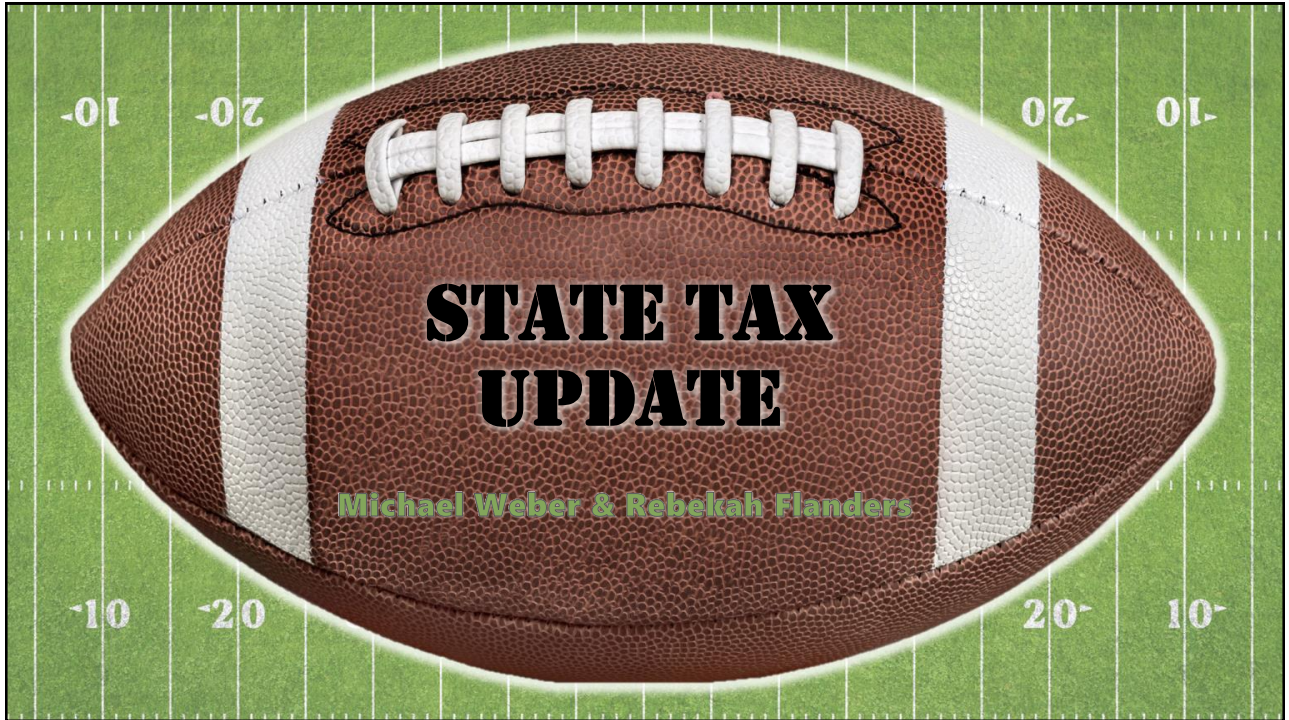


# Home Field Advantage – State Tax Update



**SPEAKERS**

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## **GAME PLAN**

### ***In this session***

- Operating out-of-state
- Income tax
- Sales tax
- Other taxes
- Pennsylvania incentives

## **PLAYING OUT-OF-STATE**

### ***Operational Considerations***

- Registration in other states
- Business structure



# Home Field Advantage – State Tax Update

## PLAYING OUT-OF-STATE

### Taxes in Other States

- Income tax
- Sales tax
- Employee withholding tax
- Franchise tax
- Property tax
- Local tax



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## PLAYING OUT-OF-STATE

### PA-100 Enterprise Registration Form

#### SECTION 3 – TAXES AND SERVICES

ALL REGISTRANTS MUST CHECK THE APPLICABLE BOX(ES) TO INDICATE THE TAX(ES) AND SERVICE(S) REQUESTED FOR THIS REGISTRATION AND COMPLETE THE CORRESPONDING SECTIONS INDICATED ON PAGES 2 AND 3. IF REACTIVATING ANY PREVIOUS ACCOUNT(S), LIST THE ACCOUNT NUMBER(S) IN THE SPACE PROVIDED.

