



# Employing Consultants in Multiple States

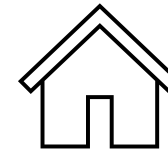
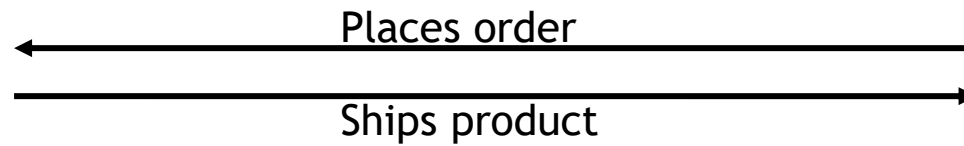
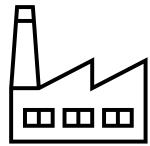
A Practical Approach to Balancing  
Tax Compliance Costs & Risks



# State and Local Tax Basics

- Broad topics
- Fact specific
- Definitions matter
- Jurisdiction matters
- Lots of recent changes

# Traditional Sales



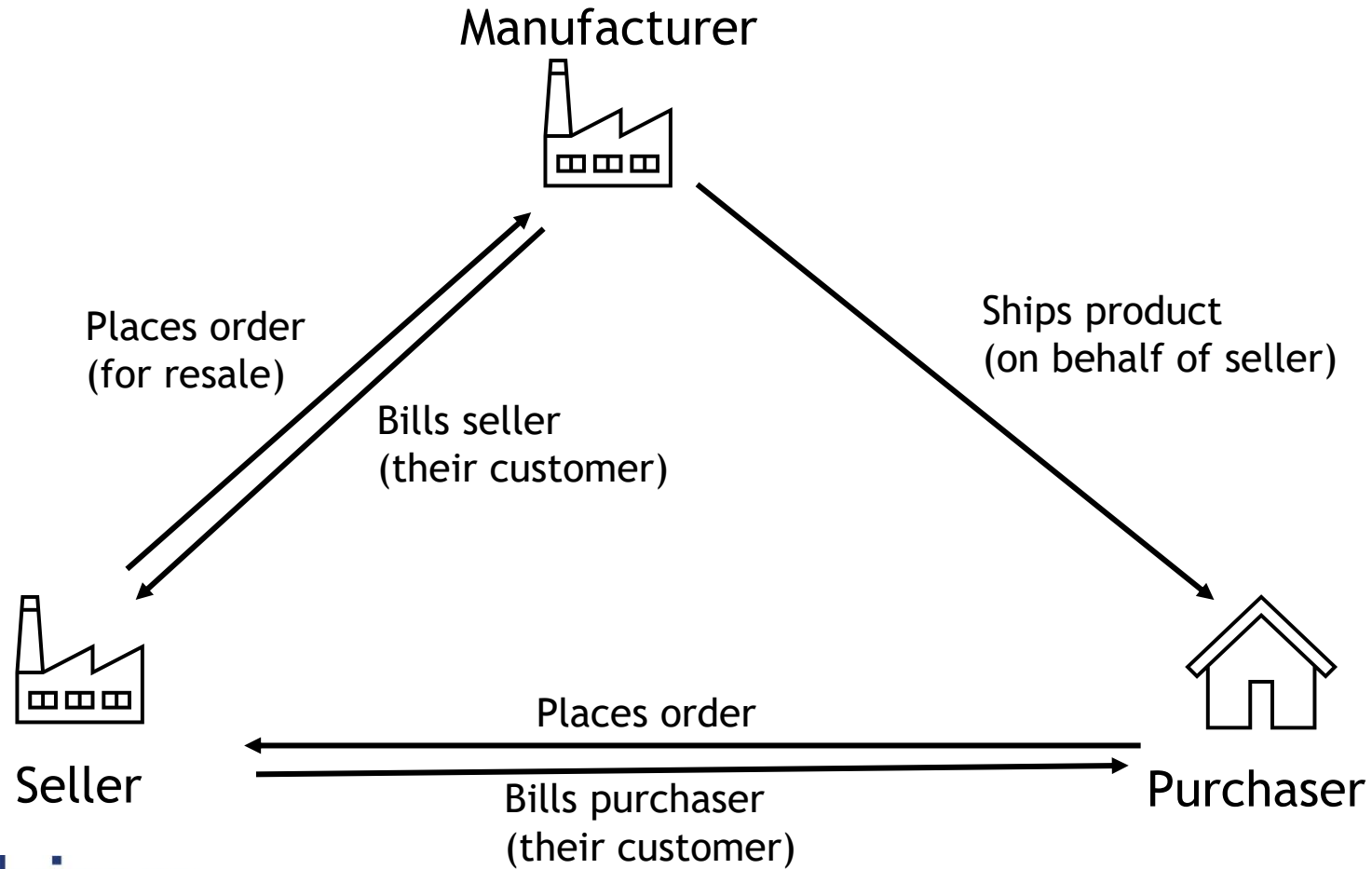
Seller/Manufacturer

- Employees here
- Equipment here

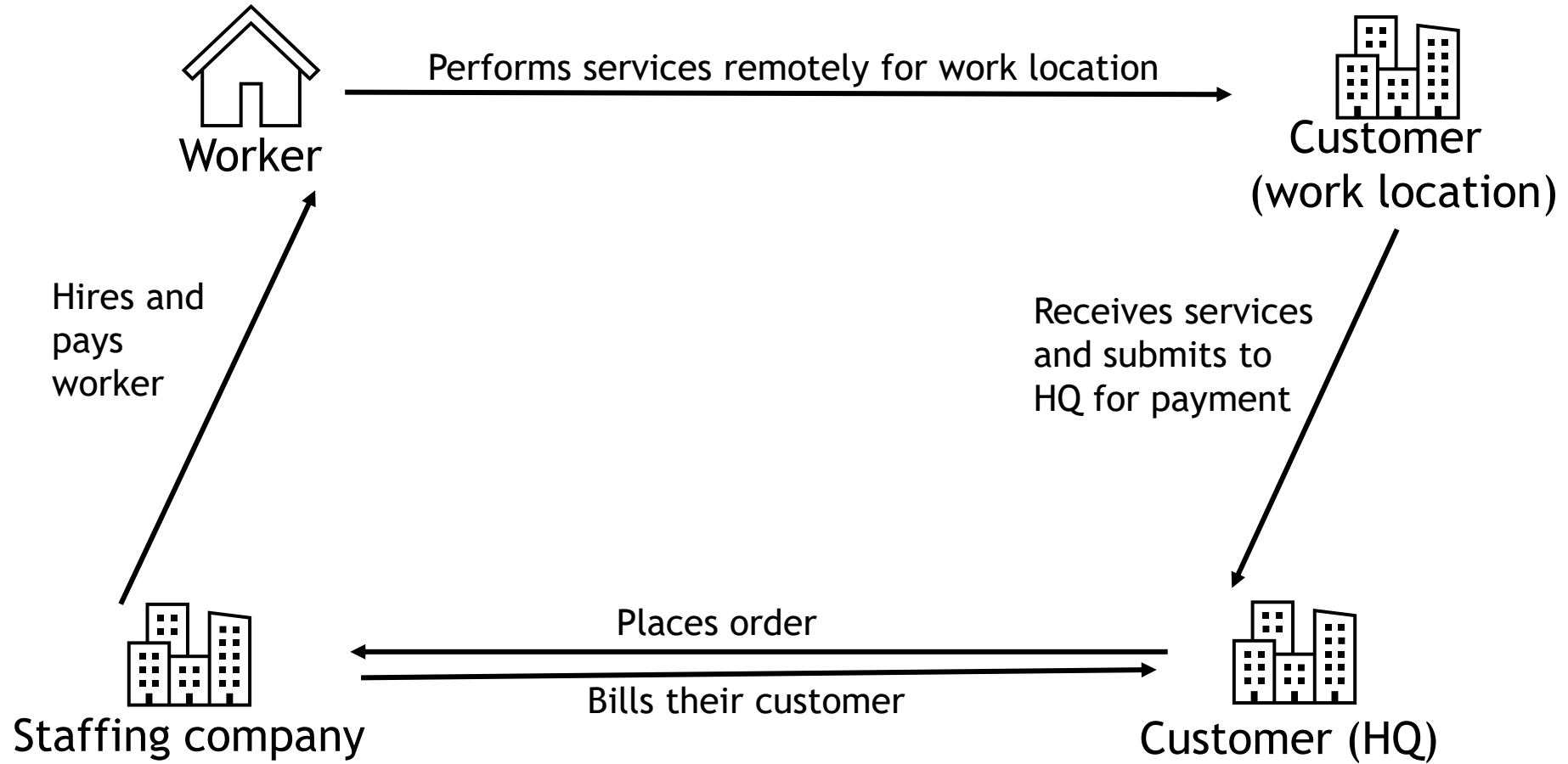
Purchaser

- Sale here

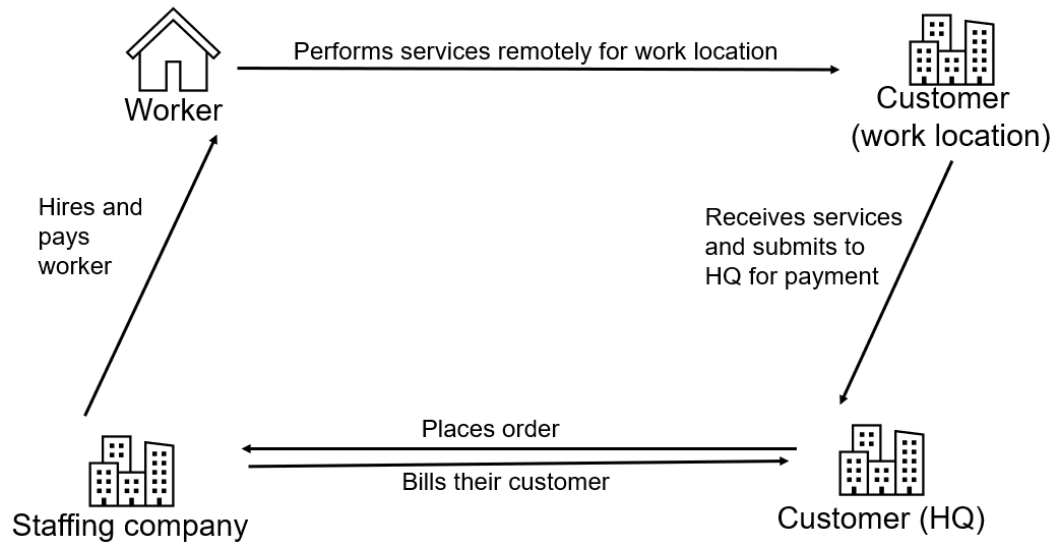
# Traditional Sales - Drop Shipment



# Staffing Sales



# What Do We Do Now?



- Where do we have nexus? AKA where do we have an obligation to file and pay?
- Is the answer the same for sales tax, payroll taxes, and income and other taxes?

# Nexus

- What is nexus?
- Types of nexus
  - Income and other taxes
  - Sales and use tax
  - Payroll taxes

# Nexus Law and Developments

- Income taxes
  - Tax Cuts and Jobs Act of 2017
- Sales and use taxes
  - South Dakota v Wayfair (2018)
- Payroll taxes
  - COVID



# Taxability of Services

- Not all states tax services
- Important to know what service you're providing
  - Temporary staffing
  - Permanent employment services
  - Medical services
  - Security services
  - Computer services

# Apportionment

- Factors used in Apportionment
  - Property
  - Payroll
  - Sales

# Sales factor Apportionment

- Cost of Performance
  - Sourcing of receipts
  - Income producing property
  - What costs are taken into consideration
- Market
  - Sourcing of receipts
    - Where is the benefit received
    - Where is the service received
    - Where is the service delivered
    - Where is the customer located

