

2020 Alaska Municipal League Tax Conference

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National Perspective on States' Budgets

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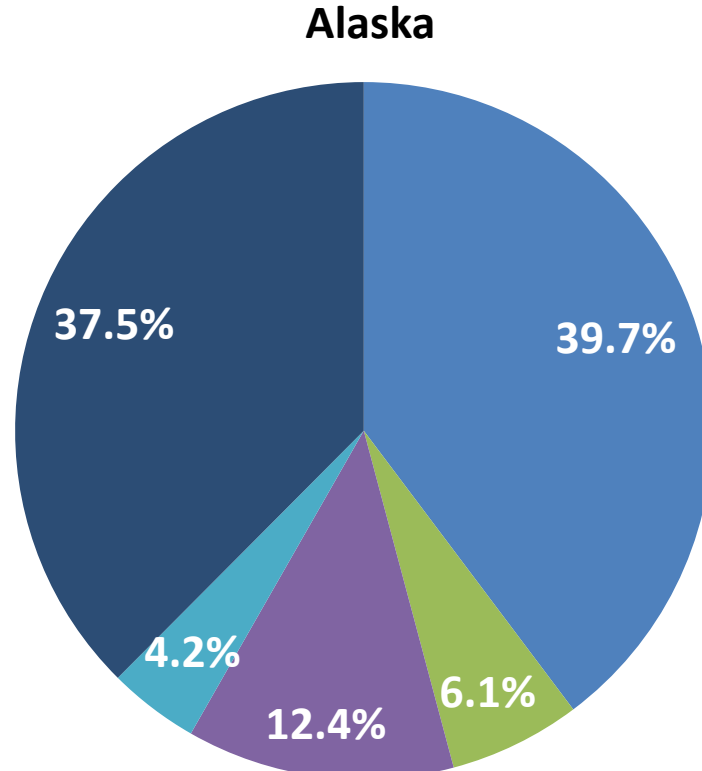
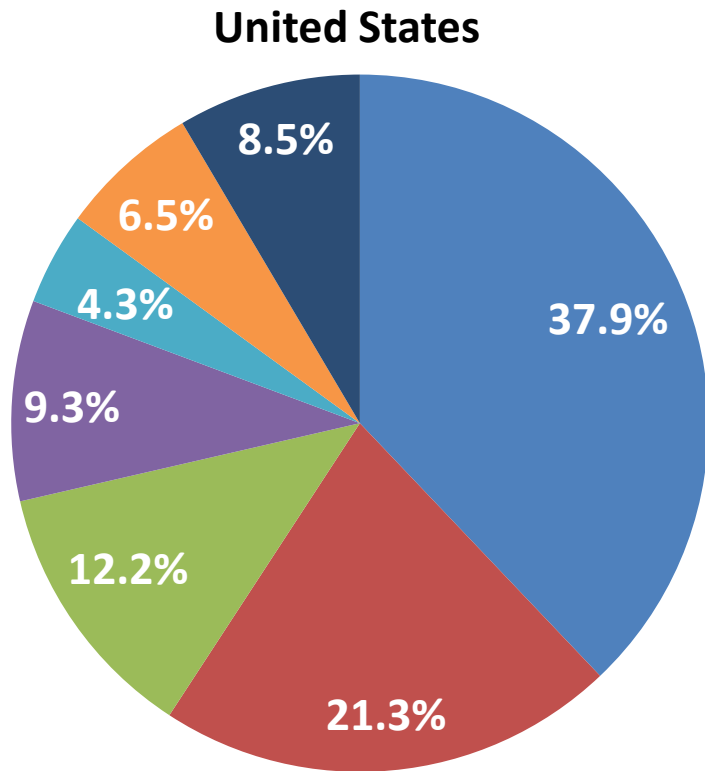
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Agenda

- State & Local Taxes Paid by Business
- States' Budget outlook
- Pandemic's Potential Impact on State Tax Policy
- Corporate Income Tax & GRT Concerns

State & Local Taxes Paid by Business

TOTAL STATE AND LOCAL BUSINESS TAX REVENUE – FY2019



-  Property Tax
-  Sales Taxes on Business Inputs
-  Excise Tax
-  Corporate Income Tax
-  Unemployment Insurance Tax
-  Individual Income Tax on Business Income
-  License & Other Taxes

Are Businesses Paying Their fair Share?

