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SALTrends - Sales and Use Tax Update – Compliance in a Post- Wayfair World

March 11, 2021

Note

1. This presentation is intended to make participants aware of tax issues that may apply to this audience.
2. Information presented herein is not intended to be tax advice.
3. Please consult with a qualified practitioner for tax advice related to specific transactions.



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Agenda

- Historical Context & Current Status
- Utilizing Data Analytics to Assist Sales/Use Tax Compliance
- Automating Sales Tax Compliance
- Looking Forward





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Historical Context & Current Status

Historical Context & Current Status

Case History

- South Dakota v. Wayfair, Inc., 585 U.S. _____ (2018)
 - In 2016, South Dakota enacted an economic nexus standard, directly contradicting Quill's "physical presence" rule
 - \$100,000 in gross revenue or 200 transactions per year
 - Online retailers with no physical presence in South Dakota challenged the constitutionality of the nexus standard
 - The U.S. Supreme Court reversed its holding in Quill Corp. v. North Dakota, abandoning the physical presence standard for sales nexus
 - The Court reasoned that the physical presence test:
 - Arbitrarily created competitive advantages for out-of-state retailers
 - No longer makes sense in light of technological advancements and the modern economic realities of internet retailing

Historical Context & Current Status

Current Status

- Majority (43 states plus DC and AK localities) enforcing some form of economic nexus on sales tax
 - Florida and Missouri both have pending legislation
- Trends
 - Retroactivity – Trend is toward prospective enforcement
 - Movement away from transactional thresholds
 - Use tax notification requirements
 - Movement away from physical presence – Does economic nexus truly replace the physical presence test?
- Adjustment of nexus thresholds since initial legislation

Historical Context & Current Status

State Enforcement

- General Information Letters / Technical Memoranda
 - Administrative notice informing taxpayers of nexus thresholds and filing requirements
 - May provide information on registration and/or voluntary compliance
- Nexus Questionnaires
 - Provided directly to specific taxpayers
 - Use caution when completing
 - Non-response may trigger an audit or further inquiry
- Desk Audits
- Lookback Period
 - Economic nexus is prospective in majority of states
 - Measurement period for transaction/gross receipts thresholds
 - Current or prior calendar year
 - Trailing twelve months
 - “Expected” to reach threshold

Historical Context & Current Status

Marketplace Facilitators

- Many states have enacted statutes requiring marketplace facilitators to collect and remit tax on behalf of sellers
- Applies whether facilitator takes title and makes sale or not
- Many large marketplace facilitators were collecting tax prior to or shortly after *Wayfair* decision
- Broad definition of “marketplace facilitator” reaching beyond traditional facilitators (Amazon, eBay, etc.)
- Opt-out clauses
- Multi-channel sales considerations
 - Brick & Mortar
 - Company operated websites
 - Sales through marketplace facilitator

Historical Context & Current Status

Registrations

- Additional registrations required
- Carefully consider registrations where no taxable sales exist
 - Taxable sales vs. gross sales analysis
- Possible use of Streamlines Sales Tax Project registration process
- “Business State Date” for registrations
- Registering as of a date in the future
- Beware of questions related to other tax types
 - Withholding
 - Income/Franchise Tax

Historical Context & Current Status

Registrations – cont'd

- Nexus questionnaires disguised as registration documents
- Sales tax vs. sellers use
- Simplified rate/registration programs (LA, AL, AZ)
- Secretary of State Requirements
- Certificates of good standing
- Hard copy mailings with account numbers or access codes
- Beware of business start dates driving past due returns
- Member/Officer personal information
- Responsible party ramifications



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A stylized world map in black and white, with numerous small flags pinned to various geographical locations. The flags represent various countries, including the United Kingdom, Germany, Switzerland, and others.

**Using Data Analytics to Assist
with Sales/Use Tax Compliance**

BIG data

Data Visualization

Machine Learning

Artificial Intelligence

BLOCKCHAIN

Data Analytics

Predictive Analytics

Descriptive Analytics

Unstructured Data

Structured Data

The Data Problem

- The digital age we live in:
 - Everything is electronic and digital
 - Data, both business and personal, is being generated (and collected somewhere) at extraordinary rates, and increasing.
 - Most of us haven't kept up, which means we are not taking advantage of all of that data sitting at our fingertips!