	PREVIOUS ACCOUNT NUMBER		PREVIOUS ACCOUNT NUMBER
<input type="checkbox"/> CIGARETTE DEALER'S LICENSE	_____	<input type="checkbox"/> SALES, USE, HOTEL OCCUPANCY TAX LICENSE	_____
<input type="checkbox"/> CORPORATION TAXES	_____	<input type="checkbox"/> SMALL GAMES OF CHANCE LIC./CERT.	_____
<input checked="" type="checkbox"/> EMPLOYER WITHHOLDING TAX	_____	<input type="checkbox"/> TRANSIENT VENDOR CERTIFICATE	_____
<input type="checkbox"/> FUELS TAX PERMIT	_____	<input checked="" type="checkbox"/> UNEMPLOYMENT COMPENSATION	_____
<input type="checkbox"/> LIQUID FUELS TAX PERMIT	_____	<input type="checkbox"/> USE TAX	_____
<input type="checkbox"/> MOTOR CARRIERS ROAD TAX/IFTA	_____	<input type="checkbox"/> VEHICLE RENTAL TAX	_____
<input type="checkbox"/> PROMOTER LICENSE	_____	<input type="checkbox"/> WHOLESALER CERTIFICATE	_____
<input type="checkbox"/> PUBLIC TRANSPORTATION ASSISTANCE TAX LICENSE	_____	<input checked="" type="checkbox"/> WORKERS' COMPENSATION COVERAGE	_____
<input type="checkbox"/> SALES TAX EXEMPT STATUS	_____		



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## PLAYING OUT-OF-STATE

### *Income Tax*

- Nexus

- *A connection or series of connections linking two or more things*

- *Tax nexus*

- The connection between a business and state or local government that triggers the requirement to collect and/or remit tax
- The minimum threshold of activity that a business must have in a state before it is obligated to collect and remit tax in that state



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## PLAYING OUT-OF-STATE

### *Income Tax*

- Nexus

- *Physical presence standard*

- *Economic presence standard*

- *Factor-based nexus standard*



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## PLAYING OUT-OF-STATE

### **Income Tax**

- Nexus

- *Public Law 86-272 (Interstate Income Act of 1959)*

- Restricts a state from imposing a net income tax on income derived within its borders from interstate commerce if the only business activity of the company within the state consists of the solicitation of orders for sales of tangible personal property, provided that the orders are approved and shipped from outside the state



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## PLAYING OUT-OF-STATE

### **Income Tax**

- UDITPA

- *Apportionment*
- *Allocation*
- *Business income*
- *Nonbusiness income*



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## PLAYING OUT-OF-STATE

### **Income Tax**

- Allocation vs. Apportionment
  - *April 2015 Ohio Supreme Court Cases*
    - Hillenmeyer v. Cleveland Board of Review
    - Saturday v. Cleveland Board of Review
    - “Jock Tax”