- **How Much Do Businesses Pay?**

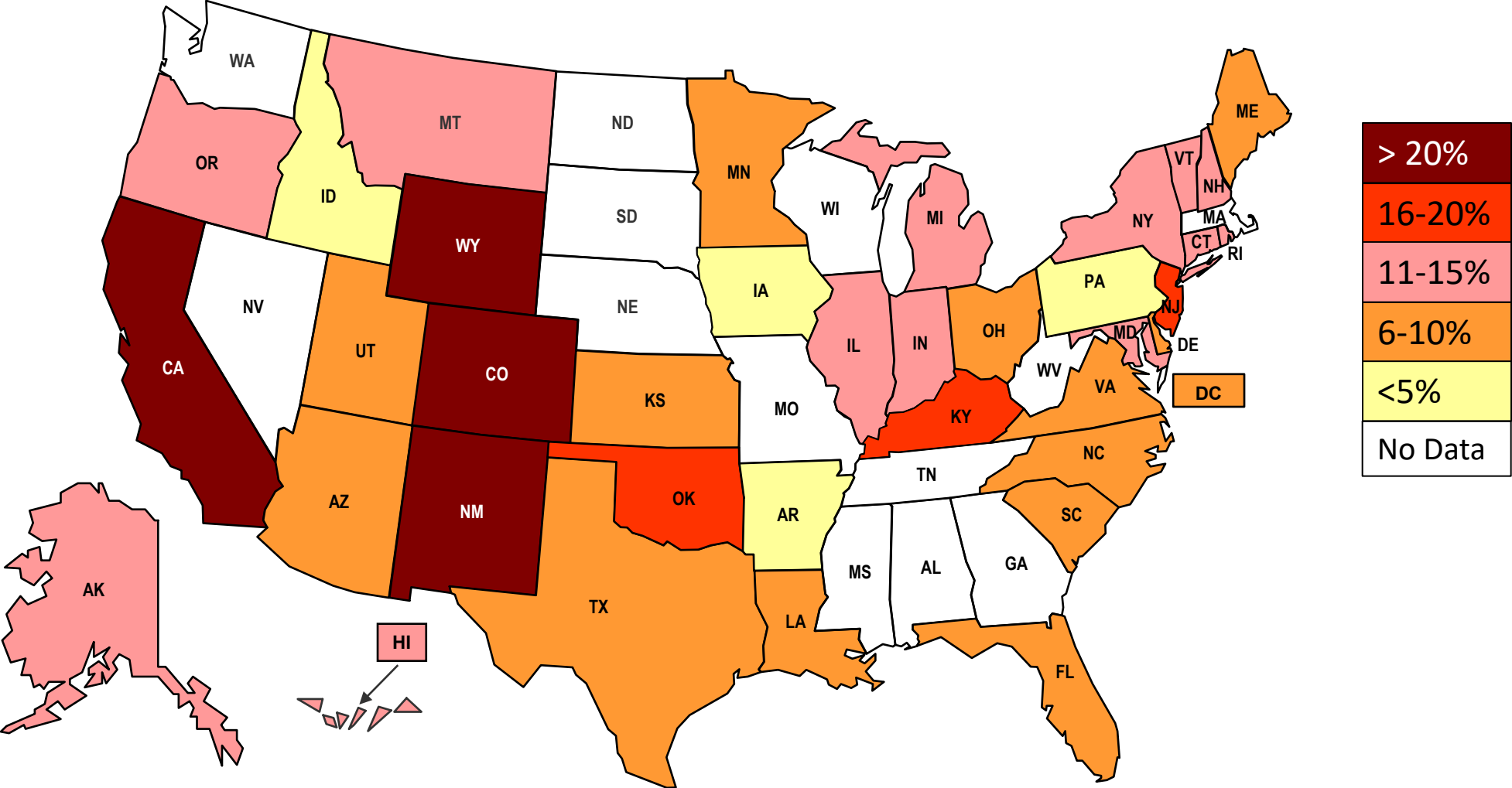
- Businesses paid more than \$833 Billion in U.S. state and local taxes in FY19, an increase of 5.7% from FY18
- State business taxes increased by 6.3% and local business taxes grew by 5.1%
- In FY19, business tax revenue accounted for approximately 44% of all state and local tax revenue, up from 43.5% in FY18
- Remarkably, the business share of SALT nationally has been within approximately **1% of 44% since FY03**
- Moreover, while pass-through entities outnumber C Corporations, C Corps on average pay about three-fifths more income tax

