NAVIGATING STATE TAXATION IN A GLOBAL BUSINESS ENVIRONMENT

Indirect Tax Global Convergence: Leading Practices

Anthony C. Gulotta, Esq.
Gulotta Law Group, P.C.

William Lasher
eBay Inc.

Karen Warner
Deloitte Tax LLP

THE FLORIDA BAR

Deloitte.

Agenda

Overview of Global Indirect Tax Convergence

Examples and Case Studies of Convergence Issues

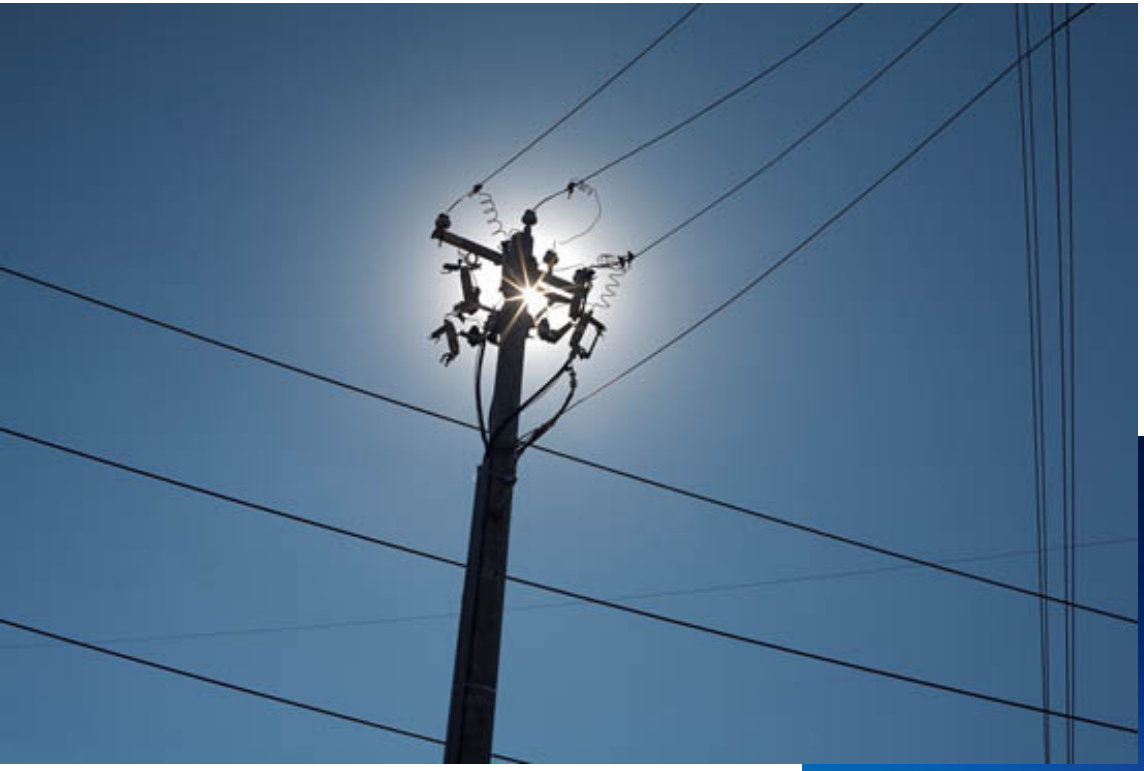
Compliance and Planning Issues

Administrative Considerations

Concluding Thoughts and Questions

Copyright © 2015 The National Multistate Tax Symposium: February 4-6, 2015

If you are “here,” are you “there?”



Copyright © 2015 The National Multistate Tax Symposium: February 4-6, 2015

Indirect Tax Global Convergence: Leading Practices Overview of Convergence – How did we get here?

Impact of digital, electronic services cross border business transactions, global supply chains, new EU compliance laws, OECD recommendations, and US states emerging laws, all point to the convergence of global indirect tax considerations, new compliance and planning requirements, and potential traps for the unwary.

