SALT

State and Local Tax

State and Local Taxes
The Wonderful World of SALT

- Gross Receipts Tax
- Income Tax
- Franchise Tax
- Sales Tax
- Payroll Tax
- Property Tax
- Use Tax
- Unclaimed Property

Why It's Important!

- Financial Statement Disclosures
- State Revenue Shortages
- Changing State Tax Laws
- Planning / Succession Planning
- Mergers and Acquisitions
- Bigger Percentage of P&L
- Aggressive Jurisdictions
Mergers and Acquisitions

State and Local Tax

- Due Diligence
- Purchase Price/Sale Price
- Liabilities

Succession Planning

State and Local Tax

- What has been done?
- What can be done?
- What are the benefits?
Profit and Loss

State and Local Tax
- Sales Revenue
- Planning
- Financial Statements
- Changing Laws

Aggressive Jurisdictions

State and Local Tax
- Revenue Shortfalls
- Business Activities
- Filing Requirements
Nexus

What is Nexus?

Nexus is the *minimum contact* required before a state is able to subject an out of state company to state taxes.
If a company has Nexus in a state, then the company *must*:

- Register
- File
- Pay

*Note: Nexus is interpreted differently from state to state.*

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Did you know?

Nexus rules can be different for sales, income, franchise and business license tax.
Sales Tax Nexus

TRADITIONAL Sales Tax Nexus:
Physical Presence

Sales Tax Nexus
New and Improved

- Use Tax Notice & Reporting
- Affiliate Nexus
- Simplified Seller’s Use Tax
- Remote Entity Nexus (Economic)
- Agency Nexus
- Click-Through Nexus
Sales Tax Nexus

- Delivery Truck
- Fulfillment Ctr/Warehouse
- Incidental Property

Sales Tax Nexus

- Internet Sales
- Occasional Visits
- Trade Shows
State Income Tax Nexus

Operates in more than one state

Generally, taxable in the state of incorporation

Physical Presence (Property, Payroll, Agents)

State Income Tax Nexus

General or limited interest in partnership doing business in a state

State Income Tax Nexus

New and Improved
Sales and Use Tax

Sales tax – a transactional tax on the retail consumption of tangible personal property and selected services.

Use tax – complement to sales tax. Imposed on the privilege of ownership or possession, storage, use or consumption in a jurisdiction.
Sales Tax

Each transaction must be evaluated on the facts and circumstances.

Sales Tax

Not all sales are taxable.

Retail sales are generally taxable.

Exceptions: Sales to a reseller, manufacturer or other specifically exempted sales.
Use Tax

No sales tax paid?

Use tax is generally due.

Use Tax

Who is subject to use tax?

- An individual or business that purchases something that is used or consumed, for which sales tax was not collected.

- Examples:
  - Some internet purchases
  - Items purchased in one state but used in another state
Operating in multiple states?

Be aware of the sales and use tax laws in each state.

Sales tax is one of the most complicated areas of taxation. It is a very hot audit topic for states, and particularly, local jurisdictions.
Alabama Tax Revenue

Select State: Alabama

GOVERNING Data

<table>
<thead>
<tr>
<th>Year</th>
<th>Income Tax</th>
<th>Sales/Gross Receipts Tax</th>
<th>Property/Other Tax</th>
<th>License Tax</th>
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<tbody>
<tr>
<td>2014</td>
<td>38.9%</td>
<td>51.8%</td>
<td>5.2%</td>
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</tr>
<tr>
<td>2013</td>
<td>38.7%</td>
<td>50.6%</td>
<td>5.2%</td>
<td></td>
</tr>
<tr>
<td>2012</td>
<td>37.9%</td>
<td>51.1%</td>
<td>5.2%</td>
<td></td>
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<tr>
<td>2011</td>
<td>35.6%</td>
<td>53.0%</td>
<td>5.4%</td>
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</tr>
<tr>
<td>2010</td>
<td>35.5%</td>
<td>52.9%</td>
<td>5.3%</td>
<td></td>
</tr>
<tr>
<td>2009</td>
<td>38.0%</td>
<td>50.6%</td>
<td>5.6%</td>
<td></td>
</tr>
<tr>
<td>2008</td>
<td>39.7%</td>
<td>48.9%</td>
<td>5.6%</td>
<td></td>
</tr>
<tr>
<td>2007</td>
<td>39.8%</td>
<td>49.5%</td>
<td>5.4%</td>
<td></td>
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<tr>
<td>2006</td>
<td>39.0%</td>
<td>49.6%</td>
<td>5.7%</td>
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<tr>
<td>2005</td>
<td>37.7%</td>
<td>51.0%</td>
<td>5.6%</td>
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</table>

