



Allocation & Apportionment Planning

Achieving Fairness Through Research and Planning

EHTC State and Local Tax Services

INCOME & FRANCHISE TAX

- Tax Minimization Studies
- Business Structure Reviews
- Allocation and Apportionment Planning
- Combined, Consolidated, & Unitary Planning
- Nexus Studies
- Amended State Tax Returns from IRS Audits
- Single Business Tax Training

SALES & USE TAX

- Reverse Audits
- Compliance System Review
- Direct Pay & Compliance Agreements
- Exemption Certificate Documentation
- Industrial Processing / Manufacturing Exemption
- Utility Studies
- Nexus Studies
- Sales & Use Tax Training
- Transportation Company
- Procurement Company

PROPERTY (AD VOLOREM) TAX

- Real Property Tax Reviews
- Personal Property Tax Reviews

TAX AUDIT & APPEALS

- Sales & Use Tax Audit Defense & Appeals
- Income & Franchise Tax Audit Defense & Appeals
- Property Tax Audit Defense & Appeals
- State and Local Tax Litigation Support
- Merger & Acquisition Due Diligence Reviews
- Voluntary Disclosure

BUSINESS INCENTIVE SERVICES

- Business Relocation & Expansion Services
- Tax Credits, Exemptions, & Abatements
- Grants, Financing, & Infrastructure Assistance

Most businesses willingly pay their fair share of the tax burden to support the federal, state and local government. However, a business will understandably resist when the tax base exceeds the extent of their total business. Lack of uniformity in apportionment rules from state-to-state can easily result in a multistate business paying state taxes on more than 100% of their income or tax base.

Apportionment formulas are used to divide the tax base of a multistate business among the states in which the company does business. Most apportionment formulas have three factors; property, payroll and sales. Each factor has in-state activity as the numerator and activity everywhere as the denominator. Many states have begun placing more and more weight on the sales factor, which tends to favor in-state companies, at the expense of companies selling into the state. Some relief from this trend may be available through creative tax planning.

Changing the Apportionment Formula to Export Taxes

State and local governments, like private enterprises, are continually looking for ways to "grow their business." Our state and local government units provide a wide array of services to the residents of their jurisdictions. This, in a political environment encouraging tax cuts, has been at least partially responsible for some of the changes in the structure of state tax bases we have seen in recent years.

The way many states have found to accomplish the objective outlined above is to restructure their tax system to increase the tax burden on businesses, particularly those whose only contact in the state is their customers located there. This is especially attractive when it results in a tax cut for businesses operating within the state. This has become known as "exporting" the state's taxes. More than one commentator has observed that in many states, the fastest growing export is "taxes."

Common Method Used To Export Tax

One common method of exporting the state's tax is to revise the business tax apportionment formula. Ignoring the 1964 congressional study recommending exclusion of sales factor from apportionment formula, the states have recently sought to increase its weight. Since 1985, more than half of the states have increased their sales factor weight. Today, the weighting of sales in the apportionment formulae range from the 1/3 weight outlined under UDITPA to 100% in a hand full of states. The result is for businesses with significant sales into the states with significant weight on the sales factor, their apportionment factors may total significantly more than 100%.



Allocation & Apportionment Planning (Continued)

About EHTC

Echelbarger, Himebaugh, Tamm & Co., P.C. (EHTC), a professional corporation was established in 1977 by Dennis M. Echelbarger. Since that time, our Firm has grown to become one of the largest, most successful, local accounting firms in the Greater Grand Rapids, Michigan area, and we are a recognized leader in the business community. Our success is based on building partnering relationships with our customers. We are large enough to serve a wide diversity of customers but small enough to maintain personalized attention.

EHTC's professional team is highly trained to provide technical and consulting services in the areas of accounting, taxes, and strategic planning to nonprofit, profit and service organizations and related entities.

Minimizing your tax liability requires careful, advance planning rather than preparing tax returns as deadlines near. Our tax professionals provide complete tax services and are assisted by our extensive tax library and the latest technology.

We pay careful attention to your unique circumstances such as your current requirements and your plans for the future. We then recommend a plan that best suits your needs while minimizing financial risk.

Alternate Apportionment

Federal courts have interpreted the Constitutional requirements of apportionment under due process provisions to require the states to provide for alternate apportionment when a taxpayer is able to demonstrate convincingly that the state's method is unfair to the taxpayer's business. To be sure, this is not an easy demonstration to make and the tax commissioner will not be readily persuaded if it reduces your taxes. However, especially for sales into states where pricing competition results in lower than average profit margins, some relief may be available.

Dock Sales and Throwback or Throw-out Sales

Some states allocate 'dock sales' to the state of origin, e.g, where the goods were picked up, while other states allocate dock sales to the state of ultimate destination. Dock sales are those sales picked up by customers at the seller's dock.

Most, but not all states have provisions requiring modification of the sales apportionment factor for sales shipped to states under certain circumstances. These sales may be either included in the sales numerator of the state where the goods were shipped from (thrown back) or excluded from both the numerator and denominator of the sales factor (thrown out). When goods are shipped from a different state than where sales are directed, it is possible to have these sales thrown back to both.

Summary

Apportionment of a business tax base is **not** simply a matter of dividing the pie. To be sure, the unwary business owner may have to bake a second pie, while proper planning may leave most of the pie in the pan.

The complexities of the apportionment issues require a review by a professional especially trained on this subject to minimize your tax, like those at EHTC. Apportionment is manageable within limits. A periodic apportionment study or review is the first step to managing this aspect of your business.