



US State and Local Taxes

Our tax lawyers have extensive experience advising clients in state and local tax matters, including income tax, sales and use tax and property tax.

Our diligence with respect to new developments in the law enables our tax lawyers to provide sophisticated analysis on questions of nexus, sales tax collection obligations, multi-state apportionment, property valuation and transfer taxes. We assist and counsel businesses throughout the planning and controversy stage, including tax audits, negotiations with state and local revenue authorities, administrative proceedings and litigation. Our knowledge and experience has benefited clients across a broad spectrum of industries and business operations, including e-commerce, telecommunications, franchising, retail and manufacturing.

KEY CONTACTS

Hugh Wesley Goodwin

Partner

Silicon Valley

T: +1 650 833 2262

hugh.goodwin@dlapiper.com

CAPABILITES

Sales and Use Tax

The expansion of the digital economy and the increasing focus of states on taxing software and services, creates unique sales tax issues regarding the proper characterization of products and the appropriate sourcing of sales to user jurisdictions. Our tax attorneys are experienced in undertaking detailed analyses of the facts and law to assist clients with navigating the significant challenges posed by state sales and use tax laws.

Income Tax

The portion of global and national income generated through the performance of services is increasing. Services may be performed anywhere and the benefit of the services received by customers can occur in multiple locations. States have reacted to the expanding service economy by altering the ways that income is apportioned. The inconsistency among state apportionment formulas and allocation rules increases the chance that the same income will be taxed in multiple jurisdictions. Our attorneys are skilled in identifying the situations where tax duplication may occur and in employing the techniques that minimize the possibility of excess taxation. Our tax lawyers are also adept at addressing the challenging problems created by states that impose gross receipts taxes in lieu of income taxes.

Nexus

Determining the circumstances that create tax nexus is a crucial step for business organizations to ensure compliance with state tax filing and tax collection obligations. Our tax lawyers are experienced in advising clients regarding the nuances of income tax and sales and use tax nexus, including the identification of those situations where states adopt expansive nexus positions arising from incomplete federal nexus guidelines.

Cloud Computing

The taxation of e-commerce transactions varies from state to state and state tax laws are frequently inadequate to address modern day technologies and business transactions. As a result, commerce conducted “in the cloud” is susceptible to inconsistent tax treatment among the states. Our attorneys are dedicated to pursuing optimum state tax solutions for e-commerce service providers and consumers.

Apportionment and Allocation (Sourcing)

Inconsistencies or ambiguities in state tax laws may cause certain transactions to be sourced to multiple jurisdictions. Our knowledge of federal and state taxing principles and our analytical attention to factual details enables our clients to benefit from legal positions designed to minimize adverse sourcing outcomes.

Unclaimed Property

Each year, thousands of companies across the U.S. experience audits to determine whether they are in compliance with state laws regarding unclaimed property – defined as property (gift cards, uncashed payroll checks, customer credits, bank accounts, life insurance proceeds, shares and others) that has not been claimed by its owner for a specific period of time. Failure to comply with these laws can have a direct effect on financial performance because of the substantial penalties and interest charges that may be assessed following an audit. Our tax lawyers and lawyers that specialize in consumer affairs are experienced in advising clients regarding state unclaimed property laws and how these laws apply to modern day commerce and business relationships.

EXPERIENCE

- Representing 29, including all major brands and many independents, in lawsuits related to the taxability of their 'merchant model' transactions with online travel companies and the extent to which occupancy tax applies to those transactions
- Representing major airlines and hotels regarding exemptions from occupancy tax under permanent residency rules and the applicability of California's Proposition 218
- Developed strategies for a seller of merchant coupons offered through on-line affiliate network marketplaces, to address the impact of state 'click-through' nexus provisions on the seller's business.
- Assisted provider of network infrastructure management services with a multi-state sourcing analysis for services provided electronically from remote locations.
- Drafted successful response letters to several California municipalities attempting to impose utility users tax on telecommunications service provider offering service plans for a fixed monthly rate.
- Obtained a ruling from the legal staff of the California State Board of Equalization negating a county assessor's attempts to reassess dozens of real property parcels acquired through a complex reverse exchange structure.
- Negotiated the multi-state apportionment of capital gains arising from a partnership's sale of an interest in communications spectrum originally sought to be taxed in full by multiple jurisdictions.
- Assisted a computer equipment seller holding unused outstanding credit memorandums issued to customers, with analyzing and applying the unclaimed property business-to-business reporting exclusion in various states.

INSIGHTS

Publications

Washington state undertakes study of captives to capture premium taxes amid COVID-19

10 September 2020

It is anticipated that the Washington state legislature will be interested in authorizing greater tax enforcement in this area.

Coronavirus: federal and state tax relief (United States)

16 March 2020

Congress and state legislatures and administrative agencies are working hard to provide necessary tax relief for those affected by the coronavirus disease (COVID-19) pandemic.

Watch out for California transfer taxes in transactions involving real estate holdings

24 MAY 2011

This article provides an overview of the California real estate transfer tax system and then identifies some of the jurisdictions that have expanded the scope of the tax.
