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# **WEBINAR**

**Sales & Use Tax Survival Guide: What Every  
Multi-State Business Must Know**

**Tues, Feb 11  
10:00AM PST**



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# Your Presenters



**Kelly Telford, CPA**  
**LSL**  
Partner, Consulting &  
Advisory



**Kamal Shah, CPA**  
**Source Advisors**  
Managing Director  
Indirect Tax





# Agenda

**1** **What is Sales & Use Tax?**  
Definitions and Overview

**2** **Establishing Nexus**  
Physical vs Economic

**3** **Wayfair vs South Dakota**  
Timeline and Impact

**4** **Historic Liability**  
Voluntary Disclosure Agreements

**5** **Liability Mitigation**  
How it works

**6** **Sales Tax Automation Software**  
The value of automation tools

**7** **The 4 Sales Tax Questions**  
Definitions and Overview

**8** **Three Phases of Sales Tax Compliance**  
Definitions and Overview



# What is Sales & Use Tax?

Many states in the U.S. charge businesses a tax for selling products or services within their state.



## Use Tax

Self-assessed by buyers when sellers do not collect sales tax



## Sales Tax

Tax collected by sellers from customers for goods/services consumed.



# Why Sales and Use Tax is a Big Deal

Trustee tax and its implications

Potential liabilities for business owners and responsible persons

Impact on liquidity events and financing



# Establishing Nexus

A business is required to start collecting sales tax from its customers when it has sufficient connection with the state in which it is selling its products or services into.



## Nexus

A sufficient connection between a business and a state that creates a tax obligation.



## Physical Presence

Having a tangible footprint in the state, such as offices, employees, contractors, or warehouses.



## Economic Nexus

Meeting a state's threshold for economic activity, like total revenue or number of transactions, even without a physical presence.

# Wayfair vs South Dakota

The landmark Supreme Court decision of Wayfair vs South Dakota in 2018 changed the face of Sales & Use Tax compliance.

## April 2018

- Oral arguments heard by the U.S. Supreme Court in the case of South Dakota v. Wayfair, Inc.
- South Dakota argued that Wayfair's economic activity in the state created sufficient connection (economic nexus) to collect sales tax.

## Post-2018

- States began implementing their own economic nexus thresholds based on revenue or transaction volume.
- Remote sellers became obligated to comply with these new sales tax laws.

## Before Wayfair vs South Dakota

- States required businesses to have a physical presence to collect sales tax.
- Remote sellers with no physical presence in a state were exempt.

## June 2018

- Supreme Court ruling: Overturned the physical presence rule established in the Quill v. North Dakota (1992) case.
- Ruled in favor of South Dakota, allowing states to set economic nexus thresholds for collecting sales tax from out-of-state sellers.

## Current Impact

As of January 1, 2024, 45 states with sales tax have adopted economic nexus rules, impacting most businesses selling across state lines.





# Sales and Use Tax Examples for Taxability and Exemptions

Are all products and services subject to Sales & Use Tax?

## Taxability of Products/Services

Not all products/services are taxable. Taxability depends on state rules.

Example

### Software as a Service (SaaS)

SaaS is taxable in NY but not in CA. A business selling SaaS in NY with Nexus must collect sales tax.

## Sales Tax Exemptions

Even taxable items can be exempt based on usage or buyer's qualifications (e.g., sale for resale).

Example

### Sale for Resell

A buyer reselling goods provides a resale exemption certificate to avoid paying sales tax.



# Managing Past Sales Tax Oversights

If a company unknowingly establishes nexus in a state and fails to collect/remit sales tax, it creates a sales tax liability. States may enforce this liability during audits, adding interest and penalties.

## Voluntary Disclosure Agreements (VDAs):

Allows companies to disclose liabilities voluntarily.

### Benefits

- No penalties applied.
- Shortened lookback period (3–5 years).

