Insights: Publications

5 Key Takeaways | Business and Nonbusiness Income

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Kilpatrick's **Jordan Goodman** recently co-presented the session "**Income Subject to Allocation**" at the Institute for Professionals in Taxation's "2025 State Income Tax School" in Atlanta. Jordan addressed the distinction between business and nonbusiness income and identified different state approaches to nonbusiness income. He also discussed various situations where income could be classified as nonbusiness income and the specific sourcing rules for classifying nonbusiness income.

Jordan's key takeaways for the presentation include:

1. Main Purpose:

A company's income should be considered "business income" (which gets split up and taxed by all states where the company does business) or "nonbusiness income" (which usually gets taxed only in the state most connected to the company or where the property is located).

2. Under the Uniform Division of Tax Purposes Act ("UDITPA") there are Two Main Tests:

- The transactional test checks if the income comes from the company's usual, regular business activities.
- The functional test looks at whether the property that created the income was an important part of the company's normal business, even if the sale was a one-time thing.

3. Liquidation Exception:

If a company is selling off all or a big part of its business (a liquidation), some states say the money from that sale is "nonbusiness income," even if the property was once part of the business. This is called the "liquidation exception" to the functional test.

4. Laws Are Not Uniform:

Different states have different rules and definitions for business and nonbusiness income. This means that the same income could be taxed as business income in one state and nonbusiness income in another, even when the laws seem.

5. Real-World Examples:

Companies sell buildings, stocks, or parts of their business, or when they get insurance payments. Sometimes, even if a company only sells something once, it can still count as business income if the property was used in the business.

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