# Cost of Performance VS Market

- Other factors to consider
  - Double taxation
  - No taxation
  - Nowhere sales
  - Throwback sales

# Payroll Issues

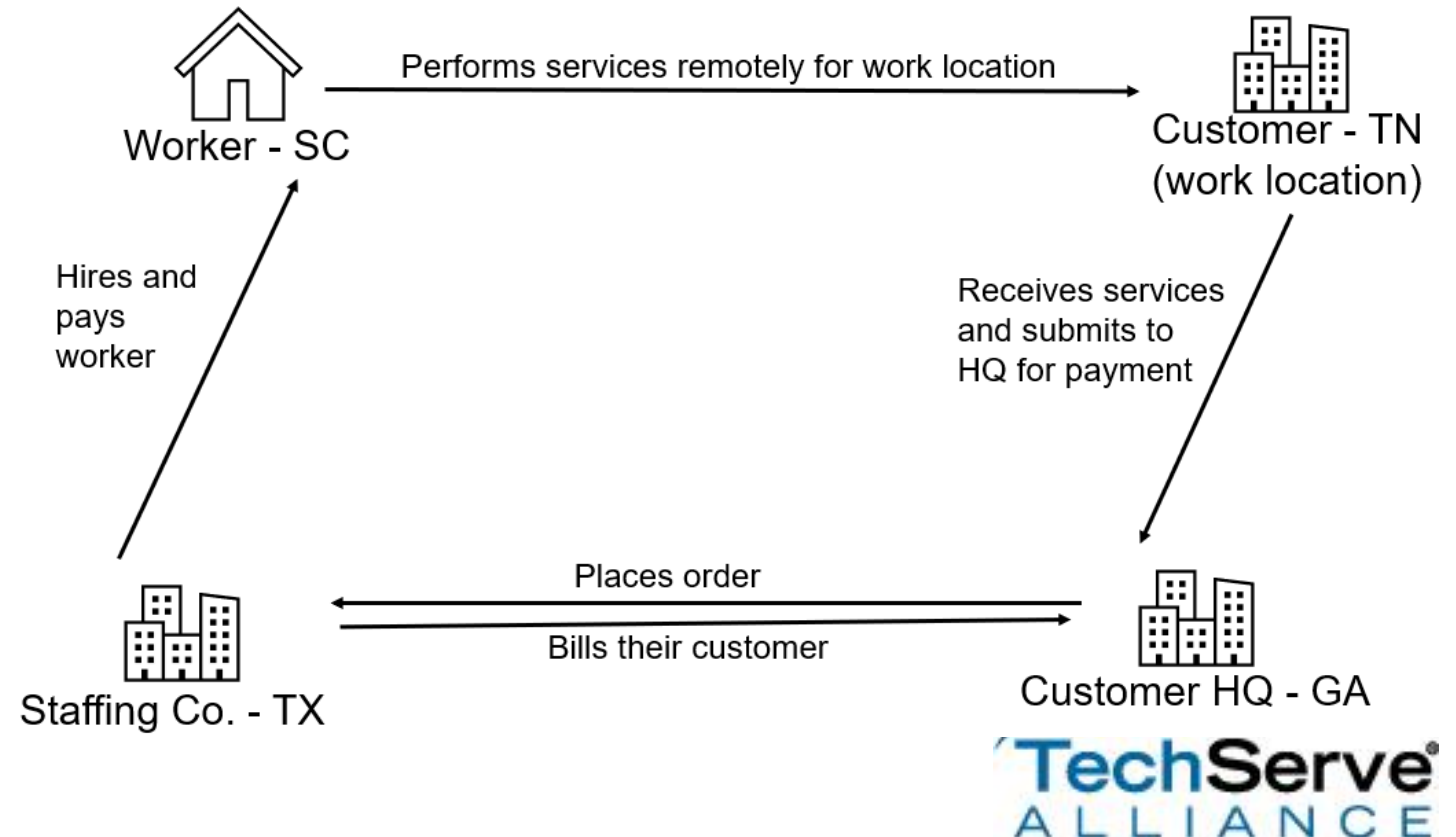
- Where to withhold
- Work from home issues
- Reciprocity

