

# Mastering State Tax Research: Navigating the Complexities Across Jurisdictions

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# Introduction to State Tax Research

- ❖ Why is mastering this skill important?
  - More businesses are multistate.
  - States are becoming more aggressive (and more savvy) in pursuing out-of-state businesses for taxation.
  - Impact of accurate tax research on compliance and planning
  
- ❖ Your best defense is a strong offense
  - Research and support tax positions taken
  - Develop search strategies to quickly find relevant information.
  - Implement a plan and a **regular habit** for staying up-to-date with state tax developments.
  - Keep track of updates and changes in state tax laws by setting alerts and subscribing to newsletters.

# Overview of the state tax research process

1. Establish the facts
2. Frame the issue(s)
3. Understand the state's tax structure
4. Identify relevant research tools/sources
5. Conduct the research
6. Test your conclusions
7. Document & communicate conclusions & recommendations
8. Follow up to ensure ongoing accuracy & compliance

# Step 1: Establish the facts

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- ❖ What is the transaction or issue?
  - Business acquisition, reorganization, or sale
  - New product line, market or business venture
  - Audit assessment or proposed assessment
- ❖ Review relevant contracts, business plans, workpapers.
  - Form of the transaction(s)
  - Parties & roles
  - Timing
  - Federal tax and financial statement treatment
  - Desired/expected outcome(s)

# Step 1: Establish the facts

- ❖ Beware of overview or high-level descriptions
  - “It’s an asset sale.”
  - “We’re not sending employees to the state.”
- ❖ Timing
  - Future transaction or planning
  - Prior period transaction or event
- ❖ Business impacts
  - Impact of/to business structure & related parties
  - Process changes
  - Cash or financial statement impacts

# Step 2: Frame the Issue

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- ❖ Taxing jurisdiction(s)
- ❖ Tax type(s)
- ❖ Tax period(s)
- ❖ Issue category
  - Nexus
  - Residency & domicile
  - Taxability
  - Tax base
  - Exemptions & exclusions
  - Allocation & apportionment
  - Tax rates
  - Credits
- ❖ Specific issues/questions
  - Lay out each issue to be addressed

# Step 2: Frame the Issue

- ❖ Create a research template to capture each issue, your research, and conclusions
- ❖ Examples:
  - Nexus matrix
  - Sales tax Taxability Matrix
  - Research memo
- ❖ Lay out all of the relevant facts, state the issue(s), and get confirmation before proceeding
- ❖ Be methodical to ensure you don't overlook anything
- ❖ Make sure everyone is in agreement regarding the facts
  - This is time well-spent that will pay off later

# Step 2: Frame the Issue

## - Sample Nexus Matrix

State <sup>6</sup>	CONCLUSION: Nexus Likely Triggered?			What ECONOMIC NEXUS Criteria Does the State Apply?					Company's Sales Activity		Company's PHYSICAL ACTIVITIES Summary of Key Nexus-Creating Activities Conducted									
				Income/Franchise Tax ("IFT")		Sales/Use Taxes ("SUT")														
	Sales/Use Tax Nexus	Physical/Economic	Income/Franchise Tax Nexus	2023 Sales-\$ Threshold <sup>4</sup>	2024 Sales-\$ Threshold <sup>4</sup>	Sales-\$ Threshold	Sales Volume Threshold	Statute/Regulation Effective Date	2023 Sales Amount <sup>2</sup>	2023 # of Transactions	Registered with Secretary of State	Filing Income Tax	Filing Sales/Use Tax	Filing Property Tax	Filing Payroll Tax	Property in State	Travel to State to Solicit Sales	Attend Tradeshows in the State	Employees Reside in State	Perform Services in State
AK																				
AL																				
AR																				
AZ																				
CA																				
CO																				
CT																				
DC																				
DE																				
FL																				

# Step 2: Frame the Issue

## - Sample Sales Tax Matrix

Company Name:					
Sales Tax Matrix					
As of:					
Jurisdiction	Product	Taxability	Statutory Language	Notes	Authority
AL					
AZ					
AR					

# Step 2: Frame the Issue

## - Sample Research Memo Format

### ❖ Facts

- Summarize all relevant facts upon which your research and conclusions are based

### ❖ Issues/Questions

- Clearly and concisely state the issues and questions to be addressed

### ❖ Conclusions

- Summarize conclusions by state and by issue

### ❖ Analysis

- Detailed analysis and discussion of authority upon which conclusions are based.