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## PLAYING OUT-OF-STATE

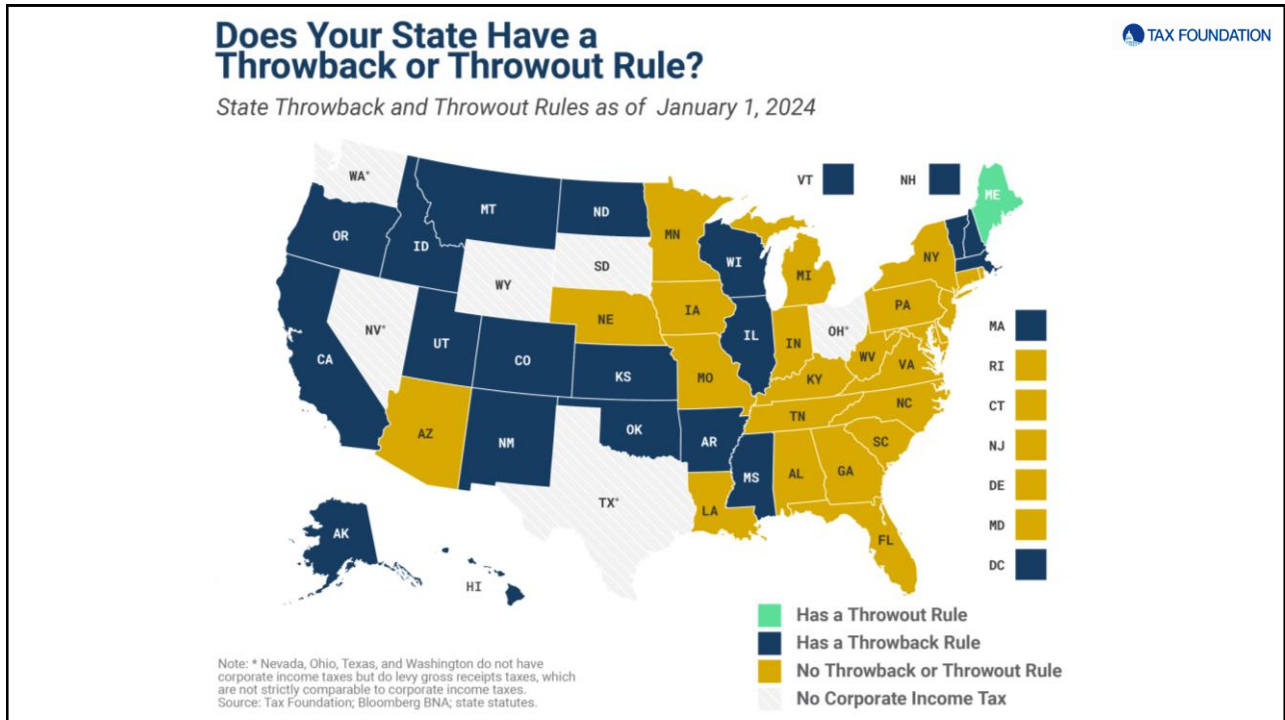
### **Income Tax**

- Apportionment
  - *Businesses that have income from engaging in activities both inside and outside a state must apportion business income*
  - *Single-factor*
  - *Multi-factor*



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# Home Field Advantage – State Tax Update



## PLAYING OUT-OF-STATE

### Sales Tax

- Key terms
  - Tax Rate
  - Tax Base
  - Quill Corp. v. North Dakota
  - South Dakota v. Wayfair

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# Home Field Advantage – State Tax Update

## PLAYING OUT-OF-STATE

### Sales Tax

#### Key Facts

- 45 states and District of Columbia collect statewide sales tax; local sales tax is imposed in 38 states
  - No statewide sales tax in AK, DE, MT, NH, OR; AK permits local
- Highest tax rates are between 9.3% and 9.6%
- Lowest tax rates are between 1.8% and 5.7%
- 2022 figures report state retail sales tax yielded \$444.5 BILLION in revenue

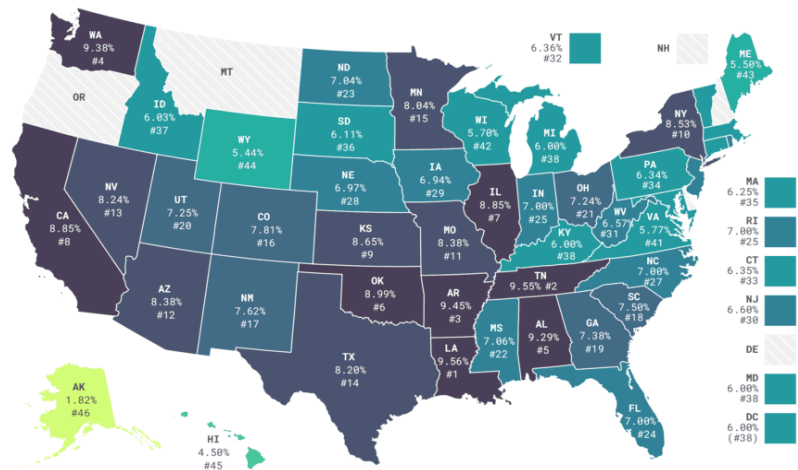


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## How High Are Sales Taxes in Your State?



Combined State & Average Local Sales Tax Rates, January 2024



Notes: City, county and municipal rates vary. These rates are weighted by population to compute an average local tax rate. The sales taxes in Hawaii, New Mexico, and South Dakota have broad bases that include many business-to-business services. D.C.'s rank does not affect states' ranks, but the figure in parentheses indicates where it would rank if included. Sources: Sales Tax Clearinghouse; Tax Foundation calculations; State Revenue Department websites.