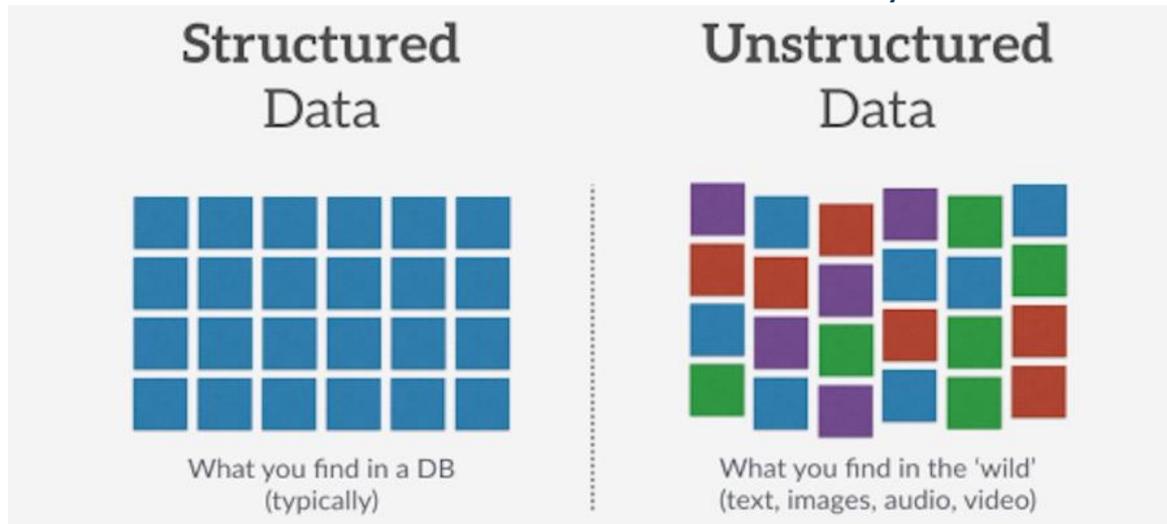
Structured vs Unstructured Data

Structured data

- Highly organized
- Often categorized as quantitative data
- Fits neatly into a database or spreadsheet
 - Examples: names, dates, addresses, account numbers

Unstructured data

- Cannot be processed/analyzed using conventional methods
- Often categorized as qualitative data
- Cannot be organized into a database or spreadsheet
 - Examples: video, audio, social media activity



Creating a Plan



- Outcomes
 - Begin with the end in mind
 - Data quality improvement
- Time and Talent
 - Internal resources
 - Software vendors
 - Professional services
- Tools
 - Additional software needed?
 - Data extraction tools
 - Data aggregation and analysis tools
 - Data visualization and reporting

Determine Goals

- What are your objectives?
- What software to use? Excel, IDEA, Power BI, SQL
- Understand data requirements (volume, ease of download, master files, flags, codes, references)
- File formats



Assess Resources

- Understand how accessible and reliable your data is
 - Where is it stored?
 - Are there unique keys to link related data between sources?
 - Is there duplication or conflicts between data sources?
 - Are there common reliability or integrity issues with the data?

Typical data issues	Typical management challenges	Potential business implications
<ul style="list-style-type: none">• Poor data capture• Duplicate master data• Data inconsistencies• Obsolete data• Inaccurate source data• Inappropriate data capture	<ul style="list-style-type: none">• Inaccurate financial reporting• Inability to identify fraud• Inefficient business processes• Poor business insights• Sub-optimal business decisions	<ul style="list-style-type: none">• Loss of market share• Loss of customers• Litigation/regulatory fines• Financial instability• Financial restatements• Solvency issues• Incorrect tax determination

Develop, Implement and Evaluate Results



Use Tax Automation Case Study



- **Scenario**

- Frozen foods manufacturer with multiple plants
- Oracle and SAP systems
- Previously used Vertex for back-end use tax accruals

- **Challenge**

- Monthly use accrual, reconciliation, filing
- Review transactions for incorrect sales tax paid and use tax accrual
- Accounting entries to adjust balances

Use Tax Automation Case Study



- **Solution**

- Excel Macro automation – keeps data in a familiar format for the user
- Replicates Vertex by determining amount of use tax accrual based on pre-defined product code and tax jurisdiction mapping
- Compares actual sales tax paid to vendor to independently determined amounts
- Summarizes purchases data for review by invoice and by product code
- Allows for adjustment by invoice or line item
- Summarizes results by jurisdiction for simplified return filing and accounting journal entries



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Automating Sales Tax Compliance

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Automating Sales Tax Compliance

ROBOTIC PROCESS AUTOMATION

Shaping the future of business process functions

NEXT LEVEL INTELLIGENCE

The use of Intelligent Automation promises an increase in productivity and profitability. Intelligent Automation enables organizations to make processes smarter and more efficient without undergoing an invasive process redesign.

