Insights: Publications

5 Key Takeaways | Sourcing Services Navigating State Income Tax and Sales Tax Implications

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Kilpatrick's **Jordan Goodman** recently joined fellow thought leaders on panel at **COST's Spring Meeting and Audit Session** to discuss "**Sourcing Services – Navigating State Income Tax and Sales Tax."** Sourcing rules for services can be complex and vary widely between tax types and jurisdictions, creating significant challenges for businesses operating across state lines. This session explored how states determine the sourcing of services for both income tax and sales tax purposes, and the implications for compliance and planning.

Jordan's key takeaways from the panel discussion, include:

1. **Sales tax sourcing and Income Tax Apportionment for Services are not the Same**
   While the provision of a service is a relatively straightforward event, sourcing the service for sales tax and apportioning the income for income tax often leads to different results. Thus, it is a false assumption that a taxpayer can look at its apportionment schedule to determine where its services are sourced. The same type of inconsistency exists if a taxpayer is looking at sales tax returns to determine its apportionment percentage for income tax purposes.

2. **States Have Different and Complicated Rules for Taxing Services**
   Every state can have its own rules for how businesses source services (like consulting or software), and these rules can be really complicated. Companies working in more than one state have to figure out where their services are "used" or "benefited" to know which state gets the sale.

3. **How Income from Services is Sourced Has Changed**
   For income tax purposes, historically, most states used something called "cost of performance" to decide where to tax service income. This was an expense side analysis that focused on the location of the seller. Now, many states use a "market-based" method, which means they look at where the customer actually gets the benefit of the service. This shift makes it harder for businesses to plan and keep up with changing rules.

4. **Revenue Classification Matters**
   How a company labels its revenue (for example, as business income, service income, or intangible income) can change how it's taxed. Some states might treat the same money differently, which can result in a company paying tax in more than one state for the same thing, or sometimes not paying anywhere.

5. **More and More States are Subjecting Services to Sales Tax**
   All states with a sales tax actually tax some services, but the list of taxed services varies a lot. Some states tax almost everything, including professional services. Others have a narrow list and only tax things like repairs, meals, or hotel stays. Businesses have to know which category their service fits into in each state.

6. **Digital Services Create New Challenges**
   Things like online software (SaaS), digital advertising, and information services are often taxed differently depending on the state. Some states have broad definitions for digital products that can accidentally include consulting or other professional services. This makes it hard for businesses to know exactly what's taxable and where to source it. Importantly, the treatment of a digital service may vary between sourcing for a sales tax and apportioning for an income tax.

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