

# TRONCONI SEGARRA & ASSOCIATES<sup>LLP</sup>

Certified Public Accountants  
Business Consultants



**SOLUTIONS BEYOND  
THE OBVIOUS**

## Midyear Sales Tax Update

June 20, 2024



# WELCOME

# Today's Presenters



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# Webinar Objectives

- Recent Trends
- Tax Rate Changes / New Fees
- Economic Nexus Thresholds
- Advanced Sales Tax Automation
- New York Advisory Opinions

# Recent Trends

- Total state and local business taxes, FY21-FY22
  - Businesses paid **\$1,074.5 billion** in state and local taxes in FY22 (July 2021 – June 2022), which was 44.6% of all tax revenue at the state and local level.
  - Sales tax on business purchases of intermediate inputs and capital expenditures are the second-largest source of business tax revenue for state and local governments, accounting for 20.9% of all taxes paid by businesses in FY22.

# Recent Trends

## Total state and local business taxes, FY21-FY22 (\$ billions)

Business tax	FY21*	FY22	2022 % total taxes	One-year change
Property taxes on business property	\$346.3	\$373.1	34.7%	7.7%
General sales taxes on business inputs	193.9	225.0	20.9%	16.0%
Corporate income tax	111.6	141.4	13.2%	26.7%
Individual income tax on business income	73.3	81.4	7.6%	11.0%
Excise taxes	51.9	56.3	5.2%	8.5%
Business and corporate license	45.7	49.2	4.6%	7.7%
Unemployment insurance	36.1	41.9	3.9%	16.0%
Insurance premium taxes	27.4	30.0	2.8%	9.4%
Public utility taxes	27.4	28.8	2.7%	5.4%
Severance taxes	11.8	22.8	2.1%	93.0%
Other business taxes	19.8	24.6	2.3%	23.9%
<b>Total state and local business taxes</b>	<b>\$945.3</b>	<b>\$1,074.5</b>	<b>100.0%</b>	<b>13.7%</b>

\*FY21 business tax estimates are revised from the COST FY21 study because of newly released data from the U.S. Census Bureau. See Appendix for more information.

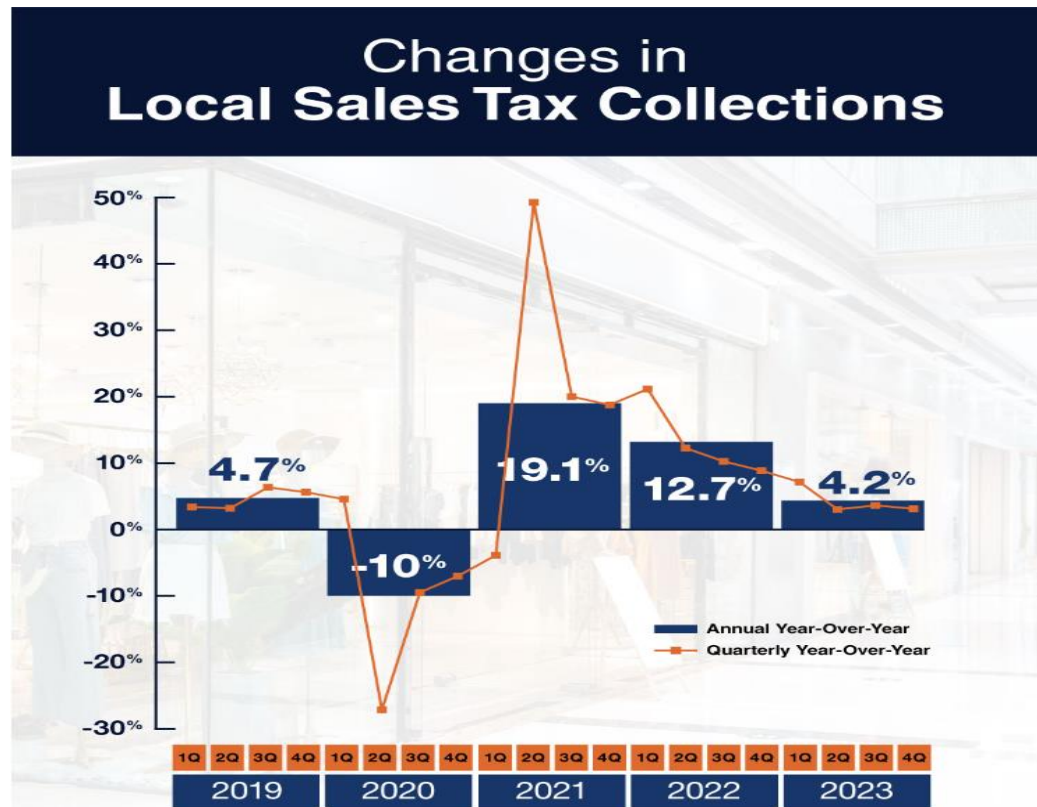
Note: Amounts may not sum because of rounding and changes to the estimation approaches for certain taxes.