Sources: Total State and Local Business Taxes: State-by-State Estimates for Fiscal Year 2019, study prepared by Ernst & Young LLP for the State Tax Research Institute and the Council On State Taxation (October 2020)

COST/PWC Study, Corporate and Pass-Through Business State Income Tax Burdens (October 2017)

States' Budget Outlook

REVISED STATE FISCAL YEAR 2021 REVENUE DECLINES

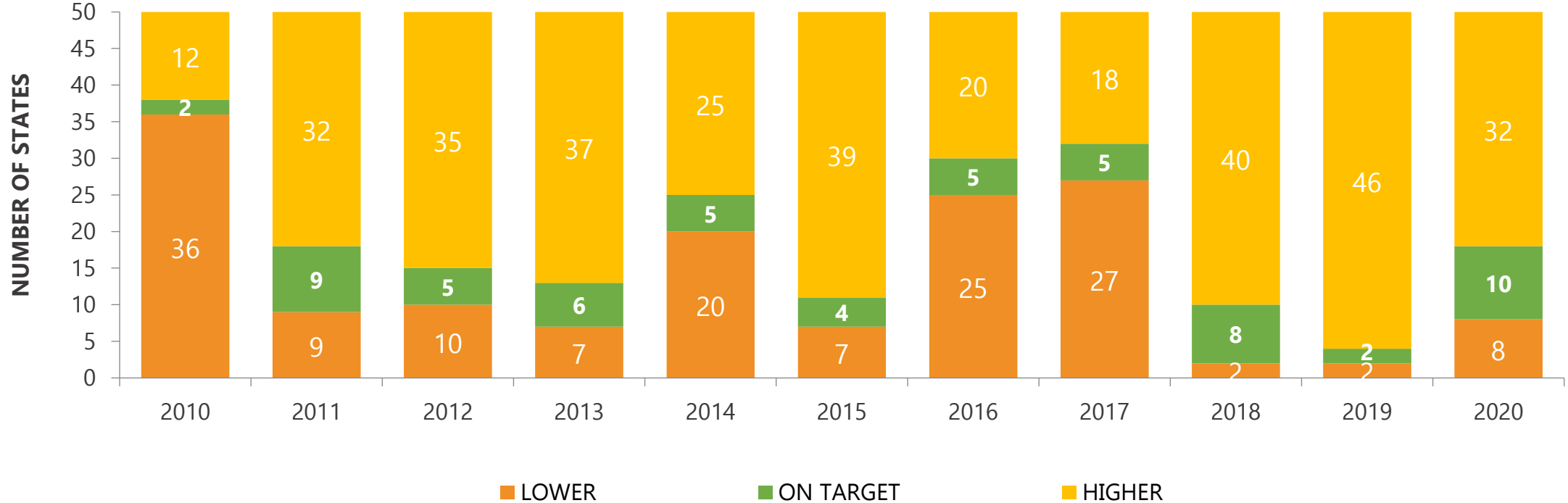


Source: National Conference of State Legislatures, Last update: September 3, 2020

42 States Saw Revenue Collections Coming in Ahead of Budget Projections Prior to the COVID-19 Crisis

A few states reporting collections below projections incorporated early impacts of COVID-19 on their tax collections

