State and Local Tax Checkup Video Transcript

Kat Jenkins:

Hi, and welcome to Barnes Dennig Ask the Experts. I'm marketing director Kat Jenkins. And today our state and local tax pros Dave Walls and Ryan Lauer are talking about some common sales tax compliance issues and how to avoid them. Dave and Ryan, it's great to have you with us.

Ryan Lauer:

The pandemic changed buying habits for both businesses and consumers, and that means expanded operations for many businesses. And while these changes can mean great things for your bottom line, they may have also raised sales tax compliance issues. Dave, what are some of the top issues that cause new sales tax compliance concerns?

Dave Walls:

Well, thanks Ryan. One of the big areas of concern for sales tax compliance is the expansion, companies expanding. Whether that's property, a lot of companies have inventory in multiple states now. It might be sitting in a warehouse in another state, that can cause sales tax compliance. Or, they have people working in other states. With the pandemic we're having more and more people that are working from home and they may be an Ohio company, but they got an employee in South Carolina. So all of a sudden you have nexus and compliance concerns down in South Carolina, or Florida, or wherever that employee might live. So that can cause some problems where they haven't filed in the past. And on top of that, we've got companies that are doing internet sales. Almost every company nowadays is selling something through the internet. And a few years ago with the Wayfair case, it allowed the states to now require companies to register and file sales tax returns in a state where maybe they didn't in the past.

Dave Walls:

The law basically now says, in most states, if you have a hundred thousand of sales in their state, that can require you to register for sales tax, start collecting sales tax and remitting it, which is a big compliance responsibility. A big burden for a small company, and a hundred thousand dollars is fairly small in the scheme of things and a lot of companies get caught up in that compliance. On the other side, then you've got companies that are doing a lot of acquisitions or mergers in the state. Depending on how that company that they acquired was doing their compliance activities in the past, now you may have new compliance concerns. They have to look at that and see where they on top of things, and now do you need to do something different and add that to what you're doing currently?

Dave Walls:

And then the states, with the pandemic starting to slow down a little bit more and more states are looking for money so they're out there doing their sales tax and even their income tax audits. So their activity has picked up. And one of the first companies they're looking at are the ones that aren't registered and aren't filing, but they know you're in the state. One way or another they can find you and then that's where they come after you on the audits. So we want to kind of get in there and reduce any penalties or interest by catching that on the front end.

Dave Walls:

And then, we always tell companies, hey, if you haven't done a state tax review for a number of years, or if you've never done one, now's not a bad time to do it. With everything going on in the world and all the new expansions, and like I said, everybody on the internet, it's a good time to do it now. At least know where your exposures may lie and how to proceed going forward.

Ryan Lauer:

What are some of the areas of state tax to look at?

Dave Walls:

Probably the top area, the first area we usually focus on is what's called a nexus study. And basically nexus is the requirement that a state says, you've got enough contacts with our state. You had enough sales or you had property or payroll in our state, we now can require you to register to file. Nexus studies are ever-evolving and changing, states keep changing their rules. Companies are expanding. Like I said, everybody's on the internet and selling so all of a sudden you can have a requirement to register and file in that state. So you need to look at it. And even if you've done one in the past, past two or three years, if it's getting stale, you probably need to update that and look what's changed. You know, what should you be doing going forward? So that's a big area to look at. You kind of know where your exposures are, or just to know if you're doing things correctly.

Dave Walls:

Another area that's good to look at is what's called an apportionment review. This is more related, not so much to sales tax, but to income tax filings. And when you're looking at income tax, the way states allocate income and situs to that state for an income tax purposes, is based on what they call apportionment. So if you're a manufacturer, you situs it one way to a state. And now with service businesses, it's really changed. The service businesses, do it different, the way they situs their sales. So you need to look at those and if it hasn't been reviewed for a while, that probably needs to be reviewed more currently to make sure on top of that.

