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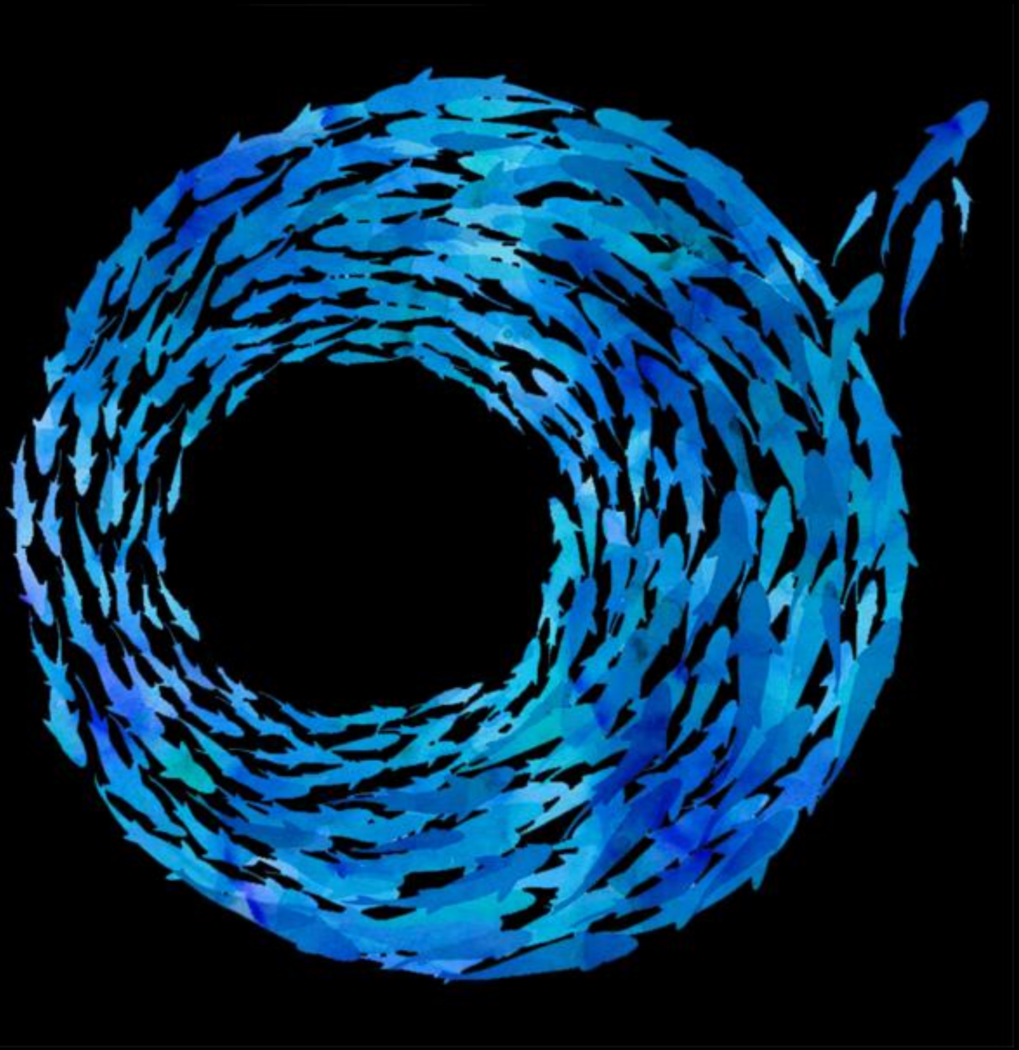
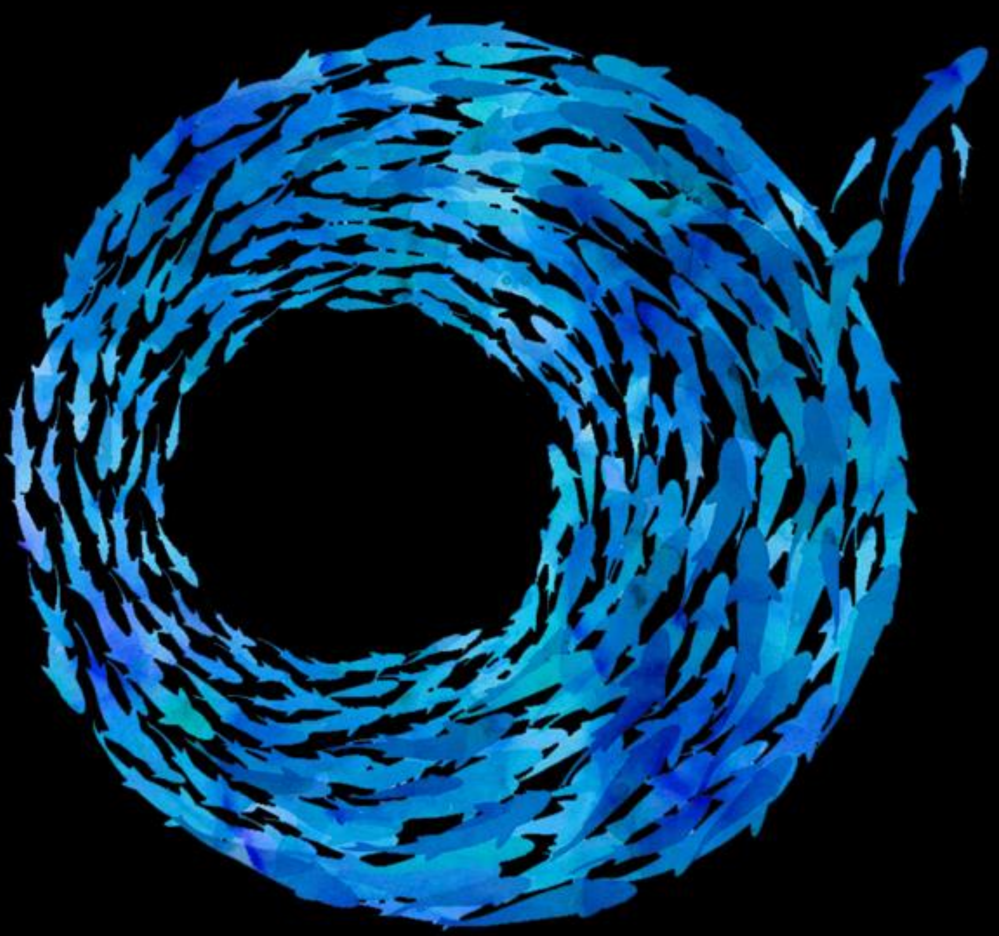