# State Registration Issues

- Multiple agencies to register with
- Considerations when registering
  - Cost (current and ongoing)
  - Exposure (future and possibly past)
  - Over registering
  - Ongoing business in jurisdiction

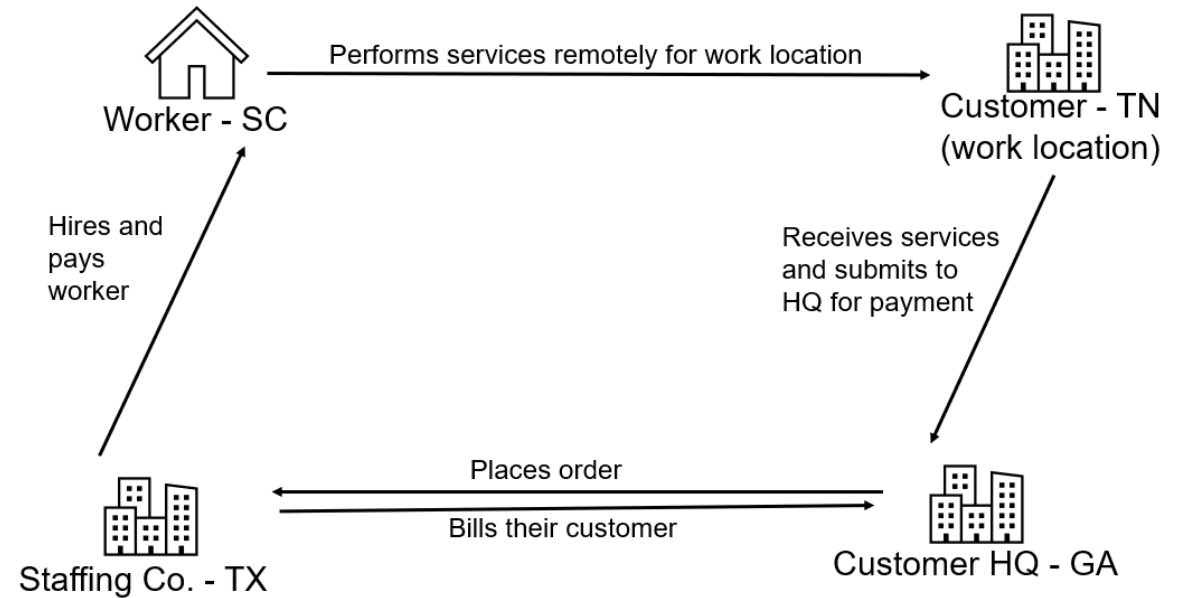
# What Do We Do Now - Sales Tax

- SC is a cost of performance state
- TN is a market/benefit received state
- Sale is subject to sales tax in BOTH states, but NEITHER state taxes employment services



# What Do We Do Now - Payroll Tax

- Typically based on where employee is, however, there are exceptions
- Employee is in SC and we would have a filing obligation there





# What Do We Do Now - Income Tax

- Where do we have nexus?
  - TX (our home state), TN, SC - not GA
- Where do we have income?
  - SC - Apportionment rules are different from sales tax law, say based on where “income producing activity is performed”
  - TN - Market based
- Where to file?
  - TX - Our home state
  - SC - One time transaction, de minimis, pass
  - TN - Over threshold and been growing for years

# Voluntary Disclosure Agreements (VDA)

- What is a Voluntary Disclosure agreement
- Pros of Voluntary Disclosure Agreement
  - Limited exposure, tax liabilities and penalties
  - VDA negotiation is often anonymous
  - You have the opportunity to come clean with the state

# Voluntary Disclosure Agreements (VDA)

- Cons of a voluntary Disclosure Agreements
  - Any missing details can void the VDA or result in ineligibility
  - States have varying requirements for VDAs
  - Additional tax liabilities may be uncovered

# Who has the first question?



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