# Step 3: Understand the State's Tax Structure

## Step 3: Understand the State's Tax Structure

### - Overview

- ❖ What taxes are imposed?
- ❖ Which taxes apply to your issue(s)?
  - Have you considered all possible taxes?
- ❖ How are those taxes calculated?
- ❖ Statutory structure – how are those taxes codified?
- ❖ Administrative guidance – what types are available?
- ❖ Judicial decisions – Where and how are these published?

## Step 3: Understand the State's Tax Structure

### - Types of Tax Authority

#### ❖ Primary authority

- Statutes
- Administrative Codes
- Judicial Rulings

#### ❖ Secondary authority

- Annotated & topical research services
- Tax guides & commentaries
- Tax journals, newsletters, bulletins, blogs
- Court reporters
- Practical treatises.

# Step 3: Understand the State's Tax Structure

## - Evaluating the weight of the authority

### ❖ Hierarchy of authority

- US Constitution
- Federal laws
- State laws
- Court (Judicial) decisions
- State revenue departments' administrative guidance
- Secondary “authority” (tax journals, interpretation, explanation, commentary)

# Step 3: Understand the State's Tax Structure

## - State Statutes

- ❖ Identifying the Structure
  - Sections: Major divisions in the text.
  - Subsections: Detailed breakdown of sections.
  - Paragraphs: Specific points within subsections.
- ❖ Understanding the Language
  - Definitions: Clarify meanings of terms.
  - Legal Terms: Understand specific legal jargon.
  - Context: Read in context for better comprehension.
- ❖ Key Elements to Look For
  - Purpose Clauses: Indicate the intent of the legislation.
  - Imposition Provisions: How, when and to whom the tax applies.
  - Exceptions and Exemptions: Identify who or what is excluded.
  - “Notwithstanding...” language, and references to other statutes/clauses

# Step 3: Understand the State's Tax Structure

## - State Administrative Codes

- ❖ What are Administrative Codes?
  - Regulations promulgated by the revenue authority (DOR) to implement statutory provisions
  - The DOR's interpretation of the statute
- ❖ Purpose:
  - Detailed guidelines
  - Procedures
  - Revenue department positions

# Step 3: Understand the State's Tax Structure

## - State Tax Rulings

### ❖ What are they?

- Revenue department's official interpretations and decisions regarding specific issues
- May be formal or informal, general or specific

### ❖ Purpose:

- Clarify application of laws and regulations to specific fact patterns.
- Typically, in response to a taxpayer inquiry or ruling request
- May apply only to specific taxpayer(s) – limited precedential value
- Revenue Ruling vs. Private Letter Ruling (PLR)

# Step 3: Understand the State's Tax Structure - Judicial Decisions (aka "case law")

- ❖ The courts' official legal interpretations and decisions.
- ❖ Purpose: clarify application of laws and regulations.
- ❖ Typically have precedential value
- ❖ Keep hierarchy in mind
  - US Supreme Court
  - State courts
    - State supreme court
    - Appeals court
    - Trial court or Tax court
  - State administrative body
    - Example: Administrative Law Judge ("ALJ")



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# Step 4: Identify research tools/sources

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### - Subscription tax research databases

- ❖ Provide primary and secondary sources plus analysis and interpretation for a monthly or annual subscription fee
  - Thompson Reuters - [Checkpoint](#) & [Westlaw](#)
  - [Bloomberg Tax](#)
  - [Wolters Kluwer, CCH](#)
  - [Avalara's TTR](#) – sales tax
  - [LexisNexis](#)

## Step 4: Identify research tools/sources

### - State government websites

- ❖ **State legislatures' websites** provide direct access to pending and enacted legislation
- ❖ **Revenue departments' websites** provide direct access to statutes, regulations, bulletins, and other official documentation.
- ❖ Useful for obtaining the most current information directly from the source.
  - Late-breaking news & legislation - Often updated before commercial research tools

# Step 4: Identify research tools/sources

## - State government websites

### ❖ Types of state tax agency Resources & Publications

- Tax guides
- Bulletins
- Newsletters
- Tax forms & instructions
- FAQs
- Audit manuals

### ❖ Effective Use

- Stay Updated: Subscribe to newsletters and regularly check websites.
- Consult Guidance: Review instructions and interpretations.
- Research Issues: Use guides and FAQs for explanations.