Source: Ernst & Young LLP estimates based on data from the U.S. Census Bureau State and Local Government Finances.



## Recent Trends

- Local government sales tax collections in NYS totaled \$23 billion in calendar year 2023, up 4.2%, or nearly \$919 million, compared to 2022.



**Source:** New York State Department of Taxation and Finance (Tax and Finance), with calculations by the Office of the New York State Comptroller (OSC)

# Recent Trends

## “Top 20” Taxable Sales by Category – Erie County

Erie County - Total Taxable Sales by Category, 2023 Compared to 2022 (12 Months Ending February 28th, State Sales Tax Quarter)					
Rank	Description	2023 Taxable Sales	2022 Taxable Sales	\$ Change	% Change
1	Automobile Dealers	\$2,322,455,089	\$2,230,479,520	\$91,975,569	4.1%
2	Restaurants and Other Eating Places	\$1,940,125,682	\$1,863,651,215	\$76,474,467	4.1%
3	Electronic Shopping and Mail-Order Houses	\$1,376,762,701	\$1,363,202,697	\$13,560,004	1.0%
4	Building Material and Supplies Dealers	\$985,406,936	\$966,782,217	\$18,624,719	1.9%
5	Gen. Merch. Stores, Warehouse Clubs & Supercenters	\$952,501,836	\$967,808,718	(\$15,306,882)	-1.6%
6	Grocery Stores	\$816,977,901	\$850,876,605	(\$33,898,704)	-4.0%
7	Electric Pwr Generation, Transmission & Distribution	\$808,922,630	\$725,195,202	\$83,727,428	11.5%
8	Automotive Repair and Maintenance	\$577,254,931	\$558,254,680	\$19,000,251	3.4%
9	Natural Gas Distribution	\$556,797,398	\$425,573,555	\$131,223,843	30.8%
10	Clothing Stores	\$511,384,175	\$525,027,856	(\$13,643,681)	-2.6%
11	Other Miscellaneous Store Retailers	\$506,696,619	\$491,487,270	\$15,209,349	3.1%
12	Gasoline Stations	\$435,463,872	\$611,939,054	(\$176,475,182)	-28.8%
13	Automotive Parts, Accessories, and Tire Stores	\$336,635,400	\$345,307,038	(\$8,671,638)	-2.5%
14	Services to Buildings and Dwellings	\$298,883,433	\$268,258,997	\$30,624,436	11.4%
15	Department Stores	\$291,558,913	\$311,867,114	(\$20,308,201)	-6.5%
16	Traveler Accommodation	\$275,117,549	\$209,348,912	\$65,768,637	31.4%
17	Wired and Wireless Telecommunications Carriers	\$272,536,962	\$280,644,811	(\$8,107,849)	-2.9%
18	Beer, Wine, and Liquor Stores	\$271,810,371	\$282,286,153	(\$10,475,782)	-3.7%
19	Sporting Goods, Hobby, and Musical Instrument Stores	\$269,183,394	\$277,239,678	(\$8,056,284)	-2.9%
20	Computer Systems Design and Related Services	\$262,239,899	\$230,408,776	\$31,831,123	13.8%
Subtotal Top 20 in Taxable Sales		\$14,068,715,691	\$13,785,640,068	\$283,075,623	2.1%
Total Taxable Sales Period Ending February 28th		\$21,204,643,005	\$20,470,027,955	\$734,615,050	3.6%

