

THE PROBLEM OF LOCALITY TAXES

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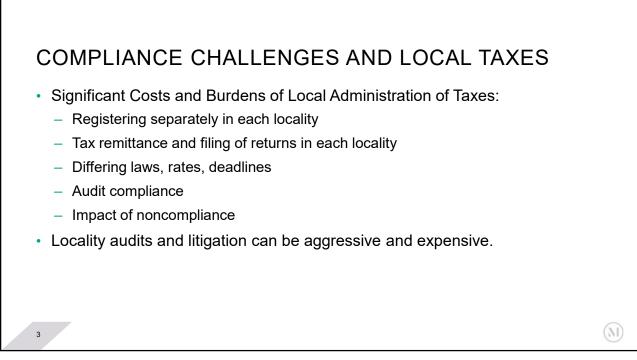
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WHAT GIVES LOCALITIES THE RIGHT?

- Home rule v. non-home rule
 - Home rule local jurisdictions with significant autonomy/authority to impose taxes.
 - Generally, limited only by express preemption provisions at the state level.
 - Non-home rule local jurisdictions generally precluded from taxing unless express authority is provided.
 - Generally, state statute provides authority to enact specific taxes (*i.e.*, local sales rate, utility taxes, etc.).
- All locals must abide by U.S. and state constitutional principles.

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COMPLIANCE CHALLENGES—LOCAL LODGING TAXES

- There are approximately 3,000 4,000 locally administered lodging or accommodations taxes
 - Impacted facilities or accommodations vary across states and often across jurisdictions within a state.
- Local administration
 - Collection and remittance
 - Local-level audits
 - Marketplace facilitator laws

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· A taxpayer doing business in Portland could be subject to up to seven different business taxes

- Portland Business License Tax (BLT)-2.6% tax on income apportioned to Portland.
- Multnomah County Business Income Tax (MCBIT)—2% tax on income apportioned to Multnomah county.
- Metro District Supportive Housing Services Tax (2021)—1% tax on income apportioned to the Metro District.
- Pay ratio surtax—10% or 25% surtax on publicly traded companies with a CEO-to-average wage ratio (as determined for purposes of the SEC) of >100:1 and >250:1, respectively.
- Clean energy "surcharge"—1% tax on gross receipts from retail sales made by "large retailers" (\$1B in ww retail gross receipts and \$500k in Portland retail gross receipts).
- Other misc. taxes/fees: heavy vehicle use tax; residential rental registration fee.



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LOCAL MARKETPLACE FACILITATOR CHALLENGES

- All states have now adopted marketplace facilitator/provider laws...
- But what local taxes (if any) do they apply to?
- These determinations can be very nuanced and technical and differ significantly from state to state.
- Some locals (such as Colorado home rule localities) have adopted their own marketplace facilitator laws on a city-by-city basis.
- The bifurcation of taxes/fees headache can be significant and is something many industries (including tech) are dealing with nationwide.

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SOME ATTEMPTS AT SIMPLIFICATION

- Alabama's Simplified Sellers Use Tax
 - Requires seller to collect 8 percent statewide tax; distributed by DOR based on population
- Alaska's Remote Sales Tax Information Portal
 - Intergovernmental agreement entered into in 2019 to coordinate sales tax collection for remote sellers
- Colorado's Sales and Use Tax System (SUTS)
- · Louisiana's Sales and Use Tax Commission for remote sellers

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