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State and local indirect tax and COVID-19 implications

Current indirect tax concerns in the ongoing pandemic

The indirect tax landscape has changed rapidly during COVID-19. If the Supreme Court *South Dakota v. Wayfair* decision back in 2018 created a new playing field, the novel coronavirus global pandemic in 2020 certainly moved the goalposts. New challenges have emerged in sales, use, excise, and other indirect taxes that require a technology-centric solution.

The future of work is here

A change in the paradigm of the workplace in recent years—shifting to a more remote model—has brought on new challenges for companies looking to comply with ever-changing tax rules and for ways to generate cash savings on their historic purchases, as well as additional savings down the road. Also, the ongoing shift of the American economy from manufacturing-centered to technology- and service-oriented[1] has created challenges that were perhaps inconceivable 20 years before.

According to Deloitte's *2021 Return to Workplaces Survey*, as of April 2021, 67% of workers remain fully remote, with 68% of respondents indicating some kind of hybrid model will be implemented in the future.[2] As the data suggests, many companies are redesigning what the new normal will look like, and that new normal will likely be redesigned around better flexibility and a focus on workers' well-being.

Companies today are grappling with a panorama of indirect tax challenges, including sales and use tax, gross receipts tax, excise tax, property tax, the taxation of digital goods, emerging issues around the remote workforce, and the remote seller and marketplace facilitator laws.

Paving the road ahead

Modern challenges need modern solutions.

Given that the rules are different in each state, companies must evaluate their filing and collection responsibility on a state-by-state basis. Larger companies that have a good handle on their nexus footprint and their compliance may benefit from taking a step back, reviewing their current processes, and determining whether the use of technology may help automate their processes through data-wrangling, data analytics, machine learning, and artificial intelligence (AI). Alternatively, based on the industry or how things are used differently in a remote world, there could be opportunities for refunds of sales and use tax paid on purchases over the past three to four years.

Workers in the new remote workplace need digital assets to do their jobs, bringing the multiple-point-of-use (MPU) question to the forefront, clouding nexus definitions for multistate enterprises.

For example, a company may buy SaaS (software-as-a-service), cloud-based subscription solutions in New York, Illinois, Texas, or Ohio, or another state that taxes that type of software. In a remote environment, if that company's employees are located outside that state and are using the software outside that state, there may be an opportunity to reallocate the cost of the software based on where it is being used. This scenario may result in the software being allocated to lower-tax jurisdictions or jurisdictions where software is exempt or excluded from tax.

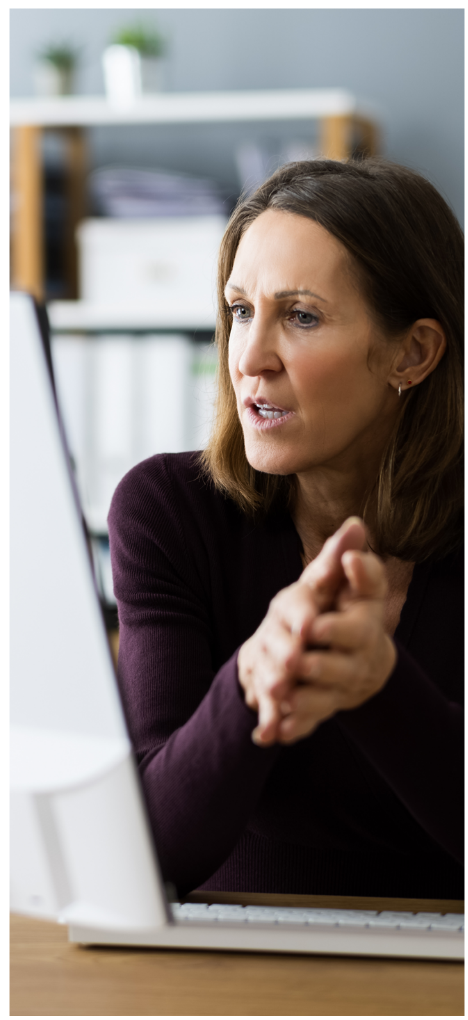
An MPU study, which evaluates where software or SaaS is actually being used, is critical for accurate calculation of tax liability and potential generation of tax refunds.

