

Iowa – Affiliate nexus enacted for sales and use tax

June 14, 2013

In brief

Effective on June 11, 2013, [H.F. 625](#) enacts sales and use tax affiliate nexus provisions. With such an immediate effective date, taxpayers are given little time to ascertain the affect H.F. 625 will have on their Iowa sales and use tax reporting responsibilities.

In detail

Affiliate nexus

The bill provides a presumption that a retailer, without a physical presence in Iowa, is engaged in the business of selling tangible personal property or taxable services in the state if a person (other than a common carrier) with a substantial physical presence in Iowa:

- sells a similar line of products as the retailer and does so under a business name that is the same or similar to that of the retailer
- maintains an office, distribution facility, warehouse or storage place or similar place of business in the state to facilitate the delivery of property or services sold by the retailer to the retailer's customers
- uses trademarks, service marks or trade names in the state that are the same or substantially similar to those used by the retailer
- delivers, installs, assembles or performs maintenance services for the retailer's customers
- facilitates the retailer's delivery of property to customers in the state by allowing the retailer's customers to pick up property sold by the retailer at an office, distribution facility, warehouse, storage place or similar place of business maintained by the person in the state; or
- conducts any activities in the state that are significantly associated with the retailer's ability to establish and maintain a market in the state for the retailer's sales.

The retailer may rebut the presumption by demonstrating that the person's activities in the state are not significantly associated with the retailer's ability to establish or maintain a market in Iowa for the retailer's sales.

The takeaway

Iowa joins the trend of states enacting nexus expansion provisions for sales and use tax purposes. While some state laws presume that an out-of-state seller has nexus due to the presence and/or activities of an in-state affiliate, Iowa has not incorporated such a provision. Iowa has omitted the affiliation requirement completely. Therefore, in Iowa, nexus may be created through the listed activities of a business wholly unrelated to the out-of-state retailer.

Since, the bill is effective 'upon enactment,' which is

June 11, 2013, there is little time for out-of-state taxpayers to determine the affect of H.F. 625 on their businesses.

Let's talk

For a deeper discussion of how H.F. 625 might affect your business, please contact:

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