Robotic Process Automation (RPA) is one tool or process of an Intelligent Automation program. RPA involves the application of a cost-effective software that enables data automation, increases efficiencies and decreases discrepancies. RPA and Intelligent Automation (IA) have the potential to make business processes more strategic and effective. Both RPA and IA have significant advantages over traditional IT implementations.

OPPORTUNITIES FOR RPA

- ▶ Tax
- ▶ Treasury
- ▶ Budgeting, Planning, Forecasting
- ▶ Accounts Receivable
- ▶ Accounts Payable
- ▶ Reporting
- ▶ Operational & General Accounting
- ▶ Capital Management & Investments

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KEY BENEFITS

The RPA market is expected to reach \$2.9 billion in 2021.

Forrester Research Inc.

Implementing RPA or an Intelligent Automation program allows employees to expand their current responsibilities.



Automating Sales Tax Compliance

Services Affected

Finance & Accounting

- ▶ Sales order
- ▶ Order to cash
- ▶ Collection
- ▶ Procure to pay
- ▶ Record to report
- ▶ Vendor set up
- ▶ Trend tracking

IT Management

- ▶ FTP download, upload and backup
- ▶ Server application and monitoring
- ▶ Synchronizing, deleting and emptying folders
- ▶ Folder & file management
- ▶ Batch processing

Tax

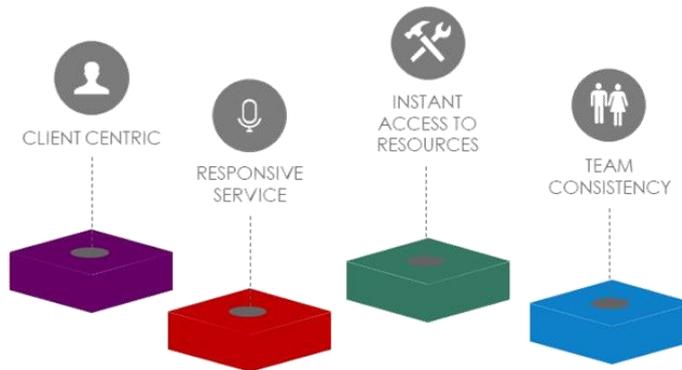
- ▶ E-filing
- ▶ Update and maintain data
- ▶ Identify, process and maintain tax payment information
- ▶ Tax SOX compliance
- ▶ Reconciliation automation
- ▶ Data transfer into tax returns

Treasury

- ▶ Cash management
- ▶ Capital strategy
- ▶ Bank reconciliations

RPA and Intelligence Automation create strategic value while easing current challenges in a manual accounting and finance environment.

Smith & Howard Differentiators

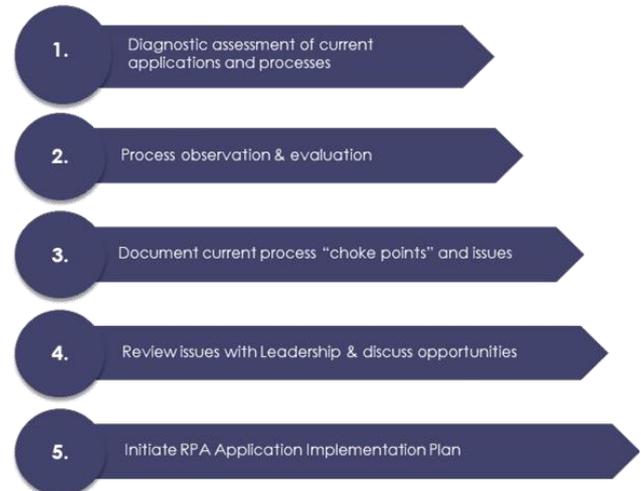


Our team members leverage a client service methodology focused on timely delivery of solutions using the right resources with the appropriate application to the processes being enhanced.