Selecting the right strategy

Companies should consider focusing on sales and use tax overall. There may be opportunities for cash savings through sales and use tax refund reviews, taking the findings from those refund reviews to enhance ongoing compliance. There may also be ways to leverage technology to help understand their position throughout their entire indirect tax life cycle.

Whether preparing 40 returns per month or 400, indirect tax compliance can consume a significant amount of a company's limited indirect tax resources. That is time that could be focused on other value-added tasks, such as refund and exposure reviews, audit defense, exemption certificate compliance, taxability research, general ledger (G/L) account reconciliations, or fixing issues in sales tax calculation software.

Indirect tax compliance is often a time-consuming and tedious process, encompassing consolidating and validating multiple data sources, manually preparing returns, populating reports to aid in G/L account reconciliation, or handling jurisdictional notices.



Robots to the rescue

Automating indirect tax data extraction and reconciliation through data-wrangling workflows and robotic process automation (RPA), as well as sharing key insights through data visualization and dashboards, can help companies gain efficiencies throughout their entire indirect tax life cycle. These efficiencies, which include sourcing, nexus, classification, taxability, compliance, audit defense, and reverse audits, can drive more seamless execution. They can also provide useful insights into additional indirect tax efficiencies that could be realized.

Given that indirect tax is an increasingly important area of focus post-*Wayfair*, and given that it is so data-intensive, companies may want to think about the entire indirect tax life cycle, including sourcing, nexus, classification, and tax liability determinations, and how to best leverage technology for visualizations and dashboards to help them understand where they are paying sales and use tax and other transaction taxes. It is mission-critical to understand how much they are paying, to whom, at what rate(s), and into what jurisdictions.

AI may lead to more intelligent processes

There are ways to implement processes, using automation, RPA, smart optical character recognition (OCR) engines, and other technologies, to provide companies with a broader understanding of their indirect tax footprint. They can tell how much use tax they pay because that is on their return. But with sales tax, there is not as much visibility, since it is paid directly to vendors.

With the current economy, companies are looking for ways to generate cash. Evolving technologies make it easier for companies to dig through large volumes of data to identify opportunities—especially opportunities that have arisen out of COVID-19 and the remote workforce.

The first step is a look back

Moving forward requires companies to take a step back and look at all areas of their indirect tax life cycle: master data setup; indirect tax calculation; tax computation and posting; and preparation, population, and submission of tax returns. From there, they can determine areas of immediate exposure or potential opportunity.

Analytics can provide hindsight into historical tax positions and insight into current obligations. In advanced forms, analytics can provide foresight into "what-if" changes in tax conditions and liability. It can even indicate potential risk areas.

Tax data analytics combines tax technical knowledge and advanced information technologies with large sets of master data and transactional data to identify patterns and anomalies. Leading to deeper insights and greater understanding, tax data analytics can provide an array of benefits, from uncovering errors and improving cash flow to prioritizing indirect tax focus areas.

How Deloitte can help

Deloitte leverages leading technology tools and processes in the delivery of indirect tax compliance services, including:

- Intela, Deloitte's globally integrated tax platform, which automates manual tasks, integrates and centralizes our tools, and leverages technology to create an intuitive digital experience
- Data-wrangling tools, with a dedicated team of specialists
- Data quality and return quality checks to facilitate processing
- Technology-enabled return preparation that enhances efficiency and quality
- Data analytics dashboards, which provide visual representations using heat maps and tax trend analysis to assist with obtaining deeper insights into data
- Assistance with automated monthly compliance data extraction processes
- CognitiveTax Insight™ (CogTax), our tool that uses machine learning, AI, and smart OCR to help companies gain a broader understanding of their indirect tax footprint

Meeting the indirect tax challenge post-*Wayfair* and overcoming obstacles of uncertainty in the COVID-19 era requires a healthy relationship with technology, evolving from a reactive process to a proactive one, and transforming information into insights.

It's really a change of mindset: From "what I do I need to do?" to "what do I need to know?"

We can help you get there.

Contact us

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Endnotes

1. Doug Short, "Charting the Incredible Shift From Manufacturing to Services in America," *Business Insider*, September 5, 2011. https://www.businessinsider.com/charting-the-incredible-shift-from-manufacturing-to-services-in-america-2011-9.
2. Deloitte, *2021 Return to Workplaces survey: Executives weigh in on their return-to-workplace plans*. https://www2.deloitte.com/us/en/pages/human-capital/articles/2021-return-to-workplace-survey.html.

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