## PLAYING OUT-OF-STATE

### Other Taxes

- Employee withholding tax
  - *Registering for employee withholding tax may trigger income tax nexus*
  - *Reciprocal agreements*
    - Pennsylvania has entered into reciprocal income tax withholding agreements with the states of Indiana, Maryland, New Jersey, Ohio, Virginia and West Virginia



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## PLAYING OUT-OF-STATE

### Other Taxes

- Franchise tax
  - *Tax levy for the privilege of doing business*
  - *Applicable to domestic and foreign entities*
  - *Various forms*
    - Gross receipts
    - Capital stock
    - Net worth



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# Home Field Advantage – State Tax Update

## PLAYING OUT-OF-STATE

### Other Taxes

- Personal property tax
  - *Ad valorem taxes on tangible personal property*

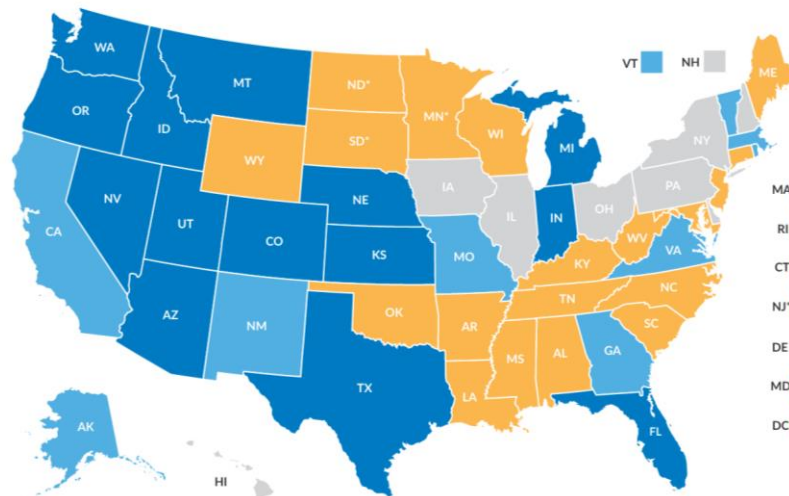
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### States with Broad Exemptions for Tangible Personal Property Tax

*De Minimis and Broad Exemptions of Tangible Personal Property*

TAX FOUNDATION



Note: \*Minnesota, New Jersey, North Dakota, and South Dakota have a tangible personal property tax only on centrally assessed property. Map distinguishes between a statewide exemption and exemptions permitted by municipalities. Excludes exemptions for specific types of TPP or exemptions created for specific purposes, such as economic development.

Source: State statutes and Departments of Revenue. See the Tangible Personal Property Tax State Statutory References appendix for more details.

- Has a Statewide Exemption
- Has Municipal Exemptions
- Does Not Have an Exemption
- No Tax on Tangible Personal Property



# Home Field Advantage – State Tax Update

## PLAYING OUT-OF-STATE

### Other Taxes

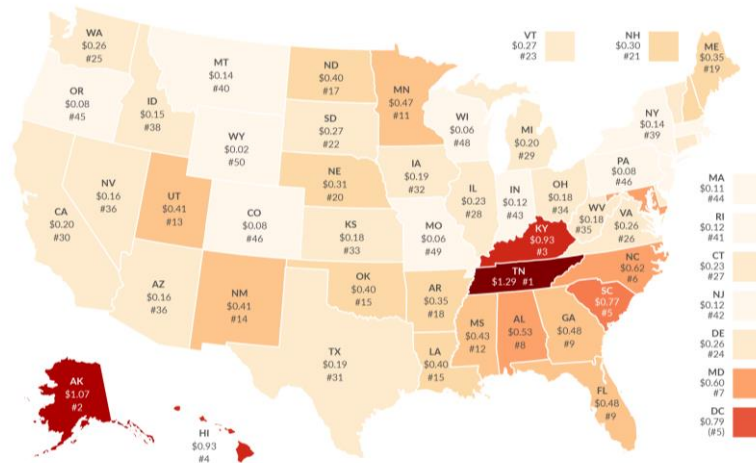
- Local tax
  - *Mercantile or business privilege*
    - Gross receipts
    - Different rates for different types of businesses



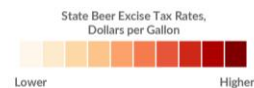
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### How High are Beer Taxes in Your State?

