Voice over Internet Protocol
Tax Pitfalls

Robert Dumas – Founder/Managing Partner
Jeff Meigs – Partner

TaxConnex LLC
May 15, 2015
Presentation Overview

- Nexus
- Taxes vs. Regulatory Fees
  - Communications Services Taxes
  - Local taxes (E911, ROW, UUT)
- Taxability
  - Service address
- Registration/compliance
- Resale exemptions
- Tax calc and invoicing
Taxes vs. Regulatory Fees

- There are often different definitions
- Administered by the Departments of Revenue (DOR’s) or local jurisdictions
- Includes sales tax, telecommunications tax, utility users tax, business + occupation tax, gross receipts tax, and 911 fees
- Does not include FCC, Federal or State USF or other PUC administered fees
What Creates Nexus?

• Income Tax Nexus and Sales Tax Nexus Is Different
  • PL 86-272 affords immunity to mere solicitation of orders for sales of TPP.
  • Other transactions involving TPP or intangibles are not protected under PL 86-272.
  • The Supreme Court ruling in the 1967 case between National Bellas Hess and the state of IL established the physical presence rule for sales and use tax purposes.
  • In Quill, ND set out to rewrite Bellas Hess citing the changing economy – Overruled by the Supreme Court.

• For VoIP providers
  • Where you have physical offices, sales reps, trade shows, etc.
  • Where you have customers
Taxability

- It’s different for every state
- Interconnected VoIP Services in Florida
  - Basic service is not subject to sales tax but is subject to the FL Communications Services Tax and 911 Fees
  - Additional minutes for local and long-distance are not subject to sales tax or 911 Fees but are subject to FL CST
  - Hardware and maintenance on the phones are subject to sales tax only
• **Interconnected VoIP Service in Georgia**
  - Basic service is not subject to transactions tax but is subject to 911 Fees
  - Additional minutes for local and long-distance are not subject to sales tax or 911 Fees
  - Hardware is subject to sales tax but maintenance on the phones is not subject to sales tax
Registering with the DOR

• Each state where you need to collect and remit tax will require a sales tax ID
• Some states, like Florida, require a separate communications tax ID
• This is separate from registrations with the SOS but they should be coordinated
Exemptions with Carriers

- Myriad of scenarios that create risk
  - Many carriers do not charge tax at all
  - Some charge a “911 administrative fee”
  - Some charge on the wholesale portion only
- Get a detailed perspective on what the carriers are charging you
- Just because they collect on the wholesale amount doesn’t mean you’re not exposed
Calculating Tax and Invoicing

- Complexity that increases exponentially as you add states
- Manual could be OK in the beginning
- Purchase and implement in-house software
- Subscribe to a service for calculations
Filing Your Returns

• The DOR will assign a filing frequency
• Certain states will require additional local level reporting
  • California cities assess a Utility Users Tax that requires monthly reporting
• Manual options
• Software can automate some of the returns but not all
• Outsourcing the filings
Questions

Robert Dumas
(770)656-0263
robert.dumas@taxconnex.com

Jeff Meigs
(678)397-1533
jeff.meigs@taxconnex.com