



AMERICAN COUNCIL OF ENGINEERING COMPANIES

## Professional Services Taxes: Point of Sale

### ISSUE

Design services do not have to be provided by, and are often not provided by, a local firm. They can be and are performed anywhere in the world. Most major projects draw competitive firms from all over the United States and from other countries. For this reason, taxing design services presents complications that do not exist with straightforward retail transactions.

When imposing a professional services tax, the state government must determine the point of sale for the tax. There are three possible points of sale for design services transactions: the engineering firm's office, the client's location, or the project site.

### KEY POINTS

- **Point of Sale: Location of Design Firm.** If the point of sale is the engineering firm office, in-state firms would have to charge sales tax to their clients for all services, both for in-state and out-of-state projects and clients. However, out-of-state firms would not have to charge sales taxes, even on local projects. This disparity would place in-state firms at a significant competitive disadvantage to out-of-state firms. In addition, in-state firms would have higher overhead expenses due to the costs of collecting and remitting the tax. Design firms may also execute projects from multiple state offices, making it difficult to differentiate where the work actually occurred.
- **Point of Sale: Location of the Client.** Levying a sales tax on in-state clients would require the state government to collect the tax from both in-state and out-of-state firms. In addition, the state could have to reach beyond the borders of the U.S. to tax international design firms. States that do not already collect sales taxes outside their borders would have to develop the administrative infrastructure to do so, which could be complicated and costly.
- **Point of Sale: Location of the Project.** Assessing a sales tax on in-state projects would also require the state government to collect the tax from out-of-state firms and international firms. States that do not already collect sales taxes outside their borders would have to develop the administrative infrastructure to do so.
- **Burden of Proof.** Governmental entities would have a difficult time tracking and proving which services should be taxed, relying on out-of-state design firms and out-of-state clients to self-report any in-state taxable professional services.

### ACEC POSITION

Any point of sale presents significant challenges for states that are considering a professional services tax on design services. One important possibility to consider is that the same professional service could be taxed multiple times by different states due to the challenges in determining the point of sale. ACEC opposes levying sales taxes on firms that provide professional engineering services to their clients.