State Beer Excise Taxes (Dollars per Gallon), 2023



Note: Figures are rounded to the nearest cent, but ranks reflect unrounded figures. Rates are those applicable to off-premise sales of 4.7% alcohol by volume (a.b.v.) beer in 12-ounce containers which have been imported from outside the state. At the federal level, beer is subject to differing tax rates. Small domestic brewers are taxed between \$0.11/gallon and \$0.516/gallon. All other brewers are taxed at rates between \$0.516/gallon and \$0.58/gallon. D.C.'s rank does not affect states' ranks, but the figure in parentheses indicates where it would rank if included. Different rates are also applicable in FL, GA, HI, ID, IA, KS, MN, NC, ND, OH, OK, TX, UT, VA, WA, and WI according to alcohol content, place of production, size of container, or place purchased (on- or off-premise or onboard airlines). Rates include the statewide local rates in AL (\$0.52/gallon) and GA (\$0.53/gallon). They include sales taxes specific to alcoholic beverages in AR, MD, MN, and D.C. Rates in AR and RI include case fees and/or bottle fees which may vary with the size of container. Rates include the wholesale rate in Kentucky (1.0%) and Tennessee (\$35.60/barrel), converted into a gallonage excise tax rate.



Sources: Distilled Spirits Council of the United States; Alcohol and Tobacco Tax and Trade Bureau; state revenue departments.





## PLAYING OUT-OF-STATE

### *Record Keeping*

- Compliance with state laws
- Sales tax collection
- Income reporting
- Audit preparedness
- Financial management
- Interstate transactions



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## PLAYING IN-STATE

### *PA Tax Incentives*

- Research and Development (R&D) Credit
- Educational Improvement Tax Credit (EITC)
- Film Production Tax Credit



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## PLAYING IN-STATE

### *PA Tax Incentives*

- Manufacturing Tax Credit
- Small Business Advantage Grant Program
- Keystone Innovation Zone (KIZ) Program
- Pennsylvania Capital Investment Loan Program



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## PLAYING IN-STATE

### *PA Tax Incentives*

- Local Economic Revitalization Tax Assistance (LERTA)
- Neighborhood Assistance Program (NAP)



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## PLAYING IN-STATE

### **MyPATH – [mypath.pa.gov](http://mypath.pa.gov)**

- Business and personal taxes
- New business registration
- Payment history
- File tax returns
- Respond to tax notices
- Tax forms and instructions



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## PLAYING IN-STATE

### **PA Annual Report Filing**

- Calendar year 2025
- Failure to file
- Primary goal
- Report due date
  - June 30 – corporations (for profit and nonprofit)
  - September 30 – limited liability companies
  - December 31 – all other entities



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## PLAYING IN-STATE

### PA Annual Report Filing (cont.)

- Who must file
  - All domestic entities formed in PA
  - All foreign entities registered to do business in PA
  - e.g. corporation; nonprofit; LLP; LP; LLC; professional association; business trust



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## PLAYING IN-STATE

### PA Annual Report Filing (cont.)

- What to report
  - Business name
  - Jurisdiction of formation
  - Registered office address (PA address)
  - Name of at least one governor (director, member, partner, etc.)
  - Names and titles of principal officers
  - Address of the principal office (main administrative office)
  - Entity number issued by PA D.O.S.



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## PLAYING IN-STATE

### PA Annual Report Filing (cont.)

- How to File
  - Fee is \$7.00 (nonprofits pay \$0)
  - Electronic or hard copy
- Other Information
  - Critical to have the correct address on file
  - Transition/grace period
    - No consequences imposed until annual reports that are due in 2027; after that, administrative dissolution/termination/cancellation 6 mos after due date of report



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## PLAYING IN-STATE

### PA Annual Report Filing (cont.)

- Reinstatement
  - Domestic entities may apply for reinstatement for a fee and must become current on delinquent filings and fees
  - Foreign entities may NOT apply for reinstatement and must go through the registration process again
  - For both domestic and foreign entities – if the entity has been administratively dissolved/terminated/cancelled, the entity name is available to any other entity is not guaranteed to be available to the original entity



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## Home Field Advantage – State Tax Update

### QUESTIONS?

***Thank you for your attention!***

- Please contact the presenters directly if you need assistance:
  - *Mike Weber, Partner – 412-338-9310 – weber@gyf.com*
  - *Rebekah Flanders, Sr. Manager – 412-347-8419 – flanders@gyf.com*



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