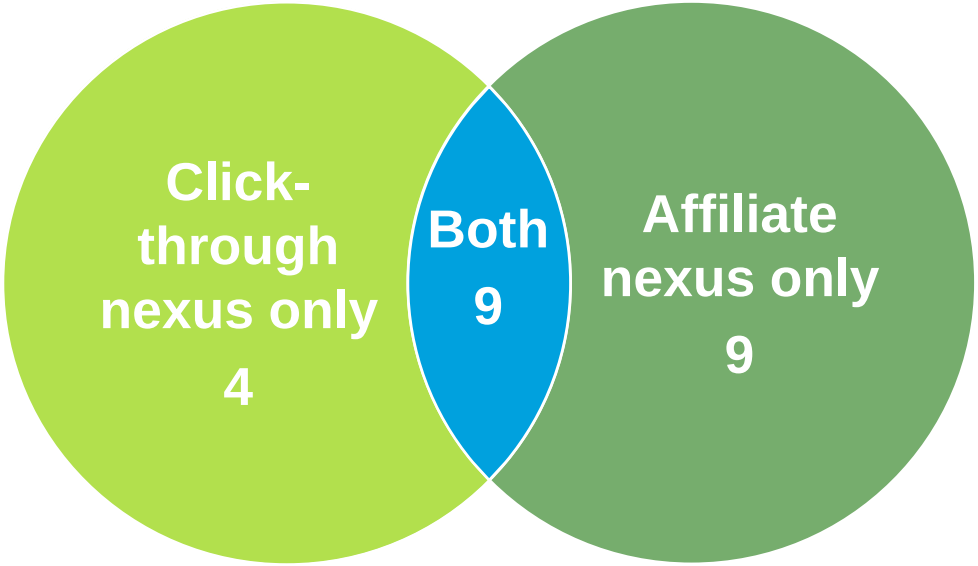
- OECD - “recognizes the importance of addressing the borderless digital economy, and will develop a new set of standards to prevent double non-taxation.”
- Continuing global shift from direct to indirect taxation as global product supply chains are taxed at each step from production to end consumer
- New EU VAT “MOSS” (mini One Stop Shop) and sourcing rules impacting “non-EU” telecom/broadcast/electronic vendors
- US emerging trends in sales/use taxation of “cloud” transactions

Copyright © 2015 The National Multistate Tax Symposium: February 4-6, 2015

U.S. Sales Tax in a Digital World

Emerging landscape in the US…….

