



A Dash of SALT

Fundamentals of Nexus in Arizona: Municipal Sales Tax Nexus

This month's state and local tax (SALT) column addresses nexus limitations on Arizona cities' and towns' power to impose privilege (sales) taxes on proceeds from interstate commerce.

Unlike Most States, Municipal Sales Taxes in Arizona are Not Imposed by State Statute

Of the 45 states that collect sales taxes, Arizona is one of just four that permit municipalities to impose sales taxes under their own municipal tax codes. The other 41 states impose municipal sales taxes under their state tax codes, collect the taxes centrally, and distribute a portion of the taxes they collect to their municipalities.

Because the municipal sales taxes in most other states are imposed by the states, when those states have sufficient nexus to collect sales taxes from transactions in interstate commerce, the municipalities in those states receive a portion of the taxes collected.

Out-of-State Retailers Only Have to Report Sales Taxes to Arizona Municipalities They Have Nexus With

However, in Arizona, municipalities frequently are not entitled to collect sales taxes on proceeds from interstate commerce even when the state is entitled to collect state and county sales taxes on the same transactions. Such situations arise when an out-of-state retailer establishes nexus with Arizona and one or more municipalities in the state, but does not establish nexus with all municipalities in the state.

For example, assume that an out-of-state retailer establishes nexus with Arizona by sending employees, or engaging an unrelated third party, to install products it sold to customers in Tucson over the course of several days, and that the retailer does not own or

lease property or have any other form of a physical presence in Arizona.

By sending employees or agents to Tucson to install products for customers over the course of several days, the out-of-state retailer established nexus with the State of Arizona and the City of Tucson. So, the state could require the retailer to file sales tax returns and pay state and county sales taxes on those transactions and any subsequent transactions with customers in Arizona during the same calendar year (even if the subsequent transactions are online transactions and do not involve installations or any other physical presence in Arizona by the retailer or its agents). And the City of Tucson could require the retailer to do the same thing -- but only for transactions with customers located in Tucson.

However, in this scenario, the retailer only established nexus with the state and with the City of Tucson, so other municipalities in Arizona could not require the out-of-state retailer to pay sales taxes on proceeds from subsequent transactions with customers located within their municipal limits.

So, while Arizona municipalities value the autonomy that comes with imposing sales taxes under their own tax codes, that autonomy comes at a price.

Out-of-State Leasing Companies and Software Companies Establish Nexus With Arizona and the Cities or Towns Where Their Customers are Located

Because leasing companies and software companies only give up temporary



possession and control of personal property to their lessees or licensees and retain ownership of the property, out-of-state leasing companies and software companies establish nexus with the state and with the municipalities where their customers are located. Arizona law provides that these taxes are to be sourced based on the customers' residential or primary business street addresses. **AZ CPA**

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