**Source:** New York State Association of Counties (NYSAC) County Sales Tax Report, *Results, Trends and State Impact*, August 2023



# Recent Trends

Status of County Sales Tax Exemptions - 2023									
	Local Sales Tax Rate <sup>3</sup>	Clothing & Footwear ( $< \$110$ ) Rate <sup>1</sup>	Solar Commercial Equipment Rate	Solar Residential Equipment Rate	Solar - Res. Power Purchase Agreements Rate	Solar - Comm. Power Purchase Agreements Rate	Motor Fuel Rate <sup>2</sup>	Commercial Fuel Cell Systems Rate	Residential Energy gas, electric, propane, steam, coal, fuel oil, and wood Rate
Albany	4.00%	4.00%	4.00%	0.00%	0.00%	4.00%	4.00%	4.00%	0.00%
Allegany	4.50%	4.50%	4.50%	4.50%	4.50%	4.50%	4.50%	4.50%	4.50%
Broome	4.00%	4.00%	0.00%	0.00%	0.00%	0.00%	4.00%	4.00%	0.00%
Cattaraugus	4.00%	4.00%	4.00%	4.00%	3.00%	4.00%	4.00%	4.00%	3.00%
Cayuga	4.00%	4.00%	4.00%	4.00%	0.00%	4.00%	4.00%	4.00%	4.00%
Chautauqua	4.00%	0.00%	4.00%	4.00%	0.00%	4.00%	4.00%	4.00%	0.00%
Chemung	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%
Chenango	4.00%	0.00%	4.00%	4.00%	0.00%	4.00%	4.00%	4.00%	0.00%
Clinton	4.00%	4.00%	4.00%	0.00%	0.00%	4.00%	4.00%	4.00%	0.00%
Columbia	4.00%	0.00%	4.00%	0.00%	0.00%	4.00%	4.00%	4.00%	0.00%
Cortland	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%
Delaware	4.00%	0.00%	4.00%	4.00%	0.00%	4.00%	8 cents per gallon	4.00%	0.00%
Dutchess*	3.75%	0.00%	0.00%	0.00%	0.00%	0.00%	3.75%	3.75%	0.00%
Erie	4.75%	4.75%	0.00%	0.00%	0.00%	0.00%	10 cents per gallon	4.75%	4.75%

The list of taxable items in NYS is very broad. However, there are also a lot of common items and services not subject to sales tax including most grocery store foods, medical services, medicine & supplies, inputs to finished capital projects and goods, commercial and general aviation aircraft, newspapers, and services such as laundering, dry cleaning, tailoring and shoe repair.

**Source:** New York State Association of Counties (NYSAC) County Sales Tax Report, *Results, Trends and State Impact*, August 2023

# Recent Trends

## ➤ Impact of Economic Nexus

- Since NYS tax law changes were enacted in 2019, total taxable sales in this category have exceeded expectations with more than 61% of all electronic shopping tax receipts stemming from the Wayfair/marketplace changes.
- Total estimated local sales tax generated from this law change since enactment through SFY 2023 is \$2.6 billion (\$985 million for NYC and \$1.6 billion for the 57 counties).

**Source:** New York State Association of Counties (NYSAC) County Sales Tax Report, *Results, Trends and State Impact*, August 2023

# Recent Trends

## ➤ Sales Tax Simplification

- **Alabama, Alaska, Arizona, Colorado and Louisiana** are considered “home rule” states, which means they grant authority to local government to administer and collect their own sales tax rates and rules.
- This tends to make sales tax compliance extremely challenging, especially for businesses required to collect and remit sales taxes in numerous jurisdictions.
- Thus, all home-rule states are working to reduce the burden of compliance for businesses.

