

even 2FA. Layers of protection that include anti-malware, anti-ransomware, 2FA, a firewall, and spam filtering are like locks on a front door, making it so difficult for criminals to get that, hopefully, they move on to another target who doesn't have as many locks.

Finally, Mr. Rechtman rightly infers that an organization that is risk-aware and assumes a posture of security is the best defense against today's (and tomorrow's) cybercriminal; I couldn't agree more. Risk assessments, employee training and monitoring, and a solid incident response plan create an organization that is ever vigilant, secure and safe in the knowledge that all eyes are on the prize. The regulators would seem to agree as well, and included these as requirements in DFS 23 NYCRR 500.

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Navigating Digital Sales and Use Tax Nexus

I read with interest the article "Understanding Click-Through Nexus" (Corey Rosenthal, Scott Smith, and Keisha Paton, January 2017, <http://bit.ly/2tI6y9o>). The authors are on point that states (and countries) are on the prowl to create nexus for sales and use tax. The point, however, is more expansive than was described in this article: location of servers, venues for customer support centers, and solar power farms for data centers can all become factors in determining nexus.

The good news is that the courts have yet to decide what exactly creates nexus and what activity is exempt. Until the courts decide, the so-called "self regulations" of cloud service providers, including web commerce and infrastructure as a service, may not last forever. Business owners who create a business model without charging sales tax may be notified one day that their model needs to change, and that they are liable for back taxes due to e-commerce nexus.

The uncertainty of "what is nexus is" in the age of cloud computing and Internet commerce is yet to be resolved. E-commerce business owners should plan for this contingency by making their data and software applications transferable (threatening to move business out of state is a powerful leverage) and their corporate structure sufficiently flexible.

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