In order to be eligible to file a VDA, the company needs to do so before they are approached by the state or audited. Once the state makes contact, the option of VDA is no longer available to them.



# Audit and Compliance Risks

How states identify  
non-compliant  
businesses

The role of  
third-party consultants  
in triggering audits

Penalties and  
interest for  
non-compliance



# Reducing Liability Before Filing a VDA

If a company has been delinquent in their sales tax filing requirements, there are ways they can reduce their liability before filing a VDA.

1

## Self-Assessed Use Tax

Identify if customers self-assessed and remitted use tax on the product or service.

**Impact:** Reduces the sales tax liability listed on the VDA.

2

## Exemptions

Determine if customers qualify for exemptions and would not need to pay sales tax.

**Impact:** Removes tax obligations for customers with valid exemption certificates.

3

## Audit History

Review audit history to check if customers paid use tax during an audit.

**Impact:** Avoids double taxation, as states cannot collect sales tax twice.

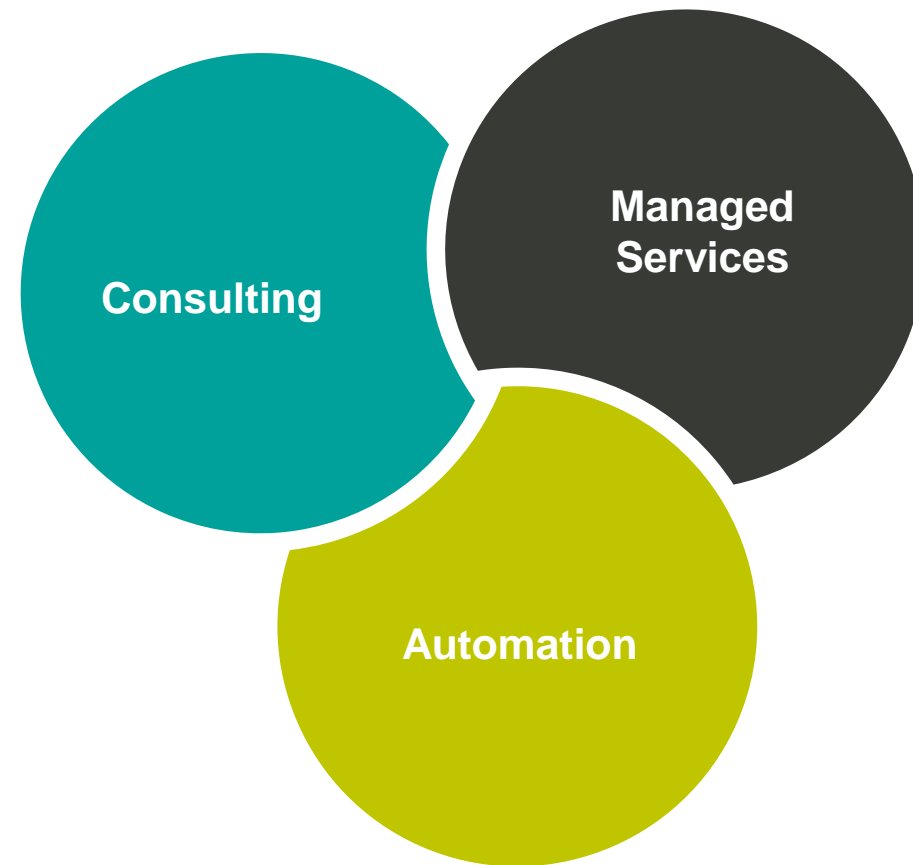


# Sales Tax Automation Software

In recent years, many software companies have developed tools to automate sales tax calculations and collection.



These platforms are designed to automate as much of sales tax compliance as possible.





# Key Questions for Multi-State Businesses

Every business owner who sells products or services in more than one state needs to be asking themselves:

1

Am I confident with the taxability status of my products or services in each of the states I sell into?

2

Do I know where exactly which states I have nexus in and when that nexus started?