General Fund Revenue Collections Compared to Budget Projections by Fiscal Year*

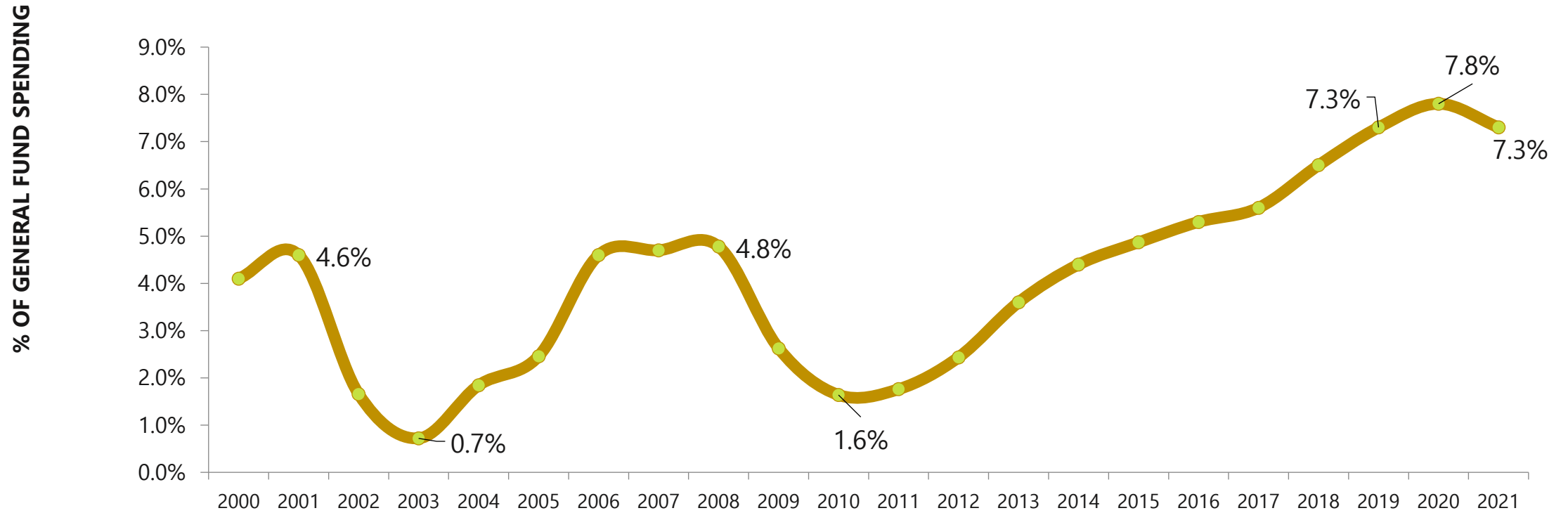


*Fiscal 2020 figures were estimated based predominantly on pre-COVID-19 data. A few states that reported collections coming in lower than projections incorporated some early COVID-19 impacts on their tax collections.

Most States Continued to Strengthen Rainy Day Funds Coming Into the COVID-19 Crisis

Median balance reached all-time high in Fiscal 2019 and was on track to beat that record in Fiscal 2020 before COVID-19 crisis

Median Rainy Day Fund Balance Over Time



Source: NASBO Spring 2020 Fiscal Survey of States

COVID-19 Impact to States

- More pressure on public health concerns while facing sharp economic declines
 - Differs from prior recessions that primarily impacted the states' unemployment funds
- Declines seen in all sources of revenue from income taxes to motor fuel, gaming, and other taxes
- States' economies differ – making impact on revenue different
 - Energy production states
 - Manufacturing states
 - Service-focused states
 - Tourism states

Pandemic's Potential Impact on State Tax Policy



Ways States Can Address Budget Shortfalls

- **Budget Cuts**
 - Targeted cuts, across the board cuts, personnel cuts, etc.
- **Rainy Day Funds And Reserves**
 - Most states the size of projected shortfalls are greater than amount in rainy day funds
 - Concern with states immediately draining funds
- **Increased Taxes**
 - Typically not the first option and amount often less than budget cuts
- **Temporary tax increases versus permanent tax increases**
- **Base broadeners, especially with sales/use taxes**
- **Federal Aid**
 - Was very helpful during Great Recession
 - This time: question of how flexible and how much