Source: U.S. Census Bureau; Annual Survey of State Government Tax Collections

Alabama Tax Revenue

Alabama Annual State Tax Collection Data

<table>
<thead>
<tr>
<th>Year</th>
<th>Total Taxes</th>
<th>Income Taxes</th>
<th>License Taxes</th>
<th>Other Taxes</th>
<th>Property Taxes</th>
<th>Sales and Gross Receipts Taxes</th>
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</thead>
<tbody>
<tr>
<td>2014</td>
<td>$9,293,754</td>
<td>$3,612,991</td>
<td>$386,378</td>
<td>$152,113</td>
<td>$329,598</td>
<td>$4,812,674</td>
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<tr>
<td>2013</td>
<td>$9,266,469</td>
<td>$3,584,722</td>
<td>$490,475</td>
<td>$161,597</td>
<td>$322,300</td>
<td>$4,707,375</td>
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<tr>
<td>2012</td>
<td>$9,049,294</td>
<td>$3,430,690</td>
<td>$517,676</td>
<td>$153,041</td>
<td>$321,530</td>
<td>$4,626,357</td>
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<td>2011</td>
<td>$8,631,984</td>
<td>$3,097,084</td>
<td>$496,117</td>
<td>$147,958</td>
<td>$315,698</td>
<td>$4,575,127</td>
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<td>2010</td>
<td>$8,396,805</td>
<td>$3,017,494</td>
<td>$492,844</td>
<td>$120,988</td>
<td>$319,999</td>
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<td>2009</td>
<td>$8,306,446</td>
<td>$3,156,731</td>
<td>$478,927</td>
<td>$151,721</td>
<td>$315,784</td>
<td>$4,203,283</td>
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<td>2008</td>
<td>$9,001,910</td>
<td>$3,162,161</td>
<td>$477,104</td>
<td>$151,054</td>
<td>$314,198</td>
<td>$4,171,108</td>
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</tbody>
</table>

Note: Listed dollar amounts shown in thousands.
Source: U.S. Census Bureau; Annual Survey of State Government Tax Collections
Simplified Sellers Use Tax

- Collections from October 2016 through May 2017: $33.82 million
- Out of state sellers
- Flat 8% rate, with discount of 2%

Out of State Reporting

- Out of state sellers, effective 7/1/17
- Required reporting of sales to ADOR
- Must notify AL customer of use tax payment requirement