Dave Walls:

And then a big area that a lot of companies don't have time to look at are tax incentives and tax credits, which we'll talk a little bit more about in a few minutes. But tax incentives can help reduce the cost of going into a new state. You're doing an expansion, but maybe you get some incentives for moving to that state. And it's always good to review and see what's out there that you can take advantage of.

Ryan Lauer:

Can you tell us a little about exemption reviews for sales and use and CAT tax?

Dave Walls:

Yeah. Exemption reviews. It used to be called, a lot of companies call it a reverse audit. But it's basically just looking at what activity you're doing and where there could be an exemption from the tax. So if you're doing R&D activities, a lot of that equipment would be exempt. For example, Ohio, Indiana, most states have some type of R&D exemption from sales tax. There's also things for pollution control, for things, a lot of warehousing type entities, a lot of their equipment could be exempt. Transportation companies is a big one. With transportation companies there are a lot of exemptions for their vehicles that they buy, or any ancillary equipment that's used on the vehicles, or with their business. And probably the biggest one are manufacturing companies. Manufacturing companies are, in most states, are awarded so many exemptions for their equipment, for their property, anything they were buying can be exempt.

Dave Walls:

One of the biggest concerns we get there is some of the manufacturers have been told, hey, you're manufacturer you're exempt, but you're not exempt on everything. It's got to be used in the process. So it's good to always review and say, hey, you bought that forklift that's you used in your warehouse, that may not be exempt. Or here's a computer that's used in the office, that's not exempt. But just because you're a manufacturer you may not get that exemption. But there's numerous exemptions and if that hasn't been looked at, it's a good time to look at it before an auditor comes in. And it's also good to look at when they're in their auditing, we could go in and do, like I said, what's called a reverse audit. Look at those exemptions and hopefully offset anything they find in an audit.

Ryan Lauer:

And of course, as you mentioned a minute ago, everyone wants to know about tax incentives. What are some key areas there?

Dave Walls:

Right. There's just a number of incentives. Every state is trying to attract the best business and get people in their state working. So a lot of these credits are based on people or property, if you bring people in. So in Ohio, for example, one of the big ones is the job creation tax credit. So if a company is going to add maybe 10 employees, usually you want to be more than that, but 10 employees is enough to actually see if you qualify for some state tax credits. And the job creation tax credit is not only at a state level, but most of the cities also have a corresponding credit that piggybacks off the state, can provide you money for hiring those new people. They also have training grants and hiring grants that are available on a limited basis as well.

Dave Walls:

They have a credit called an invest Ohio credit, where that's for small business owners. If the business owner is putting money into the business, so they're going to put a million dollars say into a business venture, they put it in there they can actually get up to 10% of that back as a credit on their individual income tax returns. And a lot of people just miss that. And it's something that comes up every couple years.

Dave Walls:

It gets, seeing how much money is available for those types of credits. But then there's, like we spoke about before, R&D. Even those are exemptions on one side for sales tax, there's also credits kind of piggyback off what you do for federal. So if you take the federal R&D credit, most states have a state R&D credit. And where we use that, I've seen companies that say, I don't take the federal credit because I haven't made money the last few years, so I can't even use it. But for Ohio, for example, it goes against the CAT tax and everybody pays some kind of CAT, probably. So it can reduce your CAT tax and could be carried forward.

Dave Walls:

And then there's things like enterprise zone. So if a company is doing an expansion of property, they can get up to a hundred percent abatement on their real property expansion. They're buying a new building or just adding onto a building. They can get those abatements and then there's some ancillary credits there. So that's just a few of the numerous credits that are available, and exemptions. Almost every state has something and if it hasn't been looked at, it's a good way to help on the ROI for doing that expansion and help with that. So that's just a lot of the areas of state and local that we like to look at. And I think that does it for here. And I guess we'll go back to Kat.

Kat Jenkins:

Fantastic. Dave and Ryan, thanks for those insights and information on tax credits and incentives. A lot of great information there. If you have a question about tax credits, tax incentives, state and local tax, whether you have nexus or would just like to set up a conversation with one of our state and local tax pros, you can reach, you can contact us at barnesdennig.com. We'll see you next time on Ask the Experts.