letter of exemption, exemption certificate, etc.)
- * Not understanding how their sales tax system works. For instance, collecting tax for jurisdictions but not being licensed and not remitting the tax collected
- * Improper reporting of sales tax to various taxing jurisdictions
- * Not reconciling their sales tax liability account each time they do reporting
- * Not identifying all delivery locations and the proper sales tax for each on a sales invoice

Use Tax Audit Issues

- * Not identifying all items on invoices that are subject to use tax accrual based on the taxing jurisdiction's code(i.e. - items such as fuel surcharges)
- * Not accruing applicable City use tax on manufacturing equipment
- * Locking in on one vendor for use tax accrual and ignoring new vendors providing the same items
- * If providing supplies from a central warehouse, not accruing use tax for those supplies if not previously taxed
- * Accuracy - Relying on accounting systems to identify purchase invoices subject to use tax

Use Tax Audit Issues con't

- * Remitting use tax accrued to the wrong jurisdiction
- * Making sure use tax accruals are done based on the taxing jurisdiction's tax code for what is taxable
- * Not accruing use tax on withdrawals of inventory for their own use
- * In Denver, not accruing use tax on all costs that are part of the manufactured cost for items where a retail market exists
- * Not accruing use tax on leases or rentals of equipment used in a taxing jurisdiction

Real Life Examples and Practical Application

- * Florist in business over 30 years then audited
- * Custom cabinet company sold business. Buyer required tax clean-up with multiple cities and the State. Custom design, wiring and construction considered as taxable sale with installation.
- * Roofer wasn't paying sales or use tax on materials. Result - Obligation with multiple home-rule cities.

What Have You Faced?

- * Audits
- * Reconciliations
- * Tax Issues
- * Complications

Tax Tips & Best Practices

- * **TIP:** Evaluate and resolve past liabilities, register and file a return, limit the look-back period, and minimize your future liability.
- * **TIP:** Minimize use tax obligations by using your proper city name in your address and notify vendors of your true location and tax rates.
- * Verify your Colorado customers' true locations.
- * Are you prepared for an audit?

Voluntary Disclosure Agreements

- * What do you do when you've discovered significant prior obligations?
- * 3rd party anonymous voluntary disclosure may be the right answer.
- * CO State and Home-Rule cities are generally willing to limit the look-back to three years and to waive penalties.
- * If tax wasn't collected, one is willing to have you just register and comply going forward.

Resources

- * Address Verification: <https://colorado.ttr.services/>
- * Sales & Use Tax Rate Look-up:
<https://www.colorado.gov/pacific/tax/sales-and-use-tax-rates-lookup>
- * Colorado Sales and Use Tax System “SUTS”:
<https://colorado.munirevs.com/>
- * Sales Tax Changes:
<https://www.colorado.gov/pacific/tax/sales-tax-changes>
- * CO DOR Sales & Use Tax:
<https://www.colorado.gov/pacific/tax/sales-use-tax>
- * CML - Economic Nexus/ Marketplace Facilitator Model Code:
<https://www.cml.org/home/advocacy-legal/Members39-Guide-to-Legal-Consulting-Services-and-Amicus-Briefs/cml-model-ordinance---economic-nexus-marketplace-facilitators>

Questions?

Thank you!

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