State and Local Sales Tax Rates

<table>
<thead>
<tr>
<th>State</th>
<th>State Tax Rate</th>
<th>Avg. Local Tax Rate(a)</th>
<th>Combined Rate</th>
<th>Rank</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tenn.</td>
<td>7.0%</td>
<td>2.44%</td>
<td>9.44%</td>
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</tr>
<tr>
<td>Ariz.</td>
<td>6.6%</td>
<td>2.56%</td>
<td>9.16%</td>
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<tr>
<td>La.</td>
<td>4.0%</td>
<td>4.87%</td>
<td>8.87%</td>
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<tr>
<td>Wash.</td>
<td>6.5%</td>
<td>2.56%</td>
<td>8.86%</td>
<td>4</td>
</tr>
<tr>
<td>Okla.</td>
<td>4.5%</td>
<td>4.17%</td>
<td>8.67%</td>
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</tr>
<tr>
<td>Ark.</td>
<td>6.0%</td>
<td>2.61%</td>
<td>8.61%</td>
<td>6</td>
</tr>
<tr>
<td>N.Y.</td>
<td>4.0%</td>
<td>4.48%</td>
<td>8.48%</td>
<td>7</td>
</tr>
<tr>
<td>Ala.</td>
<td>4.0%</td>
<td>4.45%</td>
<td>8.45%</td>
<td>8</td>
</tr>
<tr>
<td>Calif. (b)</td>
<td>7.5%</td>
<td>0.88%</td>
<td>8.38%</td>
<td>9</td>
</tr>
<tr>
<td>Iowa</td>
<td>6.3%</td>
<td>1.95%</td>
<td>8.25%</td>
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<tr>
<td>Tex.</td>
<td>6.25%</td>
<td>1.89%</td>
<td>8.14%</td>
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<tr>
<td>Ill.</td>
<td>6.25%</td>
<td>1.88%</td>
<td>8.13%</td>
<td>12</td>
</tr>
<tr>
<td>Nev.</td>
<td>6.85%</td>
<td>1.08%</td>
<td>7.93%</td>
<td>13</td>
</tr>
<tr>
<td>Mo.</td>
<td>4.225%</td>
<td>3.23%</td>
<td>7.46%</td>
<td>14</td>
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<tr>
<td>Colo.</td>
<td>2.9%</td>
<td>4.49%</td>
<td>7.39%</td>
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Source: Tax Foundation Facts and Figures 2013: How Does Your State Compare?
Sales Tax Rate Rankings

<table>
<thead>
<tr>
<th>State</th>
<th>State Tax Rate</th>
<th>Rank</th>
<th>Avg. Local Tax Rate (%)</th>
<th>Combined Rate</th>
<th>Rank</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ia.</td>
<td>5.00%</td>
<td>33</td>
<td>4.98%</td>
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<tr>
<td>Tenn.</td>
<td>7.00%</td>
<td>2</td>
<td>2.46%</td>
<td>9.46%</td>
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<tr>
<td>Ark.</td>
<td>6.50%</td>
<td>9</td>
<td>2.80%</td>
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<tr>
<td>Mo.</td>
<td>4.60%</td>
<td>40</td>
<td>5.01%</td>
<td>9.61%</td>
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<tr>
<td>Wash.</td>
<td>6.50%</td>
<td>9</td>
<td>2.43%</td>
<td>8.93%</td>
<td>5</td>
</tr>
<tr>
<td>Okla.</td>
<td>4.50%</td>
<td>37</td>
<td>4.36%</td>
<td>8.86%</td>
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</tr>
<tr>
<td>Ill.</td>
<td>6.25%</td>
<td>13</td>
<td>2.39%</td>
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<tr>
<td>Kans.</td>
<td>4.50%</td>
<td>9</td>
<td>2.13%</td>
<td>6.63%</td>
<td>8</td>
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<tr>
<td>N.Y.</td>
<td>4.00%</td>
<td>40</td>
<td>4.49%</td>
<td>8.49%</td>
<td>9</td>
</tr>
<tr>
<td>Calif. (b)</td>
<td>7.25%</td>
<td>1</td>
<td>1.00%</td>
<td>8.25%</td>
<td>10</td>
</tr>
<tr>
<td>Ariz.</td>
<td>5.60%</td>
<td>28</td>
<td>2.65%</td>
<td>8.25%</td>
<td>11</td>
</tr>
<tr>
<td>Tex.</td>
<td>6.25%</td>
<td>13</td>
<td>1.04%</td>
<td>7.29%</td>
<td>12</td>
</tr>
<tr>
<td>Nev.</td>
<td>6.85%</td>
<td>8</td>
<td>1.32%</td>
<td>8.17%</td>
<td>13</td>
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<tr>
<td>Mo.</td>
<td>4.23%</td>
<td>30</td>
<td>3.66%</td>
<td>7.89%</td>
<td>14</td>
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<tr>
<td>N.M. (c)</td>
<td>5.13%</td>
<td>32</td>
<td>2.43%</td>
<td>7.55%</td>
<td>15</td>
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<tr>
<td>Alaska</td>
<td>...</td>
<td>...</td>
<td>...</td>
<td>...</td>
<td>48</td>
</tr>
</tbody>
</table>

Source: Tax Foundation Facts and Figures 2017: How Does Your State Compare?
State Income Tax