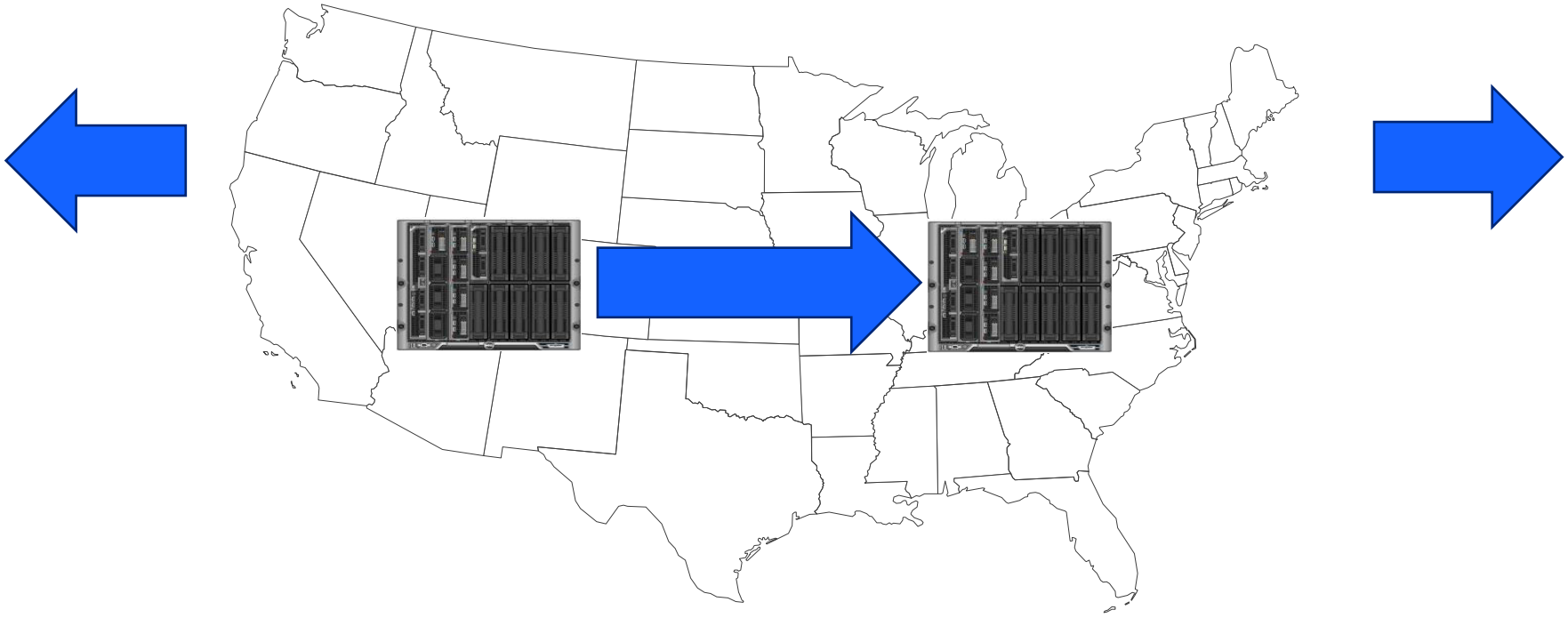
- More than twenty states have enacted “click-through” nexus and/or affiliate sales tax nexus legislation.
- 5 States have notification and/or reporting requirements



Copyright © 2015 The National Multistate Tax Symposium: February 4-6, 2015

Implications of Multi-National Transactions

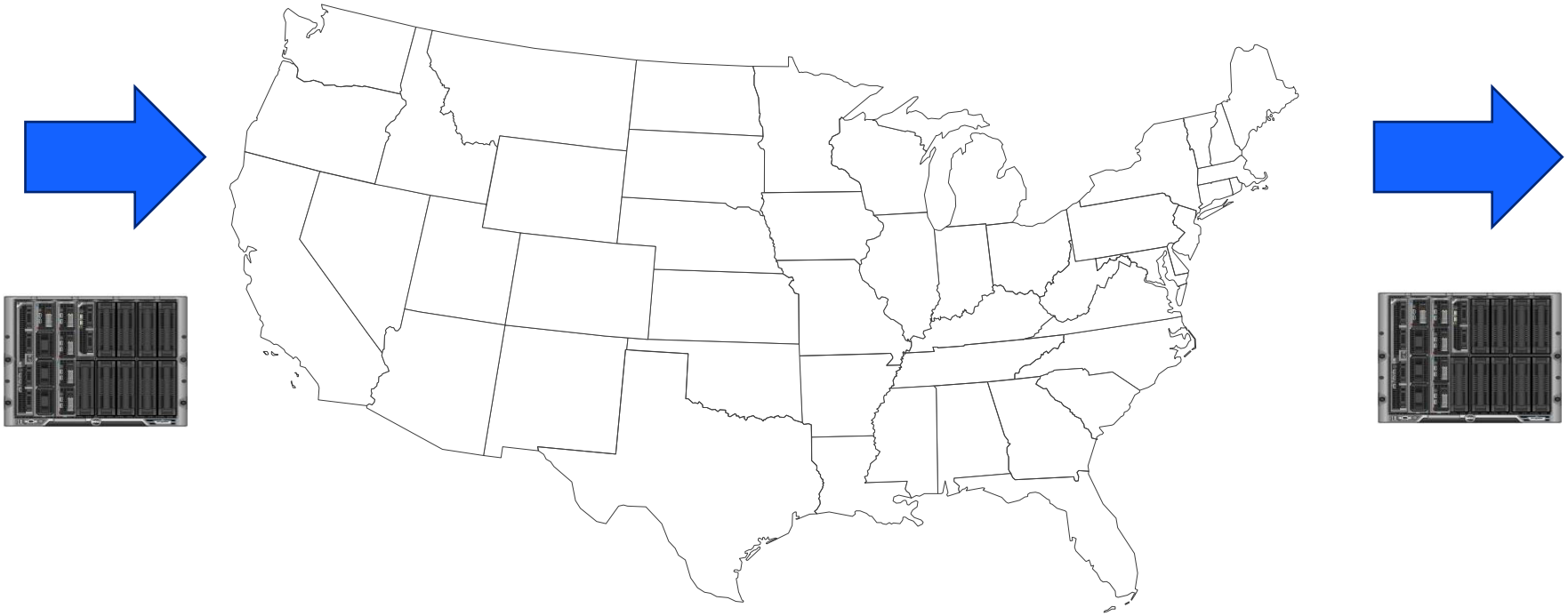
1. Sold by US Vendor and Shipped Within US
2. Provision Equipment in the US
3. Place in Service in Asia or Europe