3

Has an analysis been completed to calculate my historic Sales & Use Tax liability?

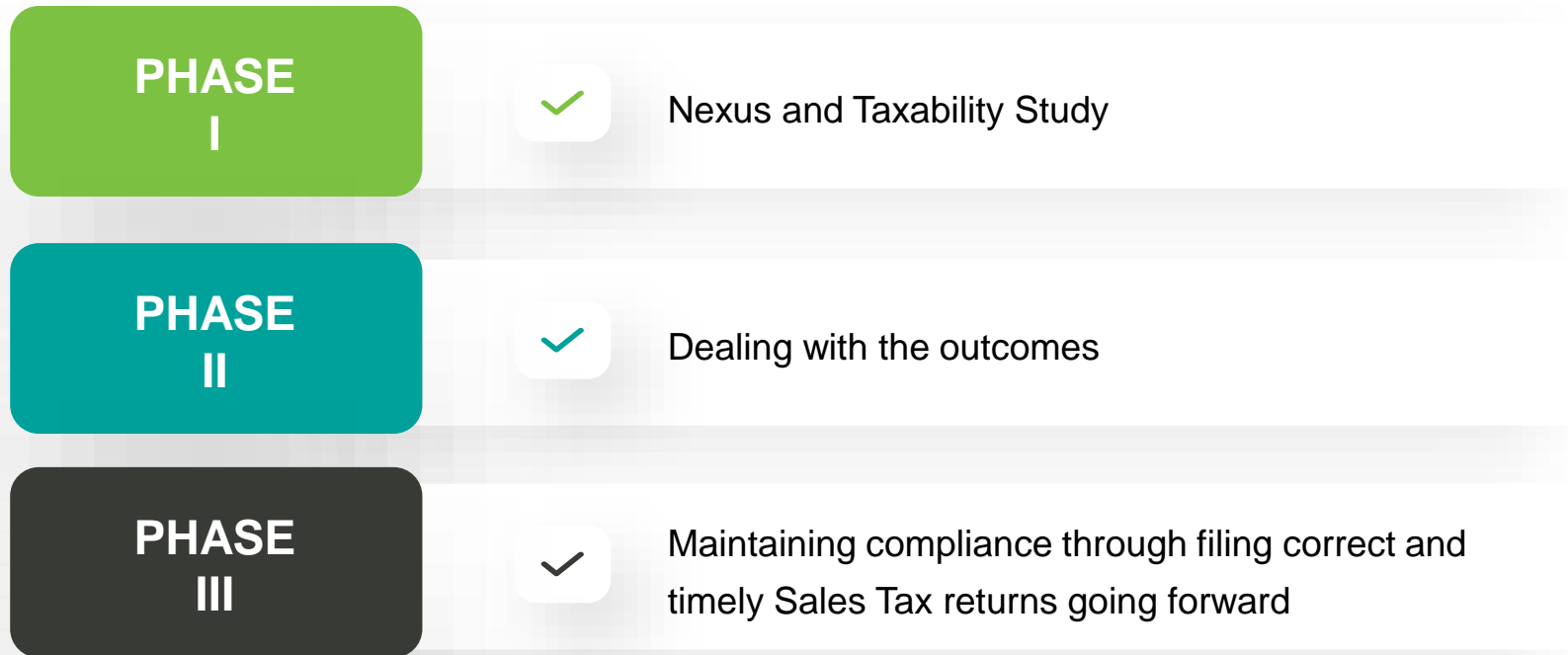
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Have all business considerations been taken into account to ensure that my sales tax strategy aligns with my businesses risk appetite, and general approach to compliance?



# Three Phases of Sales Tax Compliance

Here are three steps that multi-state businesses can take in order to get their sales tax affairs on track.





# Questions





[www.lslcpas.com](http://www.lslcpas.com)

[contact.us@lslcpas.com](mailto:contact.us@lslcpas.com)

