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## **Finance & Tax Council**

**Wednesday, November 4, 2009  
1:00 PM  
404 HOB**

**Larry Cretul  
Speaker**

**Ellyn Setnor Bogdanoff  
Chair**



**Council Meeting Notice**  
**HOUSE OF REPRESENTATIVES**

**Finance & Tax Council**

**Start Date and Time:** Wednesday, November 04, 2009 01:00 pm  
**End Date and Time:** Wednesday, November 04, 2009 03:30 pm  
**Location:** 404 HOB  
**Duration:** 2.50 hrs

Chair remarks and introductions

Workshop on single sales factor apportionment for the Florida Corporate Income Tax

**NOTICE FINALIZED on 10/28/2009 13:04 by BAI**



## **States' Apportionment Formulas**

### **The Following 5 States Do Not Have a Broad-Based Corporate Income Tax**

Nevada

South Dakota

Washington

Wyoming

Texas' business tax is apportioned based on gross receipts.

### **The Following 11 States Have a Mandatory Single Sales Factor**

Colorado

Georgia

Illinois

Iowa

Louisiana

Maine

Michigan

Nebraska

New York

Oregon

Wisconsin

### **The Following 3 States Are Phasing-In a Mandatory Single Sales Factor**

Indiana -- complete phase-in: 2011

Minnesota -- complete phase-in: 2013

Virginia -- complete phase-in: 2014

### **The Following 5 States Have an Elective Single Sales Factor**

Connecticut: election between single sales factor and double-weighted sales factor

Maryland: election between single sales factor and double-weighted sales factor

South Carolina: election between single sales factor and double-weighted sales factor

California: election between single sales factor and double-weighted sales factor, beginning in 2011

Missouri: election between single sales factor and equally weighted three factors

### **The Following 3 States Have a Greater Than 50 Percent Weight on the Sales Factor**

Arizona: sales weighted 75%; property and payroll each weighted 12.50%

Ohio: sales weighted 60%; property and payroll each weighted 20%

Pennsylvania: sales weighted 70%; property and payroll each weighted 15%



## **States' Apportionment Formulas (cont.)**

### **The Following 11 States Have a Double Weighted Sales Factor**

Arkansas

Florida

Idaho

Kentucky

Massachusetts - certain manufacturing, defense contractors, and mutual fund firms must use single sales factor only

New Hampshire

New Jersey

North Carolina

Tennessee

Vermont

West Virginia

### **The Following 2 States Can Choose Either a Double Weighted Sales Factor or an Equally Weighted Three Factor**

New Mexico

Utah

### **The Following 10 States and the District of Columbia Have an Equally Weighted Three Factor**

Alabama

Alaska

Delaware

Hawaii

Kansas

Mississippi

Montana

North Dakota

Oklahoma

Rhode Island

Sources: 2010 U.S. Master Multistate Corporate Tax Guide (CCH)  
Florida TaxWatch





# Corporate Income Tax Apportionment Single Sales Factor

Finance and Tax Council  
November 4, 2009



## Outline

- Corporate Tax Basics
- Apportionment of Income
- Single Sales Factor Apportionment
- Other States
- Considerations
- Policy Options





## Corporate Income Tax Basics

- States can impose a tax on the income of corporations that have sufficient presence in the state (Nexus)
  - Federal law prohibits income taxation of a multistate corporation selling tangible personal property into a state where the corporation's only presence in the state is a sales solicitation force. (P.L. 86-272, 1959)
- Florida imposes a 5.5% tax on the income of corporations. (Enacted in 1971 at 5%)
- Starting point – Federal Taxable Income



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## Corporate Income Tax Basics, cont.

- Calculation Steps
  - Federal Taxable Income
  - Adjusted Federal Income
  - *Florida Portion of Adjusted Federal Income*
  - Nonbusiness Income Allocated to Florida
  - Florida Exemption -- \$5,000
  - Florida Net Income
  - Tax
  - Credits Against Tax
  - Tax Due



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## Apportionment

- For multistate firms, apportionment is the method used to determine the portion of a firm's income that is taxable by any given state.
- Uses formulas to allocate income to the state.
- Most state formulas use a combination of property, payroll and sales to apportion income.
- Recent trend towards sales-only formula.
- Some industries have special formulas.



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## Apportionment cont.

- Florida Uses a Three-Factor Apportionment Formula for most taxpayers
  - Payroll
  - Property
  - Sales
- Sales are double-weighted
- Section 220.15 establishes the following formula:

$$.5 \left( \frac{\text{Florida Sales}}{\text{Total Sales}} \right) + .25 \left( \frac{\text{Florida Payroll}}{\text{Total Payroll}} \right) + .25 \left( \frac{\text{Florida Property}}{\text{Total Total Property}} \right) = \text{Apportionment Fraction}$$