Copyright © 2015 The National Multistate Tax Symposium: February 4-6, 2015

Implications of Multinational Transactions

1. Import from Asia
2. Provision Equipment in the US
3. Place in Service in Europe



Copyright © 2015 The National Multistate Tax Symposium: February 4-6, 2015

Fueling has no boundaries……

Copyright © 2015 The National Multistate Tax Symposium: February 4-6, 2015

Case Study – Fuel

Consider a large global Oil and Gas multinational company:

- Oil and gas production around the world
- Pipelines and supplies to refineries
- Supply stations and retail stations throughout the world
- Serves coffee made from international coffee beans at the gas station
- Responsible for managing and collecting global indirect taxes for the entire supply chain of fuel – and files over 20,000 indirect tax returns and manages $200 Billion of indirect taxes globally

Consider the consumer of the fuel (or coffee):

- Consumers – businesses, government and individuals pay a variety of global indirect taxes included in the price wherever purchased:
  - VAT
  - Customs and duties from a variety of countries
  - Sales taxes
  - Excise Taxes – federal, state, other
- And if the consumer is not subject to the taxes embedded in the price?
  - By reason of customer type? Government? Export? Manner of Use?

Copyright © 2015 The National Multistate Tax Symposium: February 4-6, 2015

Compliance and Planning Considerations: Dichotomy between U.S. and E.U. for same/similar transactions

New E.U. approach for administration and sourcing of VAT on business to consumer sales of telecommunications, broadcasting, and electronic services

- Destination sourcing in E.U.
  - Mini One Stop Shop (“MOSS”) compliance option for “non-EU” vendors, allowing vendor to file in one country
- “Nexus” in the U.S. vs. “Establishment” in the E.U. for collection obligations
  - U.S. Congress would need to enact legislation to allow states to impose collection requirements on “non-present” vendors
  - E.U. VAT collection obligations apply to vendors which have “B2C” e-services sales, whether or not established in the E.U.
- Sourcing rules – E.U. system allows “uniform” sourcing rules vs. U.S. based sourcing rules governed by individual states
- E.U provisions for B2C sales have no De Minimis rules – VAT applies to all vendors, irrespective of the amount of sales

