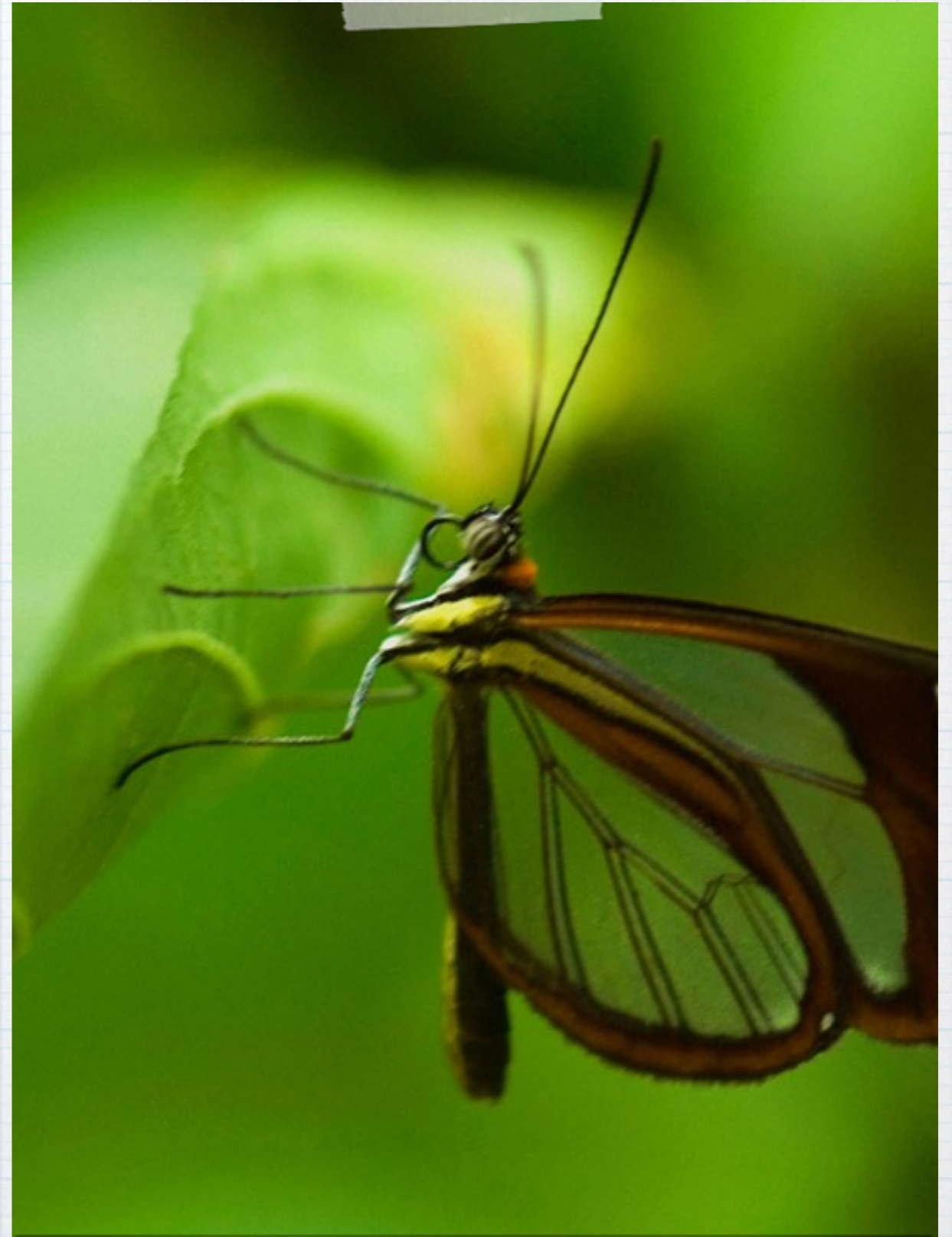


Nexus

The Sales Tax Monster
Under the Bed



Types of State Taxes

- * personal income tax
- * real estate tax
- * personal property tax
- * sales tax or gross receipts tax

Sales tax is a tax on the sale price of a product or service, responsibility of the buyer

Gross Receipts Tax is a tax on the sale price of a product or service, responsibility of the seller

Why Sales Tax?

