



News for Immediate Release

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Revenue Department Clarifies Existing Sales Tax Nexus Law for Remote Sellers

Harrisburg – The Department of Revenue today issued a Tax Bulletin to explain existing sales tax nexus law for remote sellers, clarifying the law and the department’s authority to require e-commerce and other out-of-state sellers with physical presence in Pennsylvania to collect sales tax.

“There have been many questions about when businesses are required to collect sales tax, and this bulletin spells out the law for remote sellers so they better understand how to comply,” said Revenue Secretary Dan Meuser. “It’s simply a matter of fairness under the existing law, and it’s essential that both e-commerce retailers with nexus and brick-and-mortar stores in Pennsylvania, many of which are small businesses employing thousands of Pennsylvanians with retail jobs, are treated equally.”

Sales and Use Tax Bulletin 2011-01 relies on in-state activity to establish nexus, as required by the U.S. Constitution, and provides examples of in-state activity sufficient to require sales tax registration and collection.

The Tax Reform Code nexus language has been in place for many years, but because taxpayers may not be familiar with it, the bulletin is being issued as a clarification of existing law.

This effort to address with retailers sales tax collection requirements coincides with a consumer-based approach to simplify use tax reporting and payment. Beginning in January 2012, individuals will be able to self-report use tax on the Pennsylvania personal income tax return.

“Our goal with regard to e-commerce and remote sellers is two-fold. On one hand, we’re clarifying nexus and informing retailers with nexus they should begin collecting sales tax. On the other hand we’re providing a clear and simple reporting mechanism for individuals to report and pay use tax annually, when sales tax wasn’t paid,” said Meuser. “The department’s uniform collection and enforcement of sales and use tax is key to fostering fair competition among e-commerce and brick-and-mortar businesses.”

Companies whose business activities establish nexus in Pennsylvania must become licensed to collect sales tax as soon as possible, but no later than by Feb. 1, 2012.

Companies with Pennsylvania nexus that fail to begin collecting sales tax as required by law may be pursued by a variety of escalating enforcement options over time, including audit, assessment, lien and/or referral of the case to a collection agency or the Office of Attorney General.

In cases where companies with nexus blatantly disregard the Tax Bulletin and their obligations to begin collecting sales tax, the department has the statutory authority to look back at least three years for audit and assessment purposes.

Companies with legal questions regarding establishment of nexus are encouraged to call the department's Office of Chief Counsel at 717-787-1382. Companies with questions regarding sales tax registration, collection and reporting requirements are encouraged to call the business tax Taxpayer Service and Information Center at 717-787-1064.

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Editor's Note: Sales and Use Tax Bulletin 2011-01, found on the department's website, www.revenue.state.pa.us, clarifies the department's authority to require e-commerce and other out-of-state sellers with physical presence in Pennsylvania to collect sales tax.

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