



FBA IS GIVING VENDORS SALES TAX ISSUES IN MANY STATES

As per Amazon's website, "with Fulfillment by Amazon (FBA), you store your products in Amazon's fulfillment centers, and we pick, pack, ship, and provide customer service for these products. Best of all, FBA can help you scale your business and reach more customers." Their website also promotes just some of the benefits of the program such as trusted customer service and returns amongst other things.



Frankly, it sounds like a fantastic program. We might even use the program ourselves if we could package our services but our knowledge is just too big for any warehouse if you know what we're saying... but it's not the size of the knowledge, it's how you use it! That's why when we read the description of FBA, we automatically think about nexus.

How could such a wonderful thing give sellers so many issues in so many states? Nexus. And it's not just limited to Amazon, it goes for all online marketplaces where the inventory is being held by a third party.

In the king of all nexus cases, Quill Corporation v. North Dakota, a physical presence test was established whereby if you have a physical presence in a state, you have nexus in a state and if you have nexus in a state, you are subject to that state's tax laws^[1]. For example, if you maintain inventory in a state, generally you must collect and remit that state's sales tax. So, if you give your inventory to Amazon and Amazon stores it in a state, you now probably have nexus in that state.

The worst part is that if you have nexus with a state but fail to collect and remit the sales tax, the business can still be assessed the tax it should have collected and remitted. And since sales tax is a fiduciary responsibility, individuals can usually also be assessed.

What can you do now? Well, we recently discussed the tax amnesty program many states are offering: <http://salestaxdefensenews.com/t/17BL-54DQ4-3362SWH765/cr.aspx>. Given that this program is being offered, if you don't take advantage of it and are later selected for audit, we expect the taxing authorities to be heavy-handed with penalties – they're giving you a chance to resolve this issue and they expect you to do it before they stop playing nice.

Other than the amnesty program, there are very limited other options available. Closing the business won't prevent an assessment from being issued for prior years. Registering the business and collecting and remitting the tax correctly on a go forward basis also doesn't prevent an assessment from being issued for prior years.

As the saying goes, "you don't know what you don't know." If you don't know what nexus is or what gives a business nexus, call us! You don't want to be surprised about nexus and we don't want you to either.

^[1] This is a general rule, which may not apply to your specific situation.

SALES TAX DEFENSE LLC GOES TO ALBANY



On September 14, 2017, Sales Tax Defense LLC

ABOUT OUR FIRM



We are a dedicated team of sales and use tax

will be joining fellow members of the National Conference of CPA Practitioners on a trip to Albany, New York to meet with representatives of the New York State Department of Taxation & Finance.

This all-day event gives us and many NCCPAP members the opportunity to learn about changes within the Tax Department, express ongoing concerns to key policymakers and listen to the Tax Department's concerns as well. Through this dialogue, hopefully everyone wins, especially the taxpayers.

It's a great event that we want to thank NCCPAP and the New York State Department of Taxation & Finance for arranging! We're looking forward to it.

professionals who have committed our careers to helping businesses and fellow professionals with sales and use tax problems.

Since the only work we are focused on is sales tax consulting, businesses never have to be concerned that we will try to sell them other services they do not need. And professionals never have to be concerned with us encroaching on their client relationships, because we view you, our fellow professional, as our client.

WHEN YOU HAVE A SALES TAX PROBLEM, *WE ARE THE SOLUTION!*

CALL: **631-491-1500**

CONTACT US!

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"You are an amazing speaker and present very very clear and keep it pretty interesting, really nice job."

-Howard Mann, CPA

MORE TESTIMONIALS

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