It is the State's right to levy taxes on activities occurring within a State's borders

As less federal money is available, the States must increase taxes: looking for ways to do so

Therefore States are changing the definition of Nexus to increase the number of taxable opportunities

Nexus is the minimum amount of contact between a taxpayer and a state allowing the state to tax the business on its activities

How Nexus Happens

- * Physical presence in the State such as an office, warehouse, or store (you are always within Nexus of the state(s) where you have residency)
- * Physical presence of employee or statutory employee of your business (such as a sales rep)

- * Temporary physical presence (such as attending a book festival or book signing) (nexus for length of event)
- * NEW: Exceeding a substantial amount of sales or transactions within the state
 - * South Dakota, sales >\$100,000 or 200 transactions (for example, you sell books to 200 people in South Dakota via the mail)
 - * other states with similar rules are AL, MA, UT and VT - more on the way

* **NEW: the existence of a carrier within the State**

* **New York: “a nexus exists if the New York buyer finds out about your site by clicking through links that included any New York-based website”**

- * **NEW:** Going after the end-user for the tax (remember sales tax is the responsibility of the buyer)
- * Colorado requires a list from certain out-of-state vendors of who bought products from them; the State will then bill the buyers

- * There has been talk of a federal-level sales tax for Internet sales as an attempt to prevent all these new nexus definitions, but this has two problems: who receives the tax (State of seller or State of buyer or State of receiver) and States' Rights Issues

- * Be on the lookout for more creative methods to establish nexus as Internet sales continue to increase (and States feel they are losing sales tax as a result)
- * Some states are considering using the carrier's presence in the state as establishment of nexus (will affect FedEx and UPS deliveries if not challenged)

What is Required for You to Collect Sales Tax?

Most States and some municipalities require you to apply for a sales tax license

When you apply, you provide the government with your name, address, type of sales & expected amount

Special Events/ Concession License

some special events or special locations may have a special sales tax license requirement in addition to "normal" license

Out of State Events

Will require that you have a concession or special events license

- * Event Coordinator should be able to help you**
- * These are temporary licenses and will show a date range on the license**

- * Bring the special license with you to the event or you might be “thrown out”
- * File your sales tax on time, generally 10 or 15 days after the event

Get Around Concession License Requirements by Having a Local Business Handle Sales for You

for example: Who Else Books here at the conference

Be Aware of Any Local Requirements in Addition to the State Requirements

Example: Tucson Book Festival requires both Arizona State License and Tucson License

Resale Situations

When another business takes responsibility for collecting and submitting the sales tax for your books

The company taking that responsibility will give you a resale certificate or non-taxation transaction certificate

You report what you receive on your sales tax report and then deduct it as non-taxable sales

Tax Rates

- * Only 5 states do not have state-level sales tax: Alaska, Oregon, New Hampshire, Delaware, & Montana
- * Most locations have additional tax such as county tax, city tax, or stadium tax that adds to the state tax rate
- * Most states will allow local and state taxes to be paid to the state; Arizona is the exception

Back Out the Tax

- * Most States allow you to either add the sales tax to the product's sale price or to back out the tax
- * To figure out the product price when you back out the sales tax:
 - * $\$X / 1 - \text{rate} = \text{product costs}$
 - * Example: \$20 for book at tax rate 6%
 $\$20 / 1 - 0.06 = \18.87 (\$1.13 is the sales tax collected)

Use/Compensation Tax

- * Occurs when you take something out of your inventory for which you did not pay sales tax
- * Example: taking books from inventory for gifts to family & friends
- * Most states have a special compensation tax rate that is lower than the "normal" rate
- * Reported on regular sales tax reports under Use or Compensating Tax (look for a separate line or code)

Computers Used to Cross Check the Numbers

What you report on your Federal tax forms must match what you report on your State tax forms which must match what you report on your sales tax forms

Statute of Limitations

Most States now use a SOL similar to the federal tax SOL: three years from when the tax was due or paid, whichever is later

A common variation will be Dec 31 of the year that the feds would consider the SOL endpoint

Common Errors I See

- * Using the incorrect tax rate for the time period of the sale (some States change every 6 months)
- * Paying double tax on the federal reports (forgot to back out the sales tax)
- * Forgetting to get the special events license or forgetting to bring it to the event
- * Using the wrong tax rate for the location (there are several smart phone apps that can help, I use Avatax Rates on my iPhone)
- * Not taxing services in States that tax services as well as products

International Issues

Internet and eBooks making international issues
easier to run across

There are Companies that Specialize in Sales Tax Compliance

Examples: Avalara and TaxJar