Other Services Affected

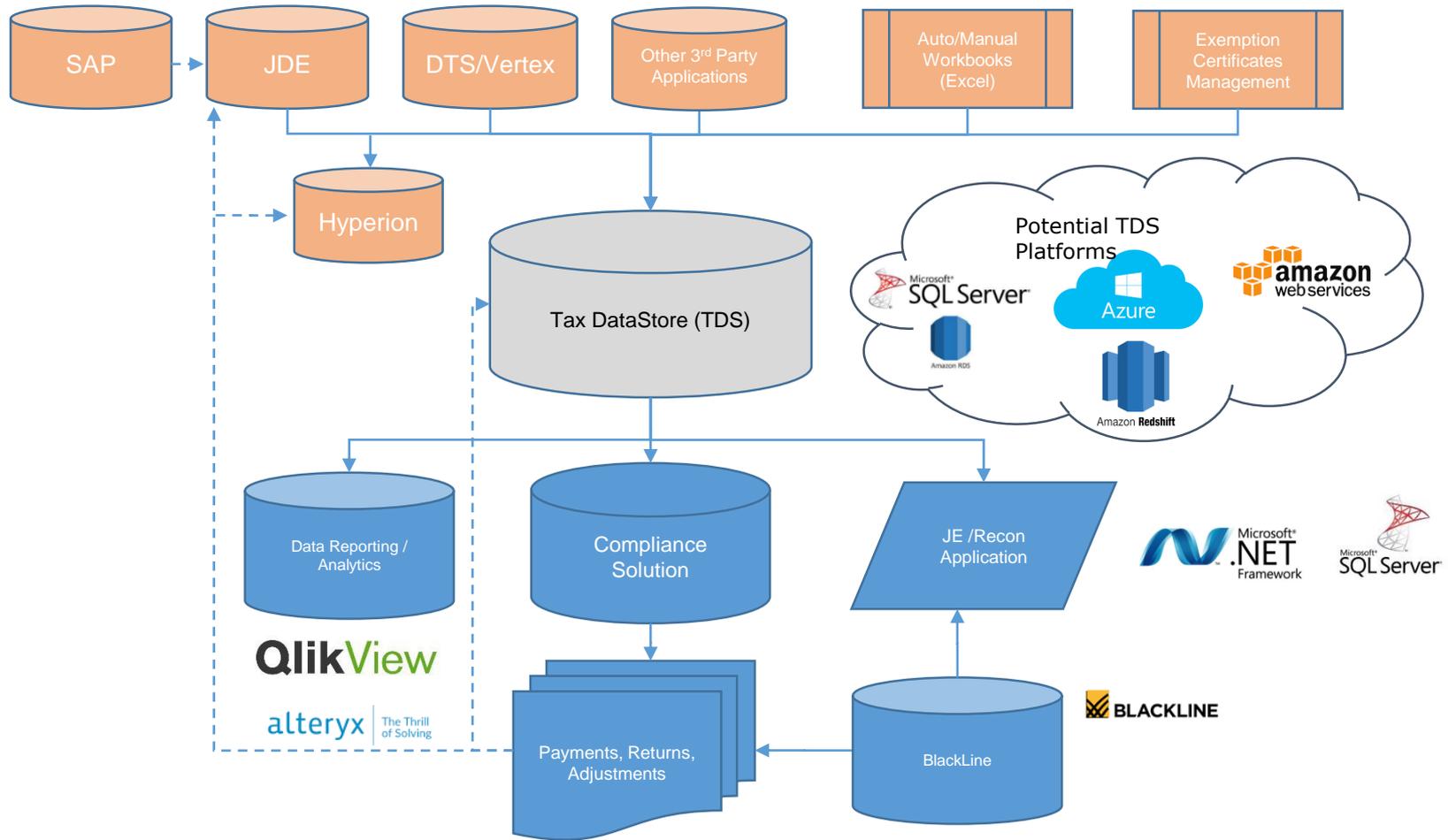
- ▶ Payroll
- ▶ Compliance Reporting
- ▶ Time & attendance management
- ▶ Pay slip management

