TAX EXECUTIVES INSTITUTE, INC.

State and Local Tax Policy Statement
Regarding Sales Tax Filing Requirements After Nexus Ceases
(Trailing Nexus)

Taxpayers have a duty to pay taxes that are owed and have the right not to pay more than is owed. Tax Executives Institute maintains jurisdictions should not impose sales tax filing requirements on vendors beyond the end of the month they cease to have nexus with a jurisdiction, with the exception of reporting adjustments related to sales taking place prior to and during the month nexus terminates. The reporting of such adjustments should be limited to the three months following the termination month, at which time the taxpayer should be permitted to designate the return as its final return and close its account.

Sales tax laws require vendors with the requisite connections to a taxing jurisdiction to invoice, collect, report, and remit tax on sales made to customers in the jurisdiction (collectively, "Sales Tax Filing Requirements"). Vendors subject to Sales Tax Filing Requirements undertake a fiduciary responsibility to the taxing jurisdiction and have potential liability for under-remitting tax due.

Constitutional and Statutory Limitations

Vendors are subject to a taxing jurisdiction's Sales Tax Filing Requirements if the vendor has nexus with the jurisdiction under the U.S. Constitution and meets the jurisdiction's statutory conditions. The statutory conditions creating Sales Tax Filing Requirements are unique to each individual state and, many times, local taxing jurisdictions. Examples of such conditions include, but are not limited to, having employees or property in the jurisdiction, filing other administrative registrations with the jurisdiction, and doing business with affiliates and/or business partners located within the jurisdiction.

Extension of Sales Tax Filing Requirements

Several taxing jurisdictions require vendors to continue their sales tax filings after a vendor ceases to have nexus. For example, one jurisdiction imposes Sales Tax Filing Requirements for the remaining calendar year and the four years following the date nexus ceases. Another jurisdiction continues its Sales Tax Filing Requirements for an additional year after nexus ceases. In addition, other states impose Sales Tax Filing Requirements until the vendor surrenders its certificate of authority. Other jurisdictions simply require the vendor to file a final return at the end of the reporting period in which nexus ceases.

Imposing continued Sales Tax Filing Requirements after a company has ceased doing business in the state subjects such companies to potential tax liability and administrative burdens for

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collecting taxes on a jurisdiction's behalf. Extended Sales Tax Filing Requirements put such vendors at a disadvantage when compared to similar companies without such requirements.

TEI's Position

TEI maintains jurisdictions should not impose Sales Tax Filing Requirements on vendors beyond the end of the period they cease to have nexus ("Termination Date"). However, TEI acknowledges that it may be reasonable to require taxpayers to file sales and use tax returns for the purpose of reporting adjustments related to sales taking place prior to the Termination Date. TEI maintains jurisdictions should not require the filing of returns to report such adjustments for more than three months after the Termination Date, at which time the taxpayer should be permitted to designate the return as its final return and close its account.

Approved: August 25, 2017