

March 10, 2010

**ALERT: New required reporting/notification of any Colorado sales;
significant penalties for noncompliance**

Effective March 2, 2010, the Colorado Department of Revenue requires that any organization which has not established nexus in Colorado and which is making non-wholesale (i.e., "retail") sales into the state of Colorado must:

- Include a lengthy statement on each invoice outlining Colorado sales tax laws.
- Provide each Colorado customer with a year-end summary so that all customers can file Colorado sales/use tax forms.
- File an annual report with Colorado identifying all of its Colorado sales.

Penalties for noncompliance are waived until April 30, 2010, but steep after that date:

- \$5 per sale into Colorado without the mandatory invoice notification
- \$10 per sale into Colorado for each customer not receiving a year-end summary

Regardless of whether the organization has any physical presence in Colorado, any sales into the state are subject to these new regulations immediately.

In a related regulation effective March 1, 2010, nexus is "presumed" for any non-Colorado corporation which is a member of a controlled group of corporations that has a member with physical presence in Colorado. These non-Colorado corporations are required to notify Colorado customers and the state of Colorado annually that the customers have to pay Colorado sales or use tax. Again, penalties for noncompliance apply to the non-Colorado corporation.

An affected corporation can "rebut" Colorado's presumption of nexus if it can demonstrate that the Colorado member of the controlled group of corporations didn't engage in any "constitutionally sufficient solicitation" for the non-Colorado corporation.

If you have any non-wholesale sales into the state of Colorado, we encourage you to contact AGH about these new reporting requirements as soon as possible to help avoid potential penalties. For more information, contact your AGH professional at (316) 267-7231 or call AGH vice president of state and local tax Jerry Capps at (316) 291-4130 or jerry.capps@aghlc.com.

NOTE: Pursuant to federal regulations imposed on practitioners who render tax advice ("Circular 230"), we are required to inform you that any discussion of tax matters contained herein is not intended or written to be tax advice, and cannot be relied upon as such, nor can it be used for the purpose of: (i) avoiding tax penalties that may be imposed by the IRS or states, or (ii) promoting, marketing or recommending to another

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