## Recent Trends

- **Alabama** – eligible remote sellers collect Simplified Sellers Use Tax (SSUT) on sales, rather than tax rate in effect at each location
- **Alaska** – created Remote Seller Sales Tax Commission for simplified, single-level statewide administration of local sales taxes
- **Arizona** – DOR is now the single point of administration and collection of state and city taxes; including licensing
- **Colorado** – all but 3 home-rule localities are live on SUTS, the new single point of remittance portal for state and local tax (also GIS and taxability matrix)
- **Louisiana** – remote sellers can remit state and local tax thru Remote Sellers Commission, but those with physical presence still need to file returns with parishes

# Recent Trends

## ➤ Sales Tax Exemptions

- Exemptions for specific items or categories, such as food or personal hygiene items, are growing in popularity across the U.S. And some states that aren't fully exempting items are reducing rates on them.
  - ✓ 13 states still tax groceries, some at reduced tax rates, some provide state exemption, but allow localities to tax.
  - ✓ Since 2020, 11 states have eliminated sales tax on personal hygiene products and diapers, in addition to other baby products.



# Recent Trends

## ➤ Digital Goods/Services

- Approximately 30 states tax some type of digital goods and services (digital audio, digital audio-visual, digital books).
  - ✓ No universal definitions of digital products/services
  - ✓ Some states have enacted laws addressing digital products/services
  - ✓ Some states don't address, leaving their taxability open to interpretation based on existing guidance
  - ✓ Treated as telecommunications services
  - ✓ Where does software fit in?