The 2018 National Multistate Tax Symposium

Take the lead—Tax reform and fortifying state positions

February 7-9, 2018



Planning for future-state taxation regimes – And the "future state"

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February 7-9, 2018

Agenda

- General review of corporate taxes beyond corporate income/franchise and sales/use
- Recent proposals for finding a “new way” to tax businesses
- Federal tax reform – A stimulus for states to find “A new way”?

General review of corporate taxes beyond income/franchise and sales/use

Overview of non-traditional state business taxes

Washington Business and Occupation (B&O) tax

- Widely imposed on most business activities in Washington (specific narrow exemptions provided)
- Tax rates vary based on nature of what is sold (0.13% to 1.5%) plus local rates
- Filing thresholds extremely low (~$28,000 of gross sales for most businesses)
- No consolidated/combined filing

Ohio Commercial Activity Tax (CAT)

- Widely imposed on most business activities in Ohio (specific narrow exceptions provided)
- Single tax rate of 0.26%; minimum tax on first $1 million of annual taxable gross receipts varies from $150 to $2,600, depending on total gross receipts; no local CAT
- Taxpayers with gross receipts of $150,000 or less exempt from CAT
- Consolidated returns allowed

New Mexico gross receipts tax

- Essentially a broad-based sales and use tax, including services
- State rate generally 5.125% plus city/county rates
- No filing thresholds – retail sales subject to sales/use taxes
- Separate filing tax

Overview of non-traditional state business taxes

Nevada commerce tax

- First return was due on August 15, 2016
- Tax period of July 1 through June 30
- Applies to each 'business entity' engaged in business in Nevada with Nevada-sitused gross receipts ("Nevada gross revenue") exceeding $4M in the taxable year
- 'Business entity' includes most businesses except:
  - Entities exempt from tax under the U.S. or Nevada Constitutions, government entities, 501(c) nonprofits, etc.
  - Grantor trusts, estates, and REITs that meet certain requirements
  - "Passive entities" and entities limited to owning, maintaining, or managing intangible investments
- No combined/consolidated filing
- Taxpayers doing business in Nevada but with less than $4M of annual gross receipts must file an information report
- Rates vary from 0.051% to 0.331% depending on industry
- "Doing business" broadly defined but regulations appear to require a physical presence
- "Nevada gross revenue" is broadly defined, but excludes:
  - Pass-through income
  - Amounts received from the sale, exchange, disposition or other grants of the right to use intellectual property
  - Dividends and distributions from corporations

