

5 KEY TAKEAWAYS

Big Easy Brawl: A ‘Friendly’ Debate on Hot Issues in State Income Taxation

Kilpatrick’s [Jordan Goodman](#) recently presented on the topic of “**Big Easy Brawl: A ‘Friendly’ Debate on Hot Issues in State Income Taxation**” at the [2026 ABA-IPT Advanced Sales and Use Tax Seminar](#) in New Orleans.

Key takeaways from the presentation include:

1

State Tax Rules Are Complicated and Small Actions Matter

States set their own rules for when a business has to pay income tax. Even simple actions—like collecting market information or the kinds of products you sell—can change whether you’re protected from state taxes. For instance, in Minnesota, Uline’s employees gathering competitor data meant the company lost a tax protection they thought they had. In Wisconsin, ASAP Cruises couldn’t get tax protection for selling travel services or software, because the state only protected sales of physical products. These cases show that understanding exactly what activities are allowed under state rules is crucial to avoid extra taxes.

2

Where Income Is Taxed Depends on Where the Benefit Happens

To figure out where a company’s income should be taxed, courts look at where the customer actually receives the benefit, not just where the main office is. For example, in Minnesota, Humana tried to say all receipts should be taxed in Wisconsin (their headquarters), but the court said the tax should be based on where the plan members in Minnesota got the benefit. Similarly, in Washington, a law firm wanted to base its taxes on where its clients were billed, but the court said tax should be based on where the legal work (litigation) actually happened. These examples show that it’s not enough to look at paperwork or addresses—courts want to know where the real action occurs.

3

New Kinds of Taxes, Like Gross Receipts and Digital Ad Taxes, Are on the Rise

Some states are adopting “gross receipts taxes,” which tax all the money a company earns, not just profits. Maryland went further and created a tax just for digital advertising, targeting companies like Google and Apple. This is being challenged in court for possibly violating federal law and the Constitution, and the outcome could influence whether other states copy Maryland. These new taxes are a big deal because they change how companies have to plan and report their finances.

4

Court Cases Are Deciding How Income and Sales Are Counted for Tax

There’s a lot of legal fighting over what counts as taxable income and where sales are considered to happen. In Ohio, Perrigo argued it should only be taxed on the actual money received (after discounts), not the higher “sticker price,” and won. Other cases in Ohio and elsewhere decided whether sales to out-of-state customers count as local sales, depending on where products are delivered or received. These decisions affect how much tax businesses owe and where they owe it.

5

Federal and State Tax Laws Don’t Always Line Up, Leading to More State Tax

Recent changes to federal tax law (like the OBBA) affect how companies can deduct expenses and how foreign income is taxed. However, not all states follow federal changes, and sometimes these differences cause companies to pay more state tax on income from abroad. States are also fighting each other over tax rules—for example, Florida is suing California, arguing that California’s way of counting sales unfairly hurts out-of-state businesses and violates the Constitution. These clashes and changes mean businesses have to keep a close eye on both state and federal tax rules.