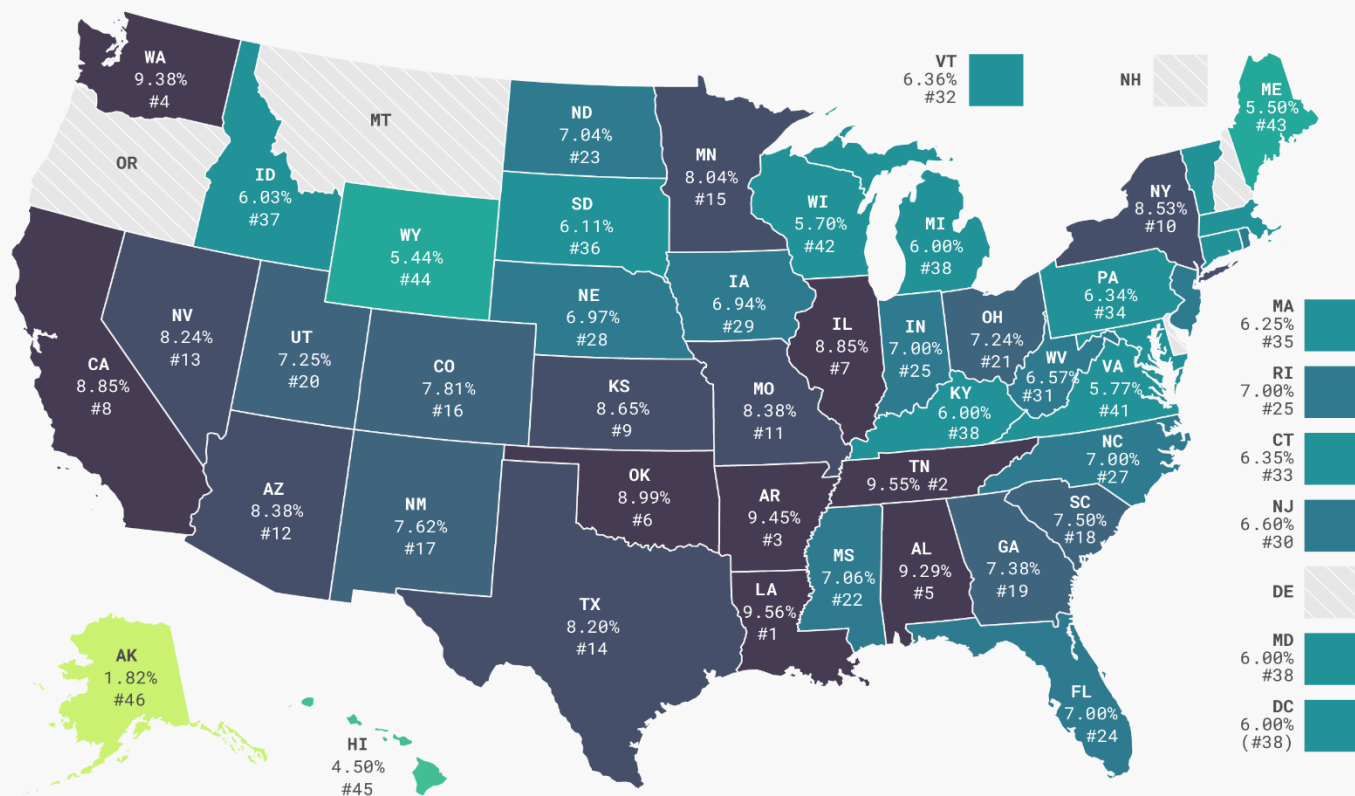
# Tax Rate Changes

## ➤ Tax Rates

- There are now over 13,000 sales and use tax jurisdictions in the United States.
- 444 sales and use tax rate changes across all jurisdictions in 2023.
  - ✓ New Mexico – 5% to 4.875% on 7/1/23
  - ✓ South Dakota – 4.5% to 4.2% on 7/1/23
  - ✓ Monroe County, NY – 0% clothing tax on 3/1/23
  - ✓ +232 new sales and use taxes

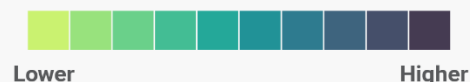
# How High Are Sales Taxes in Your State?

Combined State & Average Local Sales Tax Rates, January 2024



Notes: City, county and municipal rates vary. These rates are weighted by population to compute an average local tax rate. The sales taxes in Hawaii, New Mexico, and South Dakota have broad bases that include many business-to-business services. D.C.'s rank does not affect states' ranks, but the figure in parentheses indicates where it would rank if included. Sources: Sales Tax Clearinghouse; Tax Foundation calculations; State Revenue Department websites.

Combined State & Average Local Sales Tax Rates



# New Fees

## ➤ New Fee Trends

- States are enacting new “green taxes and fees on products or activities that can damage or threaten the environment.”
  - ✓ Retail delivery fees
  - ✓ Electronic waste recycling fees
  - ✓ Lead-acid battery fees
  - ✓ Single-use bags
  - ✓ Solid waste disposal fees

