DUKE

DUKE HEIGHTS BIA

Taxation and E-Commerce

When customers are located across various provinces and countries, one of the biggest challenges facing e-commerce businesses is the collection of sales taxes. Often time revenues will be co-mingled with sales taxes and it is the responsibility of businesses to properly segregate all collections.

In Canada, an e-commerce business who has sales of over CAD $30,000 in the last four quarters is obligated to collect GST/HST at the rate applicable to the province of delivery. To avoid double taxation, businesses may claim Input Tax Credits (ITC) for any sales taxes relating to expenditures. For example, if a business spent $500 in sales taxes on overhead expenses and collected $1,000 in sales taxes as revenue, then the business is only required to remit $500.

In the U.S., sales tax is governed at the state-level. Unlike Canada, in the U.S. counties, districts and municipalities all have the jurisdiction to impose their own local sales tax in addition to state tax rates. Currently only 5 states don't have sales tax. This includes Alaska, Delaware, New Hampshire, Oregon, and Montana. To avoid the accumulation of taxes along the supply chain, companies may obtain a resale certificate issued by local tax authorities. Often time, states will apply the economic nexus principle – meaning once a business crosses a threshold in terms of the volume of sales sold into a state, they are obligated to comply with its tax requirements. Larger states such as Texas and California start collecting taxes only when businesses have some sort of physical connection to that state.

For the E.U., an e-commerce business is required to collect the Value Added Tax (VAT) at the rate applicable to the country of delivery. Similar to Canada, businesses may claim tax credits for VAT spent on expenses. Below is a table of the Standard VAT Rate for each country.

Country	Standard VAT Rate
Austria	20.0%
Belgium	21.0%
Czech Republic	21.0%
Denmark	25.0%
Estonia	20.0%
Finland	24.0%
France	20.0%
Germany	19.0%
Greece	24.0%
Hungary	27.0%
Iceland	24.0%
Ireland	23.0%
Italy	22.0%
Latvia	21.0%
Luxembourg	17.0%
Netherlands	21.0%
Norway	25.0%
Poland	23.0%
Portugal	23.0%
Slovak Republic	20.0%

Slovenia	22.0%
Spain	21.0%
Sweden	25.0%
Switzerland	7.7%
Turkey	18.0%
United Kingdom	20.0%

How to determine where the e-commerce is subject to income tax when selling in multiple jurisdictions?

No tax requirements exist if a business is merely selling goods without direct solicitation or the use of third-party companies or agents located within that jurisdiction. An e-commerce business must file treaty-based tax returns once it starts engaging with 3rd parties and local businesses to further sales. However, no tax is payable if there is no actual physical presence in the country. Income tax is only payable once the business actively solicits clients, directly engages with local businesses and independent agents, and hires employees or stores goods within the country.

Sole Proprietorship or Partnership or Corporation?

Structuring your e-commerce business as a sole proprietorship may be advantageous when there are few personal assets exposed to liability. Accounting for sole proprietorship is relatively simple. (additional details, maybe an example)

Partnerships on the other hand enjoy pass-through taxation as they are flow-through vehicles. Partnership firm is not taxed; instead income is allocated between partners and partners are taxed individually on their shares of the partnership income. This may be beneficial during the first few years when businesses are more likely to incur losses.

Corporations may be another great option when you are looking to limit personal liability. Taxes on net income may be deferred to later years. Moreover, small corporations are taxed at a much lower tax rate on their revenue –with the combined small business tax rate being 13% to 15% on the first $500,000 of net income.