SALT for Thought:
• State Filing Requirements
• Sourcing of Sales
  • Services vs. Product
• Payroll – Mobile Employees
• Franchise/Net Worth Tax

SALT Stats:
• 12% is the current highest marginal state corporate income tax rate (IA)
• 7 states have top corporate income tax rates at or below 5% (AZ, NC, ND, CO, MS, SC, UT)
• 4 states impose a gross receipts tax vs. corporate income tax (NV, OH, TX, WA)
State Income Tax

SALT Stats:

• 2 states do not have a corporate income or gross receipts tax (SD, WY)
• 18 states have a Franchise Tax
• 13.3% is the current highest marginal state individual rate (CA)

“Though often thought of as a major tax type, corporate income taxes account for just 5.4% of state tax collections and 2.7% of state general revenue.”

Source: Tax Foundation State Corporate Income Tax Rates and Brackets for 2017
Unclaimed Property

The purpose of the Unclaimed Property Laws:

To be a custodian for unclaimed property.
Unclaimed Property

- Law
- Not Filing
- Budget Shortage
- Financial Statement Disclosure
- Contingent Fee Auditors

Unclaimed Property

- Account Balances
- Dividends
- Deposits
- Credit Memos
- Voided Checks
Unclaimed Property

First – To the last known address of the owner

Second – To the holder’s state of incorporation

Statute of Limitations
In most states:

There is NONE!

Many audits are going back to 1981.
### State of Alabama

Revenue from Unclaimed Property:

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012 / Fiscal Year</td>
<td>$28,000,000</td>
</tr>
<tr>
<td>2013 / Fiscal Year</td>
<td>$22,000,000</td>
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<tr>
<td>2014 / Fiscal Year</td>
<td>$22,000,000</td>
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<tr>
<td>2015 / Fiscal Year</td>
<td>$42,000,000</td>
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<tr>
<td>2016 / Fiscal Year</td>
<td>$45,000,000</td>
</tr>
<tr>
<td>2017 / Estimated</td>
<td>$52,000,000</td>
</tr>
<tr>
<td>2018 / Estimated</td>
<td>$61,000,000</td>
</tr>
</tbody>
</table>

Source: Alabama Department of Finance and Executive Budget Office

### State of Delaware

- Third largest source of revenue on the yearly budget
- Revenue from Unclaimed Property:

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016 Actual</td>
<td>$528,300,000</td>
</tr>
<tr>
<td>2017 Forecast</td>
<td>$554,000,000</td>
</tr>
</tbody>
</table>

Source: DE Economic and Financial Advisory Council Revenue Forecast
According to the National Association of Unclaimed Property Administrators:

As of March 2016, states were holding $42 BILLION of Unclaimed Property.

Go to www.naupa.org to look for Unclaimed Property!
What is an Alabama Business License?

An annual license issued by a taxing jurisdiction for the privilege of doing any kind of business, trade, profession, or any other activity in that jurisdiction...

AL Code § 40–12–2 (State)
AL Code §11–51–90.1 (Muni)
Companies are required to obtain a separate business license for each line of business.

Who issues Business Licenses?

- Alabama
- Cities
- Counties
Business Licenses - Alabama Muni’s

BEWARE AND PLAN AHEAD!

WARNING

A company can pay business license fees to several municipalities on the same gross receipts.

Business Licenses - Alabama Muni’s Special Provisions

Delivery License

Small Vendor License
Business Licenses

How will a taxing jurisdiction find out?

- Company truck is seen in the jurisdiction.
- Company has sales/use tax or occupational tax accounts.
- Company undergoes a sales and use tax audit.
- Company has an awesome website that tells all about where you do business.
- One of the company’s customers is audited.
- The company is mentioned in the newspaper.

Ad Valorem
Ad valorem (personal property tax) is a tax based on the assessed value of real estate or personal property.

- **Real Property** – land and anything that is permanently affixed to it

- **Personal Property** – anything that is not real estate (tangible or intangible)
Ad Valorem
State Differences

- Intangibles
- Inventory/Supplies
- Construction in progress
- Software
- Lien date
- Return due date
- Payment date
- Protest/Appeal deadlines

State and Local Taxes

Questions
State and Local Taxes

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