Sales Tax Nexus Is Evolving In 2026 - How Virtual Products Are Transforming Sales & Use Taxation For Businesses

As digital technology evolves, and as states continue to seek additional revenue, sales tax definitions and laws continue to expand.

PHILADELPHIA, PA, UNITED STATES, December 10, 2025 /EINPresswire.com/ -- Prior to 2018, the definition of sales tax nexus required a company to have a physical presence in a state for that state to have taxing jurisdiction over it. If a company was physically located in a state, it was required to collect and remit sales taxes on the sale of its products. Without a physical presence, no sales taxes were due. This meant that an out-of-state vendor could sell and deliver products within a state without its having to charge and collect sales taxes.

> When questions arise over whether a company is responsible for sales taxes to one state or not, they often take the path of least resistance and pay, often overpaying."
>
> *William Flick, Managing Director, EisnerAmper Advisory Group*

As the internet grew and online sales became popular, the U.S. Supreme Court made its monumental Wayfair decision, in 2018, redefining the concept of "nexus" to include remote sellers who do business in a state but are physically located outside of the state. This ruling allowed for broadened definitions of "presence". However, it empowered each state to legislate its own definitions and sales tax laws.

Since that time, those states that charge sales taxes have refined and expanded their definitions of "presence", shifting the focus from having a physical presence in a state to having an economic presence there. Economic presence is often defined as the achievement of threshold levels of business volume and/or number of transactions in a state, whether or not the company has assets or people physically located there.

Today, as digital technology evolves and as states continue to seek additional revenue, sales tax definitions and laws continue to expand. For those states that charge sales taxes, the legislative focus has shifted from defining taxable presence to defining taxable product. Until somewhat recently, products have been defined as physical goods or things people or businesses can own.

Most services were not subject to sales taxes.   However in today's digital world, products can be virtual, not physical, and many states are researching and implementing ways to tax them, too. Virtual products can include downloads of music, books, movies, instructions/lessons, streaming services, experiences, SaaS subscriptions and more. Depending on the state, some of these virtual products are taxable and some are not.


William Flick - Managing Director, EisnerAmper

William Flick, a thought leader in sales tax policy and process, and a Managing Director at EisnerAmper Advisory Services, said, "One challenge in taxing virtual products is that they can be sourced and used anywhere, even in multiple states and at the same time. This creates levels of complexity in determining sourcing and apportionment that are new to the process, especially for companies doing business in multiple states." Because each state has its own definitions and laws, companies doing business in multiple states must navigate an increasingly intricate labyrinth of charges and exemptions. To further complicate matters, each type of virtual product might be taxable in one state and exempt in another.

Flick said, "At one time, sales taxes were relatively straightforward, and companies didn't need to devote much time to managing compliance. However, in the Post-Wayfair era, as the sales tax environment continues to evolve, so too do companies need to evolve their sales tax expertise and management."

Flick recommends that companies:
- recognize the reality that sales tax management is complex now.
- reevaluate and prioritize their sales tax management process.
- secure the expertise to navigate the complex environment.
- be mindful of sales tax effects on seemingly non-related corporate endeavors and strategies, such as locating warehousing, logistics, back-office services, and others.

Compliance errors can be more costly than ever as states have become more aggressive in pursuit of interest and penalties going back several years.

On the other hand, many companies are overpaying sales and use taxes by as much as six and

seven figures. “For companies doing business in multiple states, sales tax responsibility has become a complex issue, made even more complex when adding virtual products into the mix. When questions arise over whether a company is responsible for sales taxes to one state or not, they often take the path of least resistance and pay, often overpaying.   Upon review companies may discover that they are eligible for six and seven figure refunds.” said Flick. He advises companies not to wait for a government audit. “It’s worth it to pre-audit your company to know exactly where you stand,” he said.

About EisnerAmper Advisory Group
EisnerAmper, one of the largest business consulting groups in the world, is comprised of EisnerAmper LLP, a licensed independent CPA firm that provides client attest services; and EisnerAmper Advisory Group LLC, an alternative practice structure that provides business advisory and non-attest services in accordance with all applicable laws, regulations, standards and codes of conduct. Clients are in all sectors and leverage a complete menu of service offerings. Our combined entities include approximately 450 partners and 4,500 employees.

For more information, please contact:
William Flick
EisnerAmper Advisory Group LLC
40 Lloyd Ave.
Suite 308
Malvern, PA 19355
Phone: 484-580-8907
Email: william.flick@eisneramper.com
Website: https://www.eisneramper.com/about-us/professional-directory/bill-flick/
LinkedIn: https://www.linkedin.com/in/williamflick
Twitter: https://www.x.com/BillFlickJr

# # #

Leo Levinson
GroupLevinson Public Relations
+1 215-545-4600
leo@grouplevinson.com
Visit us on social media:
LinkedIn
X

---

in today's world. Please see our Editorial Guidelines for more information.