The Initial Process



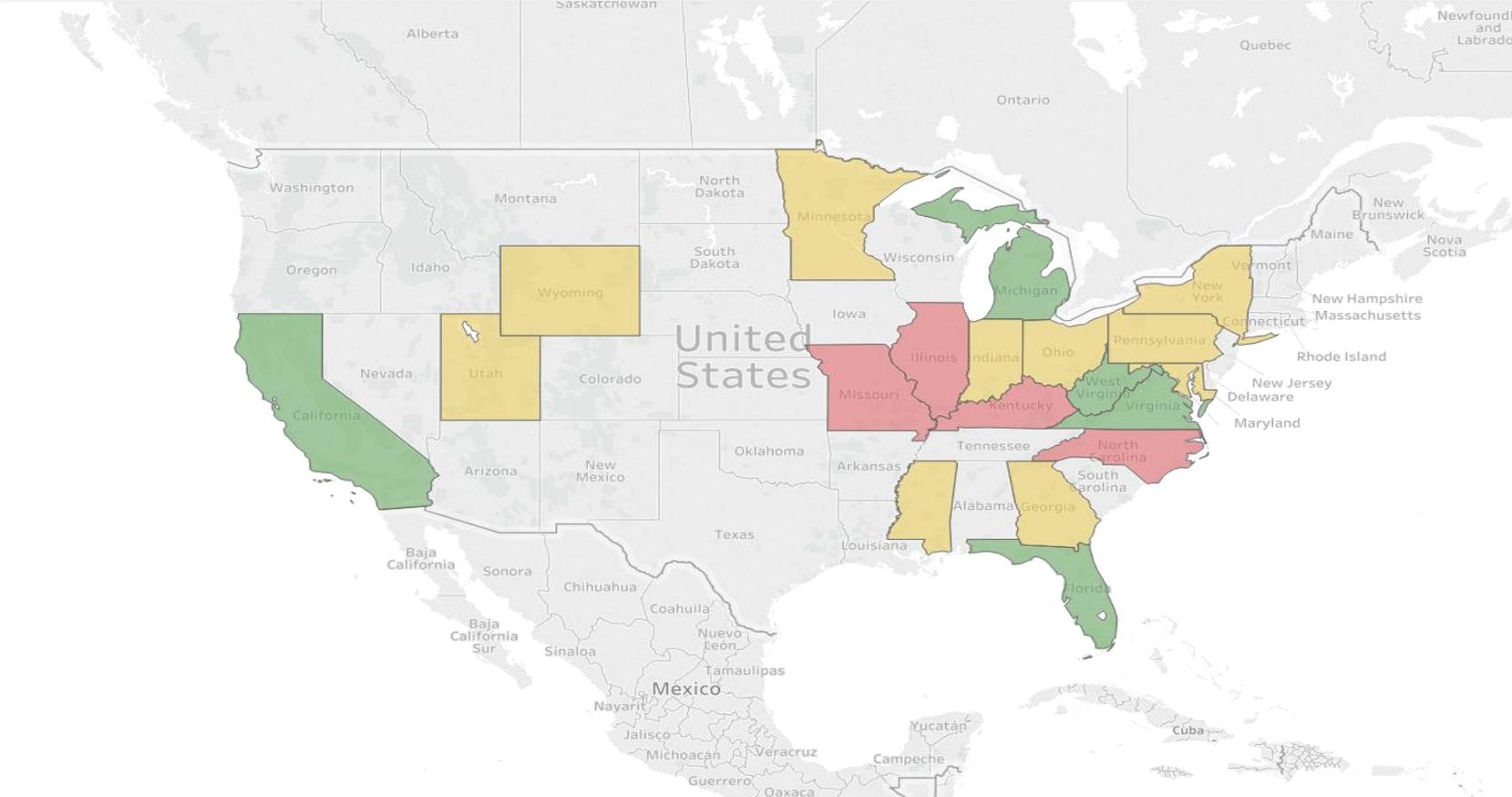
For More Information on Robotic Process Automation Contact Smith & Howard at (404) 874-6244.

Sample Tax DataStore



Analytics – Data Visualization

By Entity Sales Tax



Map based on Longitude (generated) and Latitude (generated). Color shows details about KPI Sales Tax. Details are shown for State1. The data is filtered on Entity, which keeps ROC.

Tax Data Optimization

Intelligent Automation

- Robotic Process Automation (RPA)
 - Automate routine reporting tasks to allow resources to focus on more value added functions. This can involve custom solutions or 3rd party applications such as Blue Prism, UiPath and Automation Anywhere.

Tax DataStore (Super 2.0)

- Single Source of Tax Data for audit defense, compliance reporting, data analysis and visualization.
- Customizable to any current compliance environment, utilizing multiple data feeds and integration of rules, rates, reporting and journal entry capabilities from complete compliance management.

What are “Custom Solutions”?

- .Net solutions or other custom application development to solve problems the best way for the client (HTML 5, JAVA, etc.)
- True deliverables – client owned code with no support fee or licensing requirements unless requested.



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Looking Forward

Looking Forward



Outlook for 2021 and beyond:

- Increased enforcement efforts targeted at sales tax collection
 - Taxing jurisdictions shifting focus from purchase audits to sales audits
- Use “desk audits”
- Audits including post-Wayfair periods
- Auditors will scrutinize nexus positions for periods prior to economic nexus effective dates
 - Other nexus drivers will come into play (click-through, affiliate, cookie)
- Increased level of aggression after COVID-19 threat passes and possibly before
- Continued use of “big data” to identify audit targets
- Automated notices
- Nexus questionnaires

Thank you!



Contact Information



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