*Are these fees subject to sales tax if charged to customers?*

# New Fees

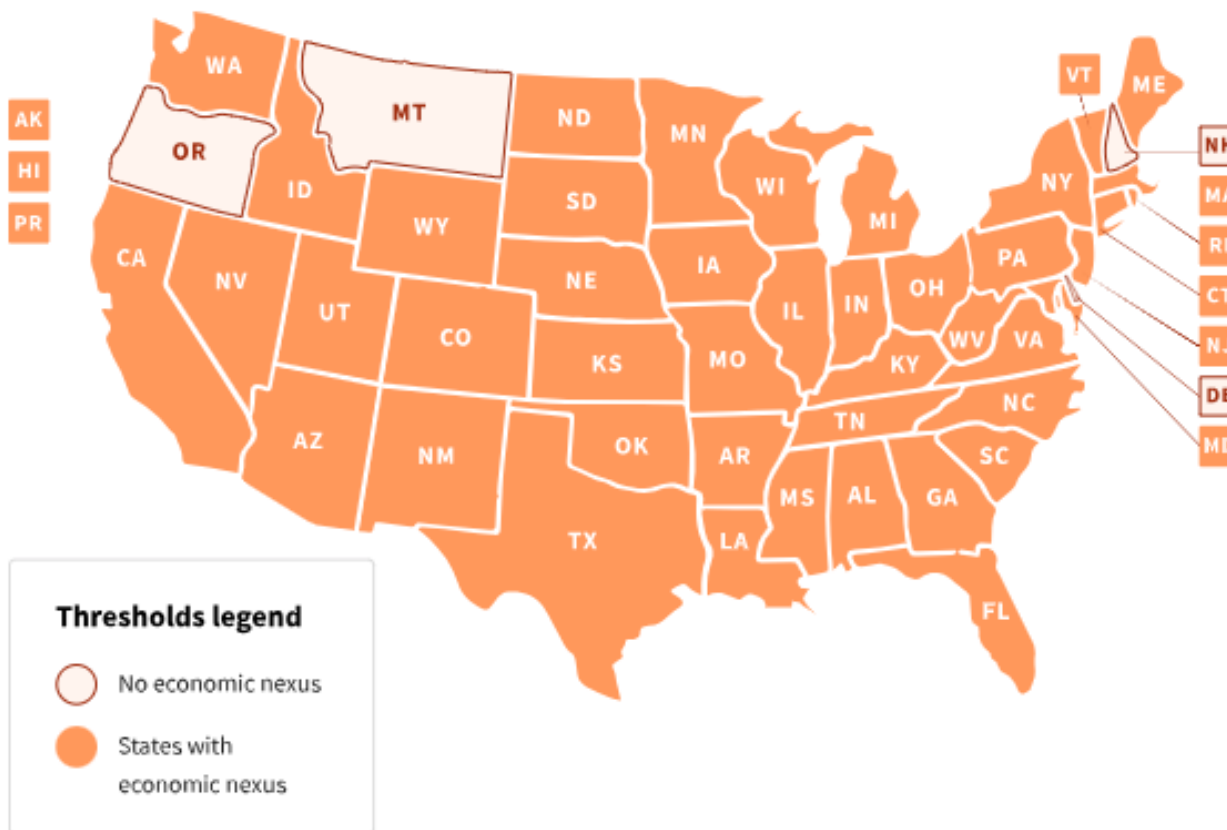
## ➤ New Fee Trends

### ■ Retail Delivery Fees

- ✓ Colorado – Effective 7/1/22, the RDF requires businesses to collect a \$0.28 fee on all retail deliveries made by a motor vehicle to a location in CO that contained at least one item subject to state sales or use tax.
- ✓ Minnesota - Effective 7/1/24, the RDF requires businesses to collect a \$0.50 fee on each delivery of TPP, subject to state and local sales tax, that equals or exceeds \$100, including clothing deliveries. Applies to retailers with > \$1 million in MN retail sales in prev. calendar year.










