New Taxes—What and Why?

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AGENDA

- Gross Receipts Taxes Policy Consideration
- Gross Receipts/Alternative Business Activity Taxes Legislation and Initiatives
- Expanding Unchecked

Gross Receipts Taxes
Policy Considerations

(www.cost.org)

Gross Receipts/Alternative Business Activity Taxes

Nevada Commerce Tax

- Overview of Nevada Commerce Tax
  - **Imposition**: Imposed on each business entity whose Nevada gross revenue exceeds $4,000,000 for "the privilege of engaging in a business in [Nevada]."
  - **Rate**: Rate of tax depends on the industry in which the taxpayer is engaged.
  - **Basis**: Imposed on gross revenue
  - **Sourcing**: Sources gross revenue to Nevada pursuant to a market-based methodology.
  - **Credit against payroll taxes**: Taxpayers subject to both the commerce tax and Nevada payroll taxes are permitted to subtract as a credit 50% of commerce tax paid to offset payroll taxes.

- Commerce Tax is here to stay—Initiative to repeal the

Oregon Gross Receipts Tax on 2016 ballot

- **GRT Initiative Qualified for Ballot** – On June 7, 2016, proponents qualified IP28
  - November 2016, Oregon voters will decide whether to approve IP 28. If passed, IP 28 would modify the annual minimum tax (capped at $100k) to impose a 2.5 percent gross receipts tax on Oregon C corporations with sales exceeding $25 million – with no cap
- **"Maximum Tax"** - If passed, the tax would turn Oregon's current minimum tax into a "maximum tax"
  - Although this tax will not replace the Oregon Corporate Excise Tax (Oregon's corporate income tax), most corporations with Oregon sales in excess of $25 million will pay the gross receipts tax as opposed to the excise tax

Oregon Gross Receipts Tax on 2016 ballot

- **Legislature Declines to Derail IP 28** – An attempt by Senate Revenue Chairman Mark Has, D-Beaverton, to implement an alterative (*i.e.*, Ohio-style CAT) was not successful during Oregon's short 2016 legislative session
- **LRO Report Shows Negative Economic Impact** – On May 23, 2016, Legislative Revenue Office released analysis showing a $6.1 billion fiscal impact for 2017-19 biennium
  - Analysis also showed significant negative consumer impacts and job loss in the private sector
- **Campaign in Opposition –** A unified employer and consumer coalition is opposing IP 28

Defeat The Tax On Oregon Sales – information can be found at http://www.defeatthetaxonoregonsales.com/

San Francisco Gross Receipts Tax

- Beginning in 2014, the Gross Receipts Tax ("GRT") is imposed on a broad array of persons doing business in the City, including:
  - Sole proprietorships
  - Limited liability companies ("LLCs")
    - Entities that are disregarded for federal income tax purposes (e.g., single-member LLCs) will not be treated as separate taxable entities for GRT purposes. (Tax Collector Regulation 2014-2.)
  - Corporations
  - S-corporations
- GRT is being phased-in, and the existing Payroll Expense Tax phased-out over a 5-year period.

San Francisco Gross Receipts Tax

- "Doing Business" in the City includes:
  - Presence in the City for more than 7 days
  - Owners of businesses that are partnership (more than 2 owners) "pass through" entities are protected
- "Gross receipts" subject to the GRT are broadly defined
- Receipts are apportioned for taxpayers conducting business within and outside of the City
- Combined filing required
- Due date is the last business day of February
- Three year SOL for assessments, but only one year for refund claims

San Francisco Proposed Payroll Tax on Tech

- Three members of San Francisco's Board of Supervisors have proposed a measure that would impose a 1.5 percent payroll tax on technology companies be added to the ballot in November
  - Current proposal exempts tech companies with gross receipts of less than $1 million
- Estimated fiscal impact is $115 million annually
- Revenue to be used for homeless services and affordable housing

Expanding Unchecked

Examples

- Impose sales taxes on services
  - California proposed legislation in 2015
  - Hawaii
  - New Mexico
  - South Dakota
- Chicago lease transaction tax
- Expanding nexus
  - *Quill* challenges—remote sellers collection and use tax reporting
    - Alabama, Colorado, South Dakota
  - Assertion of economic nexus against foreign affiliates/entities
    - California, Oregon and Washington

Examples

- Aggressive use of alternative apportionment
  - California, Michigan, Mississippi, South Carolina, Tennessee
- Imposition of market sourcing in COP states
  - Oregon, South Carolina, Tennesse
- Forcing combination
  - Maryland, Indiana, South Carolina

QUESTIONS?

THANK YOU!

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