Recent efforts to expand current state tax regimes to “new” future state

Recent efforts to expand current state tax regimes to "new" future state

Oregon initiative proposal 28

- Proposal sent to Oregon voters for approval on November 8, 2016
- Would have imposed minimum tax on C corporations 'doing business' in Oregon on all Oregon sales exceeding $25 million
- Estimated that new minimum tax would have generated 94% of Oregon income tax revenues from C corporations
- Governor proposed plan for implementing tax changes if passed

Oregon commercial activities tax proposal

- Considered by Oregon legislature in 2017 session
- Repealed corporate income and excise taxes; reduced personal income tax rates by 0.5%
- Broadly imposed gross receipts tax at various rates depending on industry
- No P.L. 86-272 protection
- Single return filed by unitary taxpayers

Recent efforts to expand current state tax regimes to "new" future state

City of Portland CEO compensation surtax

- Applies to publicly traded companies subject to U.S. Securities and Exchange Commission (SEC) pay ratio reporting requirements starting with the 2017 tax year
- There shall be added to the 2.2% tax imposed by the city a surtax of:
  - 10% of base tax liability if company subject to surtax reports a pay ratio of at least 100:1 but less than 250:1 on SEC disclosures; or
  - 25% of base tax liability if company subject to surtax reports a pay ratio of 250:1 or greater on SEC disclosures
- Pay ratio required to be reported as follows:
  - Annual total compensation of CEO, to
  - The median of the annual total compensation of all company employees
- Taxpayers may petition director of revenue division to permit exceptions to surtax
- Other jurisdictions that have recently considered similar proposals include:
  - Connecticut
  - Illinois
  - Massachusetts
  - Minnesota
  - Rhode island
  - California
  - San Francisco, California

Recent efforts to expand current state tax regimes to “new” future state

California sales tax on services – Proposed SB 1445 (2016)

- SB 1445 includes legislative findings:
  - California highly dependent on personal income taxes paid by high income earners, leading to ‘dramatic revenue swings’
  - Revenue instability leads to cuts in essential services
  - California’s economy has shifted away from manufacturing and agriculture to services
    - In 1950, the california sales tax generated 61% of general fund revenues; down to ‘about 30%’ in 2016
    - In 1950, the california personal income tax generated 12% of general fund revenues; up to ‘almost 70%’ in 2016
- SB 1445 would have imposed a “modest” state-only sales tax (no local taxes allowed) on services
- SB 1445 would have also included personal income tax relief to make SB 1445 ‘revenue neutral’
- SB 1445 would have exempted:
  - Health care services
  - Education services
  - Child care
  - Rent
  - Interest
  - Services “represented by very small businesses”

Federal tax reform changes that may lead states to consider a "new" future state

State tax conformity to IRC—as of January 1, 2018

Rolling conformity to IRC currently in effect

Conforms to IRC as of a specific date (as noted for each affected state)

Selectively conforms (as noted for each affected state to 'IRC currently in effect', or to 'IRC as of a specific date.')