Copyright © 2015 The National Multistate Tax Symposium: February 4-6, 2015

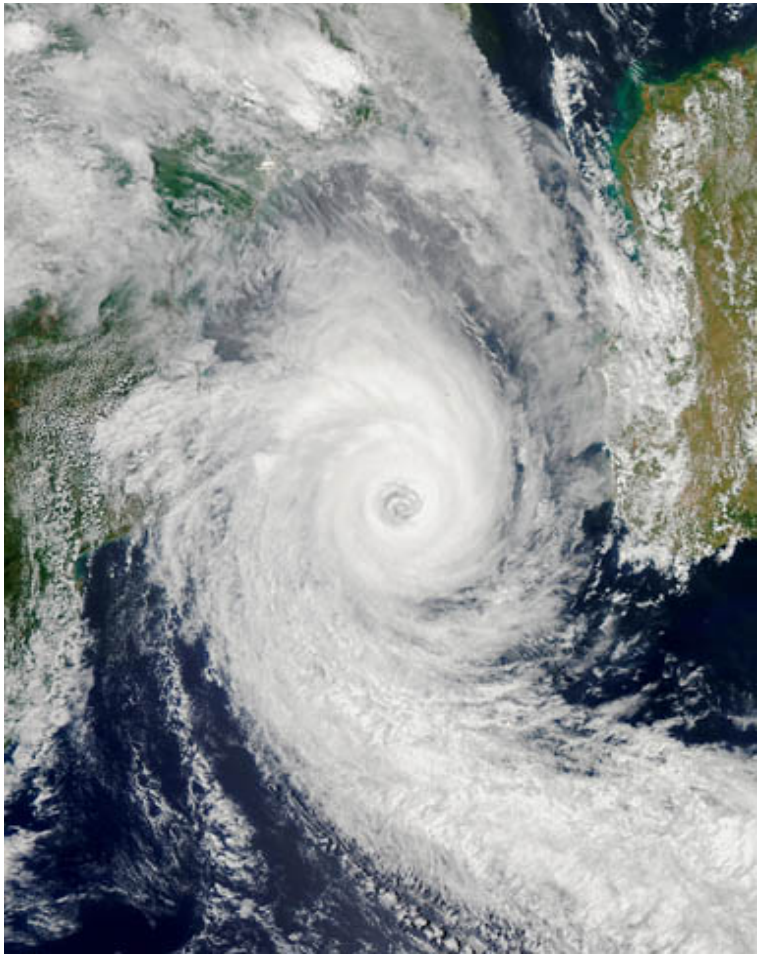
Administrative Considerations

Does your system identify:

- The customer's location?
- When the customer moves?
- Where the service is being used?
- The customer's business status?
- The customer's tax ID number?

Copyright © 2015 The National Multistate Tax Symposium: February 4-6, 2015

What's next?……



Copyright © 2015 The National Multistate Tax Symposium: February 4-6, 2015

Concluding Thoughts and Questions: E.U. VAT or U.S. Sales Tax – More Similar Than Ever

The rules and questions are starting to sound the same:

What service do you provide?

Is your service taxable?

Where is your customer?

Is your customer a business?

Can you prove any of this?

When can we start the audit?

Copyright © 2015 The National Multistate Tax Symposium: February 4-6, 2015

Contact Information

Anthony C. Gulotta, Esq.
tgulotta@fbstax.com

William Lasher
wlasher@ebay.com

Karen Warner
kwarner@deloitte.com

Copyright © 2015 The National Multistate Tax Symposium: February 4-6, 2015

This presentation contains general information only and the respective speakers and their firms are not, by means of this presentation, rendering accounting, business, financial, investment, legal, tax, or other professional advice or services. This presentation is not a substitute for such professional advice or services, nor should it be used as a basis for any decision or action that may affect your business. Before making any decision or taking any action that may affect your business, you should consult a qualified professional advisor. The respective speakers and their firms shall not be responsible for any loss sustained by any person who relies on this presentation.

Copyright © 2015 The National Multistate Tax Symposium: February 4-6, 2015