6 KEY TAKEAWAYS

SALT Update: State of the States

Kilpatrick's Jordan Goodman recently presented the **"State of the States"** at the CPAmerica Annual Tax Conference on November 17 in Charleston, South Carolina. This year's conference provided the latest updates on tax regulations and best practices in tax practice management.

Key takeaways from Jordan's presentation include:

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States are expanding taxes for the digital economy. States and cities are looking for new ways to tax online businesses, including digital advertising, social-media platforms, streaming services, software, and cryptocurrency transactions. For example, Illinois plans a 0.2% tax on digital-asset transactions beginning July 1, 2027, while California plans to tax most SaaS (software accessed online) starting January 1, 2027.

More businesses may have to collect sales tax in states where they do not have a physical location. States are moving away from the old rule that often triggered tax duties after 200 sales transactions and are focusing more on total sales revenue, such as $100,000 in sales. This means an online seller with a large number of small sales may not owe sales tax and may not need to register, collect, and remit it.

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Online platforms may be responsible for tax on sales made by others. Courts have ruled that companies like Amazon, StubHub, and Uber can be required to collect and pay sales tax connected with third-party sellers, ticket sellers, or drivers. The main lesson is that a business may be treated as the seller or collection agent if it controls important parts of the transaction, even if another party provides the product or service.

The federal rule known as P.L. 86-272 is giving businesses less protection from state income tax. P.L. 86-272 generally protects an out-of-state company from income tax when its only in-state activity is asking customers to buy tangible goods. States and courts are increasingly saying that online customer support, gathering market information, using in-state warehouses, and other activities go beyond simple sales solicitation and can create taxable presence.

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States are changing how multistate companies divide income among states. A major trend is the shift from the "Joyce" approach—counting only the sales of the group member that has tax presence in a state—to the "Finnigan" approach, which can count sales of the whole combined corporate group. States are also using customer location, delivery location, and where the customer receives the benefit of a service to decide where sales income is taxed.

Businesses must pay close attention to what counts as taxable revenue and whether payments are truly pass-through amounts. Courts often treat customer fees, reimbursements, and similar payments as taxable gross receipts when the business controls or keeps the money rather than acting as a genuine agent for someone else. On the other hand, actual rebates, refunds, chargebacks, and negotiated discounts may reduce taxable receipts when they show that the business did not truly receive the higher amount.

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