MULTISTATE TAX UPDATE: ACCIDENTAL NEXUS, COVID-19, TEXAS ECONOMIC NEXUS, INTERNET SALES, AND DIGITAL GOODS

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II. Introduction and Overview

Post-*Wayfair* most of the 45 states that impose a sales and use tax have enacted laws or adopted rules imposing tax collection responsibilities on remote sellers based on an economic activity test measured by dollar volume of sales into the state, number of transactions, or both. States are transitioning from education to enforcement mode with regard to the new standards, and many temporary relief provisions are drying up now that states are realizing the budgetary impacts of the COVID-19 pandemic and effects on the economies of state and local governments.

This paper focuses on select legislation, cases, and developments in Texas, in other states and at the federal level affecting state and local tax responsibilities and enforcement. It addresses practical state and local tax issues for businesses operating in a changing multistate and international business environment, including changes that have arisen as a result of an increasingly remote workforce. It also discusses combined reporting, and how the increasing state tax focus on economic nexus may impact combined reporting.

We start an update on the implementation of the *Wayfair* decision that has changed the landscape of sales and use tax collection across the country, including its implementation in Texas in the areas of sales and use tax and franchise tax. A related topic is the expansion of sales and use collection responsibilities imposed by the states on online marketplaces.

With respect to direct taxes, this paper addresses *Wayfair's* impact on the Texas franchise tax and other business-related taxes and recap some basics relating to nexus law. The Federal Tax Cuts and Jobs Act of 2017 continues to create SALT issues across the country, so that topic is on our list. Congress also created a new partnership taxation regime that the IRS is starting to implement and states are incorporating their into existing state tax systems.

This paper also mentions some proposed Congressional actions as appropriate throughout the other topics and focus on a few pending federal SALT bills.

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