aronson LLC
ASSURANCE | TAX | CONSULTING
Expanding What's Possible

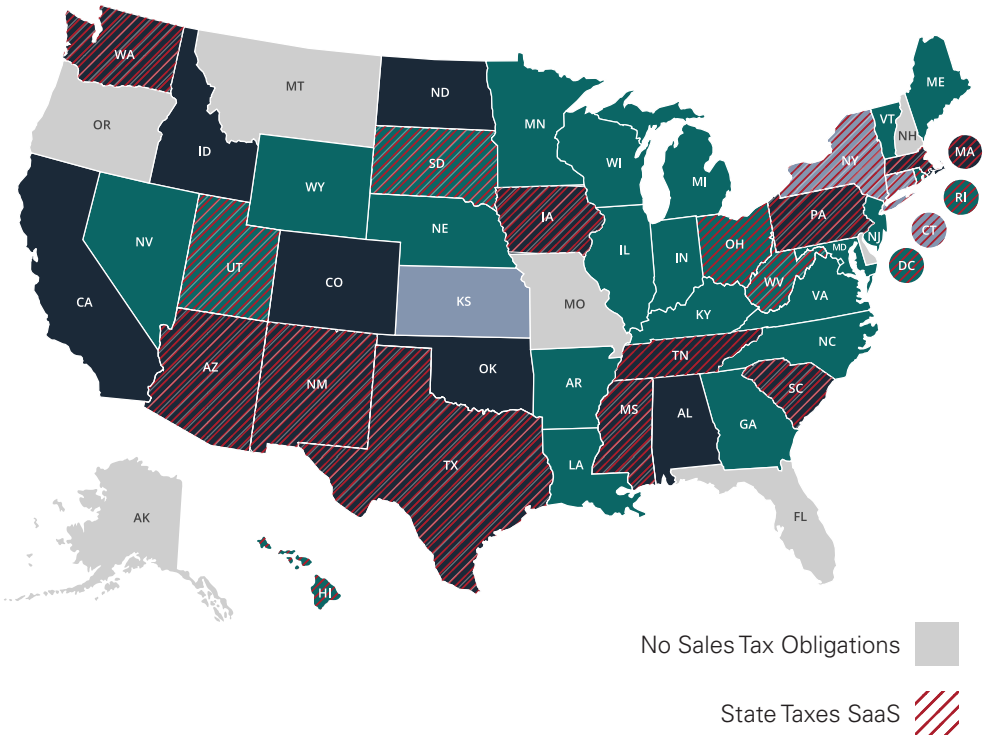
Sales Tax Landscape for SaaS Companies

STATES WITH GROSS SALES THRESHOLD ONLY	
$100,000	CO, ID, IA, MA, ND, NM, OK, PA, SC, WA
$200,000	AZ
$250,000	AL, MS
$500,000	CA, TN, TX

STATES WITH GROSS SALES OR TRANSACTION THRESHOLDS	
$100,000 or 200 transactions	AR, DC, HI, IL, IN, KY, LA, MD, ME, MI, MN, NC, NE, NJ, NV, OH, RI, SD, UT, VA, VT, WI, WV, WY
$250,000 or 200 transactions	GA

STATES WITH A GROSS SALES AND TRANSACTION THRESHOLD TEST	
$100,000 and 200 transactions	CT
$500,000 and 100 transactions	NY
No defined threshold	KS

States highlighted in red tax SaaS



SOFTWARE-AS-A-SERVICE (SAAS) PROVIDERS NOW HAVE BROADER SALES TAX COLLECTION OBLIGATION

In June 2018, the U.S. Supreme Court paved the way for states to impose a sales tax collection obligation on sellers with no physical presence in the state (i.e. remote sellers). The shift from a physical presence nexus test to an economic nexus test combined with a greater number of states imposing sales tax on SaaS means that many SaaS providers now have multistate sales tax compliance obligations.

DUST BEGINNING TO SETTLE ON "REMOTE SELLER" LAWS

SaaS providers are now reasonably able to assess their sales tax collection obligations in the post-Wayfair world as most states have enacted their version of a "remote seller" sales tax collection law.

TAXPAYERS THAT HAVE WAITED COULD HAVE SIGNIFICANT LIABILITIES

Although a SaaS provider that has waited until now to perform a sales tax collection analysis does have the luxury of knowing that most states have now enacted legislation, these providers will potentially have larger sales tax exposures due to a substantial number of states' "remote seller" sales tax collection laws being in place for well over a year.

TAXABILITY OF SALES VARIES BY STATE

SaaS providers also need to consider the taxability of other software products they might sell. For example, a large number of states impose sales tax on sales of electronically delivered software (i.e. software downloaded by customer) and digital products.

SALES TAX COMPLIANCE OPTIONS

SaaS providers need to carefully consider their compliance options on a state-by-state basis, including whether and how to pay prior period outstanding sales tax liabilities and prospective sales tax collection and remittance.

WHAT ABOUT INCOME TAX?

Some states have economic nexus rules for income tax purposes as well. Although the sales thresholds used by states are typically set higher for income tax purposes, SaaS providers need to be equally aware of the states in which an income tax filing obligation exists. This is especially the case in states where the SaaS provider is already collecting sales tax, and therefore on the state's "radar."

PLANNING AN EXIT?

Business owners considering an exit will need to address whether any exposures exists and quantify any liabilities. While it's unlikely that every state where a remote seller has an existing sales tax exposure will send a notice or initiate an audit, the full extent of any noncompliance will almost certainly be uncovered during a potential buyer's due diligence.

HOW CAN ARONSON HELP?

If you're concerned about your business having a sales tax collection obligation in one or more states, Aronson can assist with determining in which states an obligation exists and when the obligation began, quantifying the sales tax exposure, and formulating a compliance plan.

CONTACT OUR STATE & LOCAL TAX TEAM TODAY AT 301.231.6200.