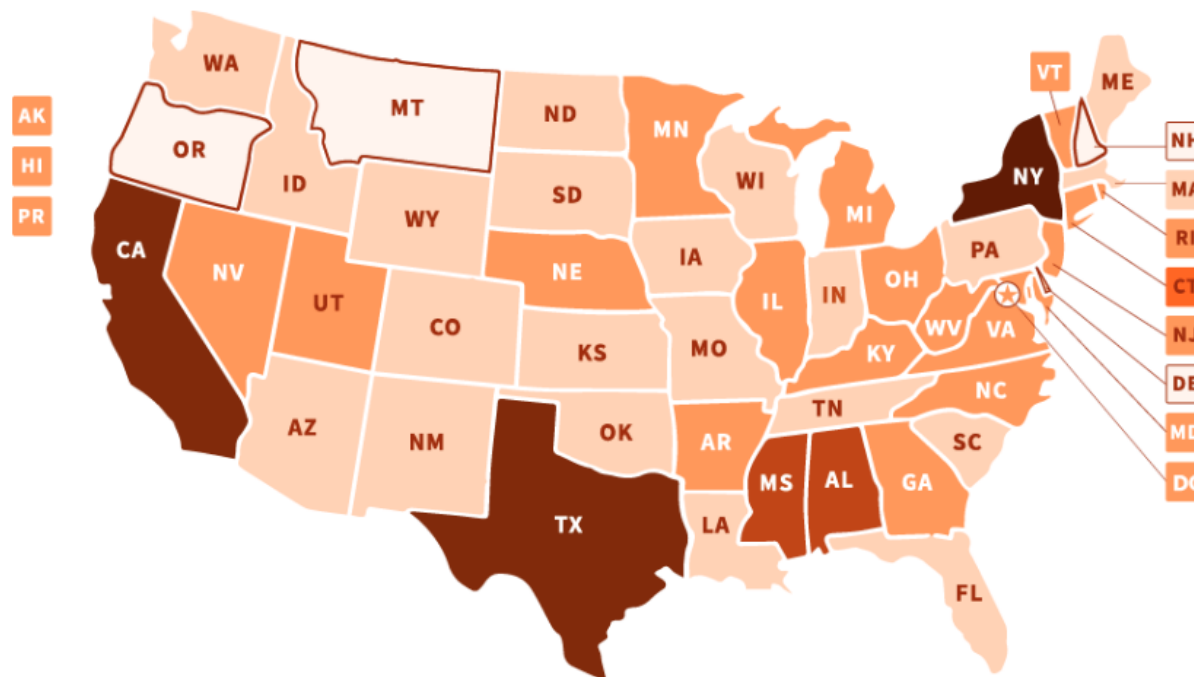
# Economic Nexus



# Economic Nexus Thresholds

## Thresholds legend

-  No economic nexus
-  \$100,000
-  \$100,000 **or**  
200 transactions
-  \$100,000 **and**  
200 transactions
-  \$250,000
-  \$500,000
-  \$500,000 **and**  
100 transactions



# Economic Nexus Thresholds

- What is the measurement date?
  - Previous or Current calendar year
  - Preceding or Current calendar year
  - Preceding 12-month period
  - 12-month period ending on September 30th
  - Immediately preceding calendar year
  - Immediately preceding 4-sales tax quarters (New York)

# Economic Nexus Thresholds

## ➤ What's included?

- Gross sales – all sales into the state
- Retail sales – all sales except for resale sales
- Taxable sales – all sales that are (or should be) taxed
  - ✓ California – Gross sales of tangible personal property

## ➤ What's excluded?

- Resale and/or exempt sales

*Are marketplace sales included or excluded in threshold count?*

# Economic Nexus Thresholds

- When do you register?
  - January 1 (following year)
  - Next transaction
  - 1<sup>st</sup> of the Month after the 30 days from the period you exceed the threshold
  - 1<sup>st</sup> calendar month following the month when the threshold is met
  - Next day after meeting the threshold (Ohio)



# Economic Nexus Thresholds

## ➤ Physical presence

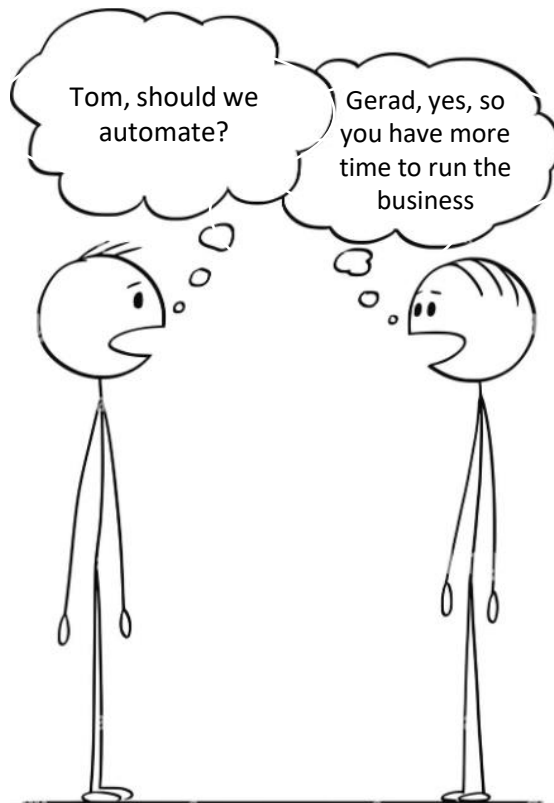
- If you have a physical presence in a state, you are not a Remote Seller and are required to register in that state regardless of your sales dollars or transactions.
- Physical presence includes:
  - ✓ Inventory stored in third-party warehouses or fulfillment centers
  - ✓ Remote workers
  - ✓ Employees or independent contractors performing services

