

US Sales Tax For International Sellers

This is an extra resource to go along with the original article:
[Digital Taxes Around The World: What To Know About New Tax Rules](#)

Wondering what the deal is if you're a foreign digital business selling to U.S. consumers? Here are a few pointers:

It's complicated...

The U.S. has entered into tax treaties with 65 foreign states to help businesses avoid being "double taxed" - taxed at a federal level for their activities in the U.S. as well as taxed for those same earnings in their own country.

Permanent Establishment

Foreign businesses may be taxed if they have created a "permanent establishment" - a fixed place of business where the foreign business' U.S. based activity is wholly or partially carried out. If you even establish a small satellite office, this could be deemed a permanent establishment.

There are some exceptions to the rule though, which are worthy of note to digital sellers. For example, the following conditions won't necessarily invoke a permanent establishment:

1. Renting or leasing a facility solely for storing, displaying, or delivering the foreign entity's inventory;
2. Maintaining the foreign entity's inventory for the purpose of storage, display, or delivery;
3. Maintaining the foreign entity's inventory solely for the purpose of processing by another enterprise;
4. Maintaining a fixed place of business solely for the purpose of purchasing goods or collecting information for the taxpayer;
5. Maintaining a fixed place of business solely for the purposes of carrying on any other preparatory or auxiliary activity;
6. Carrying on business through a broker, general commission agent, or any other independent agent, provided the person is acting in the ordinary course of their business as an independent agent.

Source: [Sales Tax Support](#)

So say for example, you use Amazon fulfillment and have stock for an ecommerce store in their warehouses in Washington, this may not count as a permanent establishment.

However...

The tax treaties which the U.S. enters into at a federal level are not necessarily recognized by individual states. In the U.S., each state has their own rules around sales taxes and foreign sellers may find that the state finds them liable for tax, especially if a “nexus” (connection to the state) is established.

If we went back to the Amazon example with your stock stored in a warehouse in Washington State, the State could possibly argue that you have established nexus with them and are required to pay state taxes.

Conclusion

While there are moves to simplify U.S. sales taxes, in part with the proposed Marketplace Fairness Act, right now things are still complicated. Get advice from a qualified tax lawyer or accountant!