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## Apportionment Examples

- |  |   |
|--|---|
| <ul style="list-style-type: none"> <li>▪ Firm A</li> <li>☐ Florida Sales \$10 M</li> <li>✓ Total Sales \$100 M</li> <br/> <li>☐ Florida Property \$50 M</li> <li>✓ Total Property \$200 M</li> <br/> <li>☐ Florida Payroll \$20 M</li> <li>✓ Total Payroll \$60 M</li> <br/> <li>Apportionable Income \$10M</li> </ul> | <ul style="list-style-type: none"> <li>▪ Firm B</li> <li>☐ Florida Sales \$50 M</li> <li>✓ Total Sales \$100 M</li> <br/> <li>☐ Florida Property \$10 M</li> <li>✓ Total Property \$200 M</li> <br/> <li>☐ Florida Payroll \$5 M</li> <li>✓ Total Payroll \$60 M</li> <br/> <li>Apportionable Income \$10M</li> </ul> |
|--|---|



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## Apportionment – Firm A

- Current Law

$$.5 \left( \frac{\text{Florida Sales}}{\text{Total Sales}} \right) + .25 \left( \frac{\text{Florida Property}}{\text{Total Property}} \right) + .25 \left( \frac{\text{Florida Payroll}}{\text{Total Payroll}} \right)$$

$$.5 \left( \frac{\$10 M}{\$100 M} \right) + .25 \left( \frac{\$50 M}{\$200 M} \right) + .25 \left( \frac{\$20 M}{\$60 M} \right)$$

$$.5 \left( \frac{1}{10} \right) + .25 \left( \frac{1}{4} \right) + .25 \left( \frac{1}{3} \right) = 19.6\%$$

Single Sales Factor Apportionment: 10%



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## Apportionment Firm B

- Current Law

$$.5 \left( \frac{\text{Florida Sales}}{\text{Total Sales}} \right) + .25 \left( \frac{\text{Florida Property}}{\text{Total Property}} \right) + .25 \left( \frac{\text{Florida Payroll}}{\text{Total Payroll}} \right)$$

$$.5 \left( \frac{\$50 M}{\$100 M} \right) + .25 \left( \frac{\$10 M}{\$200 M} \right) + .25 \left( \frac{\$5 M}{\$60 M} \right) =$$

$$.5 \left( \frac{1}{2} \right) + .25 \left( \frac{1}{20} \right) + .25 \left( \frac{1}{12} \right) = 28.33 \%$$

Single Sales Factor Apportionment: 50%



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## Impact of Current Apportionment When Investment in Florida Occurs

- Firm A

- Florida Sales \$10 M
- ✓ Total Sales \$100 M

- Florida Property \$50 M
- ✓ Total Property \$200 M

- Florida Payroll \$20 M
- ✓ Total Payroll \$60 M

- Apportionment prior to investment: 19.6%

- Investment in Florida-
  - ✓ Property \$50 M
  - ✓ Payroll \$20 M

### Apportionment after investment

$$.5 \left( \frac{\text{Florida Sales}}{\text{Total Sales}} \right) + .25 \left( \frac{\text{Florida Property}}{\text{Total Property}} \right) + .25 \left( \frac{\text{Florida Payroll}}{\text{Total Payroll}} \right)$$

$$.5 \left( \frac{\$10 M}{\$100 M} \right) + .25 \left( \frac{\$100 M}{\$250 M} \right) + .25 \left( \frac{\$40 M}{\$80 M} \right) =$$

$$.5 \left( \frac{1}{10} \right) + .25 \left( \frac{2}{5} \right) + .25 \left( \frac{1}{2} \right) =$$

$$(5\%) + (10\%) + (12.5\%) = 27.5\%$$

Apportionment after investment: 27.5%

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## General Implications of *Mandatory* Single Sales Factor Apportionment

- Those firms that have substantial payroll and property in the state but primarily sell out of state will pay less taxes to Florida. (Firm A)
- Those firms that primarily sell into the state but have most of their property and payroll outside the state will pay more taxes to Florida. (Firm B)



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## Other States' Apportionment Formulas

- 5 States Do Not Have a Broad-Based Corporate Income Tax.
  - Texas' business tax is apportioned by gross receipts.
- 11 States Have a Mandatory Single Sales Factor Formula.
- 3 States Are Phasing-In a Mandatory Single Sales Factor Formulas.
- 5 States Have an Elective Single Sales Factor Formula.



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## Other States' Apportionment Formulas, cont.

- 3 States Have a Greater Than 50 Percent Weight on the Sales Factor.
- 11 States Have a Double Weighted Sales Factor.
- 2 States Allow Choice of Either a Double Weighted Sales Factor or an Equally Weighted Three Factor Formula.
- 10 States and the District of Columbia Have an Equally Weighted Three Factor Formula.



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## Considerations re: Single Sales Factor Apportionment

- Economic Development
- Effect of P.L. 86-272
- Florida is a separate reporting state
- Sourcing of sales of services
- Revenue Impacts
  - To state
  - To taxpayers



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## Policy Options

- Mandatory Single Sales Factor Formula
  - Winners and losers
  - Positive Impact to state revenues
- Optional SSF
  - Neutral and winners
  - Negative Impact to state revenues
- Targeted SSF
  - Indeterminate
- No Change



