6 KEY TAKEAWAYS

Fundamentals of Formulary Apportionment

Kilpatrick's Jordan Goodman recently co-presented the session **"Fundamentals of Formulary Apportionment"** at the Institute for Professionals in Taxation's "2025 State Income Tax School" in Atlanta. Jordan addressed the basic rules of formulary apportionment for state income taxes.

Jordan's key takeaways for the presentation include:

1

Main Purpose:

Apportionment is all about how much a state can subject to tax a company's income, especially when companies do business in more than one state.

2

Sales of tangible personal property is most often sitused based on the destination of the product.

3

Sales other than tangible personal property has traditionally done by Cost of Performance ("COP") which is an expense side analysis based on where the company has its own income producing activity.

4

Market-Based Sourcing is now used in the majority of states for apportioning income from sales other than tangible personal property:

This means they look at where the customer is located, not where the selling company is located.

5

Industry Differences:

Different industries have special rules for figuring out how to divide up income for taxes. What works for one business might not work for another, and this can lead to confusion or different results depending on the kind of work a company does.

6

Future Changes:

The rules for dividing up company income between states are still changing. States might make new rules for specific industries, change how they define the "market," disagree as to who the customer is, or even create more complicated ways to figure out who gets to tax what. These changes could mean more court cases and more questions about what's fair.

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