

Projects, Processes and Systems to Support Online Sales & Use Tax Compliance

2018 FTA Technology Conference
Kansas City, Missouri
August 2018

- Background
- Planning and Implementation
- Results/Lessons Learned...So Far
- Your Questions

Background for Sales Tax Compliance of Online Retailers

Sales tax compliance

- December 1, 2011 – Sales Tax Bulletin 2011-01
http://www.revenue.pa.gov/GeneralTaxInformation/TaxLawPoliciesBulletinsNotices/TaxBulletins/SUT/Documents/st_bulletin_2011-01.pdf
- September 1, 2012 – Amazon begins to collect PA sales tax on its direct sales
... many remote sellers follow suit through 2017
- October 30, 2017 – Act 43 – 2017 establishes Marketplaces Sales provisions
- April 1, 2018 – Amazon begins to collect PA sales tax on its marketplace sales
... many marketplace facilitators follow suit
- Marketplace Sales is not 'economic nexus'

Use tax compliance

- November 2005 to present – business use tax voluntary compliance initiative
- Ongoing transactional use tax program (including US Customs and audit referrals)
- Inclusion of consumer use tax reporting line on PA-40, the individual income tax return
 - Effective for 2011 tax year
 - \$3 to \$4 million per year in use tax reported

Marketplace sales approach – other states

- Colorado (leading w/ *DMA v Brohl*)
 - 2017 calendar year – statistics show:
 - 800K transactions
 - \$250MM purchases
 - \$7.5MM potential tax

<https://www.bna.com/colorado-disappointed-first-n57982091542/>

- Washington State – January 1, 2018 start
- Others – Minnesota, Rhode Island and Oklahoma

Planning and Implementation PA Marketplace Sales Compliance Program

- Act 43 of 2017
- Election for
 - “notice/reporting” or
 - collection
- Marketplace sales outreach
- Reporting plans
- Follow-up enforcement

Act 43 of 2017

- Marketplace Sales guidance

<http://www.revenue.pa.gov/GeneralTaxInformation/Tax%20Types%20and%20Information/SUT/MarketPlaceSales/Pages/default.aspx>

- Election for online sellers to notice/report purchasers OR collect
- \$10K threshold for facilitators, remote sellers and referrers
- Facilitators having PA nexus required to collect and remit for all taxable sales in their marketplaces

Election for notice/reporting or collection

- October 30, 2017 – Enactment of statute
- February 1, 2018 – Guidance published
- March 1, 2018 – Election due (failure to elect deemed a notice/reporting election)
- April 1, 2018 – Notice/reporting or collection due
- January 31, 2019 – Reports due to purchasers and department by

Marketplace sales outreach

- Building upon prior years' remote seller enforcement plus new data sources
 - 3,000 January 2018 election alert notices
 - 10,000 April – May 2018 voluntary compliance notices
- Extensive online guidance
- Directed appropriate resources to major facilitators and remote sellers

Reporting plans for remote seller

- Upload via department's business tax online filing/payment application, E-TIDES
- E-signature account required first
- Uploads of purchaser data will carry name and address of facilitator and/or remote seller
- Include purchaser name and address, shipping address, aggregate purchase dollar amount

Reporting plans for purchaser analysis

- Raw data from remote sellers positioned in data warehouse
- Statutory limitations of data
 - No TIN
 - Only aggregate \$ amount from seller
- Evaluate seller for general taxability
 - e.g., clothing non-taxable in PA
- Collate/total purchaser data (by May 2019)

Follow-up enforcement – purchaser use tax

- Validated, collated purchaser records reviewed for use tax compliance
 - Reporting on individual income tax
 - Reporting on sales and use tax return
 - Reporting on stand-alone use tax return
- Compliance notices issued to those who have not reported/paid use tax (June – November 2019)

Follow-up enforcement – penalty for non-compliant facilitators and remote sellers

“The department shall assess a penalty in the amount of twenty thousand dollars (\$20,000) or twenty per cent of total sales in Pennsylvania during the previous twelve months, whichever is less, against a remote seller, a marketplace facilitator or a referrer that makes an election under section 213.1(a) to comply with the notice and reporting requirements, or is deemed to have made such election under section 213.1(f), and fails to comply with the requirements under section 213.3 or 213.4. The penalty shall be assessed separately for each violation but may only be assessed once in a calendar year.”

- 1st Quarter 2019 imposition
- Leverage earlier compliance notices and direct contacts

Results and Lessons Learned...So Far

- Focus on marketplaces and the facilitators
 - Collection at source – key tax administration principle for efficiency/least cost burden
- Outreach/education efforts critical for (independent) remote sellers
- Notice/reporting compliance efforts are required with remote sellers
 - Non-respondents
 - Those failing to honor election with required notices and/or reports

Your Questions

Kevin Milligan
Director, Bureau of Enforcement
Planning, Analysis & Discovery (EPAD)

kmilligan@pa.gov

717.783.5571

Adam Hovne
Senior Analyst, Bureau of Enforcement
Planning, Analysis & Discovery (EPAD)

ahovne@pa.gov

717.346.2132