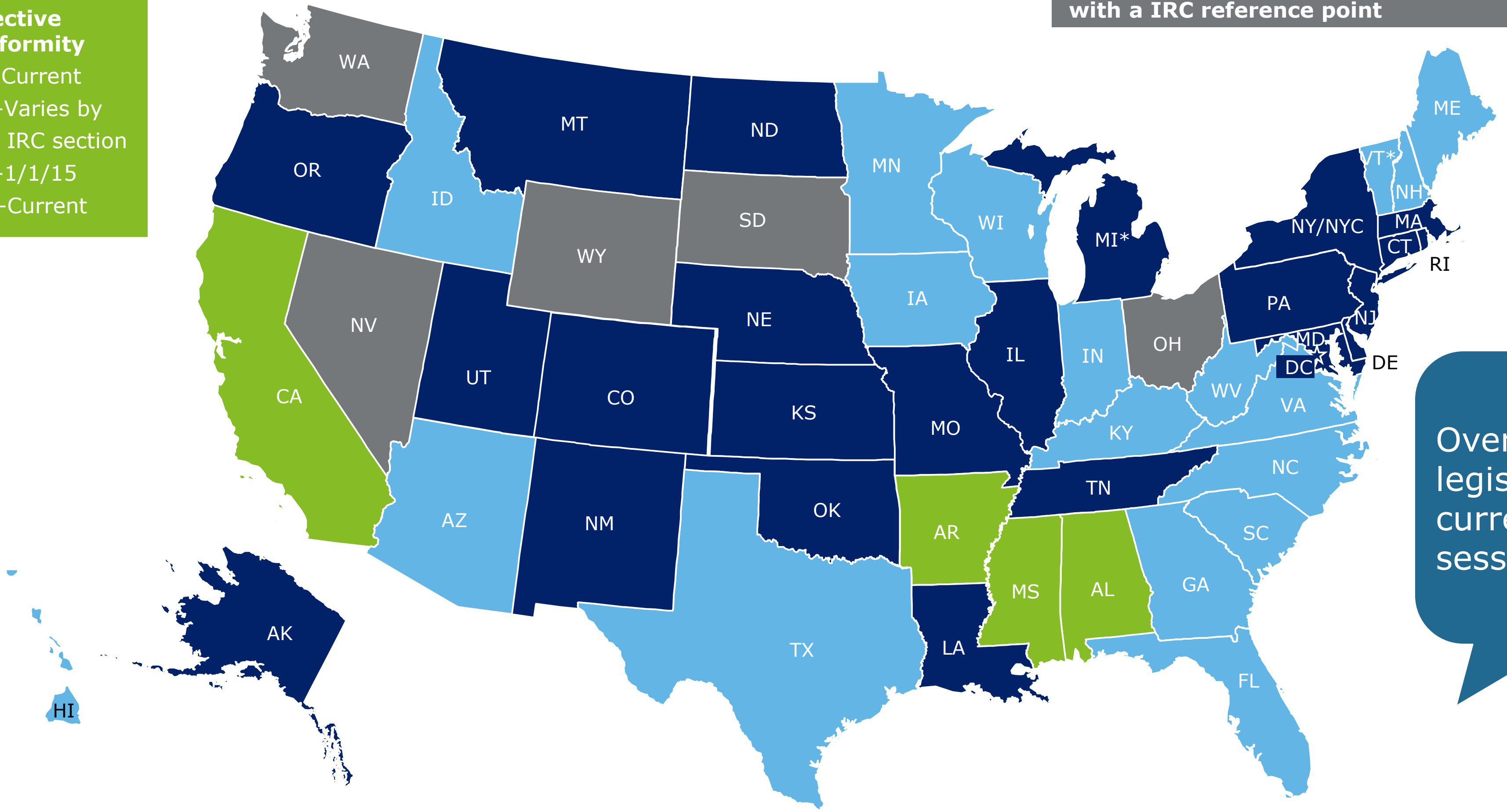
Not applicable b/c state does not levy an entity level tax with a IRC reference point

Specific Date Conformity

AZ—1/1/17
FL—1/1/17
GA—1/1/17
HI—12/31/16
ID—1/1/17
IN—1/1/16
IA—1/1/15
KY—12/31/15
ME—12/31/16
MI*—Current or 1/1/12
MN—12/16/16
NH—12/31/16
NC—1/1/17
SC—12/31/16
TX—1/1/07
VT*—IRC in effect for 2016 TY
VA—12/31/16
WV—12/31/16
WI—12/31/16

Selective Conformity

AL—Current
AR—Varies by IRC section
CA—1/1/15
MS—Current



Over 35 state legislatures currently in session

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Federal tax reform changes that may lead states to consider a "new" future state

- Federal corporate rate reduction
- New 20% deduction for "qualified business income" for pass-through entities
- Adoption of a territorial system exempting foreign profits from U.S. taxation, including:
  - New tax on "Global Intangible Low-Taxed Income" (GILTI) and related deduction under new IRC Section 250
  - New "Base Erosion Anti-Abuse Tax" (BEAT) on taxable income in excess of deductible payments to related foreign parties
- Immediate federal expensing
- Net operating loss limitations
- Limitations on interest expense deduction
- Modification/elimination of federal deductions/credits

Questions?

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