# Tracking Sales for Economic Nexus

23 YTD Sales Summary  
 Updated: 1.5.24

State	January	February	March	April	May	June	July	August	September	October	November	December	YTD Total	Employee?	Sales prior to '23	Status
CA	\$ -	\$ -	\$ 40,000.00	\$ -	\$ -	\$ -	\$ 15,000.00	\$ 91,997.90	\$ -	\$ 15,000.00	\$ -	\$ -	\$ 161,997.90	Y	N	<\$500K and electronic delivery
CO	-	-	20,000.00	-	-	-	-	-	-	-	-	-	\$ 20,000.00	N	N	<\$100K
FL	-	-	-	-	-	-	8,000.00	634,700.00	-	-	-	-	\$ 642,700.00	Y	Y	Exempts SaaS
IA	20,650.00	20,650.00	21,525.00	20,650.00	20,650.00	44,121.00	45,204.33	45,204.33	45,204.33	45,204.33	45,204.33	45,204.33	\$ 419,471.98	N	Y	Registered
IL	-	-	-	148,084.00	-	-	47,500.00	-	-	99,020.00	-	-	\$ 294,604.00	Y	Y	Exempts SaaS
IN	-	-	-	-	50,627.00	-	50,627.00	-	-	50,627.00	-	-	\$ 151,881.00	N	Y	Exempts SaaS
MA	-	-	29,988.00	435,582.00	-	29,988.00	-	-	29,988.00	-	-	29,988.00	\$ 555,534.00	Y	Y	Registered
ME	-	-	643.00	77,274.00	-	-	-	-	-	-	-	-	\$ 77,917.00	Y	Y	Exempts SaaS
NJ	-	-	-	40,000.00	-	-	-	-	-	-	-	-	\$ 40,000.00	Y	N	Exempt SW for Business and ED
NY	49,079.12	6,579.12	6,579.12	19,079.12	28,522.87	6,579.12	25,079.12	71,722.87	6,579.12	6,579.12	39,147.87	7,454.12	\$ 272,980.69	Y	Y	Registered
OH	-	-	-	-	-	22,000.00	-	-	-	-	-	-	\$ 22,000.00	Y	N	Registered
ON	2,330.50	2,330.50	2,330.50	2,330.50	2,330.50	2,330.50	2,330.50	2,330.50	2,330.50	2,330.50	32,330.50	2,330.50	\$ 57,966.00	N	Y	Exempt B2B remote access
QC	-	-	-	93,600.00	1,000.00	-	13,000.00	-	-	15,000.00	-	-	\$ 122,600.00	N	Y	Exempt B2B remote access
MX	-	-	-	-	-	-	13,500.00	-	-	-	-	-	\$ 13,500.00	-	N	Mexico
TX	-	-	-	-	-	174,510.00	-	-	-	-	-	400,000.00	\$ 574,510.00	Y	Y	Registered
UT	-	-	-	-	-	-	-	-	-	-	2,520.00	-	\$ 2,520.00	N	N	<\$100K
WA	-	-	19,500.00	-	-	-	-	-	19,500.00	2,000.00	-	-	\$ 41,000.00	Y	N	Registered
Total	\$72,059.62	\$29,559.62	\$140,565.62	\$836,599.62	\$103,130.37	\$279,528.62	\$220,240.95	\$845,955.60	\$103,601.95	\$235,760.95	\$119,202.70	\$484,976.95	\$3,471,182.57			

# Advanced Sales Tax Automation



## Top Tax Pain Points

1. Manual processes
1. Bad data and/or incorrect tax calculations (*tie*)
2. Returns and filing
2. E-invoicing (*tie*)
3. Real-time filing requirements (*tie*)

*Based on December 2023 online survey of global tax executives.*

# Advanced Sales Tax Automation

- Why are companies shifting to Bolt-on Tax Solutions
  - Time savings
  - Cost savings
  - Risk Reduction
  - Readiness for Expansion
  - Resilience

# Technology Advancements



## Reasons to consider

- Tax rates and rules in a single system
- Self-service portals for submitting exemption certificates
- Standard connectors
- SaaS based solutions
- Purpose-built tax engine
- Tools to aggregate data and file tax returns



# Technology Advancements

- State changes
  - Modernizing E-filing systems
  - Reform of E-filing systems
  - Removing reconciliation returns

# New York Advisory Opinions

## ➤ Notable AO's

- TSB-A-20(18)S – Subscription fees to access online course library
- TSB-A-20(27)S – Digital marketing services
- TSB-A-20(46)S – Purchase, sale and installation of solar energy systems
- TSB-A-20(54)S – Sales of Hydrogen gas at hydrogen refueling stations
- TSB-A-20(67)S – Purchase of a service contract for a generator
- TSB-A-20(69)S – Environmental testing and remediation services
- TSB-A-20(70)S – Creating, operating & hosting websites/apps on mobile devices



# Questions

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