COST Push for COVID-19 Pandemic Relief for Taxpayers

- *Extend filing & payment deadlines - was needed with initial announcement of pandemic*
- Waive interest & penalties for late payment/filing
- **Eliminate manual processes for compliance**
 - Paper returns / paper checks
 - Wet signatures
 - Certified mail
 - Notary requirements
- **Option to continue withholding at employee's prior work location**
- **Safe harbor from nexus created by teleworkers**
- **Exempt from sales/use tax donated products (e.g., PPE)**

Nexus and Withholding

- Some (not all) states have issued guidance
 - Examples
 - Pennsylvania
 - Maine
- Guidance can take various forms
 - FAQs
 - Release
- Each guidance is unique
 - Subtle variations that taxpayers need to be aware of
 - triggers and duration may be different
 - some guidance may address corporate income tax nexus but may be silent on sales tax nexus

State Legislative Revenue Raiser Proposals: What to Expect

CIT Rate Increases

- Excess profits taxes; minimum taxes
- *E.g.*, New York's 5% excess profits tax

CIT Base Expansion to Include Foreign Source Income

- Renewed state efforts to tax GILTI
- Mandatory worldwide combined reporting

Local Taxes

- Payroll “head” taxes, *e.g.* Portland, San Francisco and Seattle
- CEO pay ratio taxes, *e.g.* California, New York and Washington

Miscellaneous Issues

- Economic & bright-line nexus tests coupled with market-based sourcing
- State unemployment taxes

State Legislative Revenue Raiser Proposals: What to Expect, cont.

Wealth Taxes

- *E.g.*, New York's "Billionaire Mark-to-Market Tax Act" targets New York State resident billionaires and creates a mark-to-market requirement to pay tax on all unrealized gains annually
- *E.g.*, California's .4% tax on net worth above \$30M

Stock Transfer Tax Proposals

Elimination or Postponement of Certain Corporate Tax Credits

- *E.g.*, California's NOL deduction suspension and \$5M tax credit limitation for 2020-2022

Increases in Excise Taxes

- *E.g.*, marijuana, cigarettes, gasoline, sports wagering, carbon

Property Taxes

- *E.g.*, tax rate increases, split roll, dark store theory, etc.

Conformity (or Decoupling) with Possible Federal Tax Base Broadening Legislation in 2021

Bad State Tax Policy: Selective Conformity With Federal Tax Law Changes Based Only on the Revenue Impact

Coupling with Revenue Raisers

- 163(j) interest deduction limitations
- Taxation of foreign source income (GILTI, deemed repatriation)
- Mark-to-market on securities (future)
- Increased capital gains taxation (future)

Decoupling/Non-Conformity with Taxpayer-Favorable Provisions

- Corporate or pass-through entity tax cuts
- Bonus depreciation
- NOL carrybacks
- FDII
- QIP

Income/Franchise/Gross Receipts Taxes

- Gross Receipts Taxes
 - Oregon CAT
- Digital Advertising Taxes
 - Maryland (veto override) and Washington (likely 2021)
- Mandatory Unitary Combined Reporting
 - Watch states: PA, MD, VA
 - Renewed interest in worldwide and tax haven (*e.g.*, NH, NJ)
 - Push for states to allow federal consolidated return election

Gross Receipts and Sales Taxes on Digital Advertising and Business Services

New Gross Receipts Tax

Issue: States, unlike foreign nations, can tax digital advertising under existing corporate income tax laws that have economic nexus and market sourcing provisions

States: Maryland & New York

- Maryland: New tax on gross receipts from “digital advertising services”; passed by Legislature, vetoed by Governor, override possible next session
- New York: Similar proposed legislation
- Administrative challenges for imposition

Expand Sales Tax Base to Digital Advertising or other Business Services

- **Issue:** These proposals would result in even more of the sales tax burden falling on business inputs
- **States: District of Columbia, Nebraska & South Dakota**
- Similar proposals introduced in other states include a data mining tax (West Virginia) and a social media registration fee (Minnesota)
- **Future concern:** Past history of state proposals to **expand the sales tax base to services** without exempting business services

Questions?

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