# Step 4: Identify research tools/sources

## - Examples of State Government Website Resources

### ❖ California

- Legislative Website: [California Legislative Information](#)
- Sales Tax Department: [California Department of Tax and Fee Administration](#)
- CDTFA [Audit Manual](#)

### ❖ New York

- Legislative Website: [New York State Legislature](#)
- Tax Department: [New York State Department of Taxation and Finance](#)

### ❖ Texas

- Legislative Website: [Texas Legislature Online](#)
- Tax Department: [Texas Comptroller of Public Accounts](#)

# Step 4: Identify research tools/sources

## - Other Government & Nonprofit Groups' Websites

### ❖ [The Tax Foundation](#)

- Average state + local sales tax rate by state
- Studies, white papers, articles, multistate tax topic maps
- *TaxEDU*

### ❖ [Multistate Tax Commission](#) (MTC)

- The Multistate Tax Compact – uniformity, nexus, PL 86-272, income tax apportionment (UDITPA)
- Sales tax – multistate resale certificate, registration links

### ❖ [Federation of Tax Administrators](#) (FTA)

- Links to 50 states' (+DC) tax agency websites & tax forms
- Info & resources for less common tax types (alcohol, tobacco, motor fuel)

# Step 4: Identify research tools/sources

## - Other Government & Nonprofit Groups' Websites

### ❖ [SEATA](#), [NESTOA](#), MSATA, WSATA

- Regional associations of tax administrators
- Links to these organizations also can be found on [the FTA website](#).
- Limited public information, but have annual meetings that are open to the public, and sometimes post materials from those meetings

### ❖ State law school libraries

- Example: [Georgetown Law Library](#)

# Step 4: Identify research tools/sources

## - Other Government & Nonprofit Groups' Websites

### ❖ Streamlined Sales Tax

- Organization created to promote sales tax simplification
- 23 member states
- Sales tax rate & boundary files
- Exemption certificates & drop shipment guidance
- Taxability & tax administration matrices
- White papers & publications
- Centralized registration system
- State contact information & website links
- Sales tax compliance services provider information
- FAQs

# Step 4: Identify research tools/sources

## - Commercial & Professional Publications

- Provide scholarly analysis, news, issue updates and commentary
- May be subscription based or free
- News, discussion & analysis
  - Checkpoint & Bloomberg daily tax reports - Typically included with tax research tool subscription
  - TaxNotes – State
  - BNA Portfolios
- Textbooks
  - State Taxation by Jerome R. Hellerstein and Walter Hellerstein (3d ed. 1998) (KF6750 .H44 1998) (also available on Westlaw)
  - State and Local Taxation and Finance in a Nutshell by M. David Gelfand, Joel A. Mintz & Peter W. Salsich, Jr. (3d ed. 2007)

# Step 4: Identify research tools/sources

## - Professional Organizations

- ❖ [American Bar Association, Tax Section](#)
  - Training
  - White papers and articles
- ❖ State CPA Societies' websites
- ❖ [AICPA](#) website
  - Articles, guides, charts, whitepapers, sample client letters, training
- ❖ [Institute for Professionals in Taxation](#) (IPT)
  - State tax training – sales/use, property tax, income tax, VAT, credits & incentives
  - Professional designation - CMI
- ❖ [Council on State Taxation](#) (COST)
  - Training, articles, white papers, amicus briefs, publications
  - Links to state agencies & organizations

# Step 4: Identify research tools/sources

## - Law, Accounting and Consulting Firm Websites

### ❖ Law firm websites and newsletters

- Eversheds Sutherland ([SALT Shaker](#))
- Firms practicing in your target state(s)
- [APTC](#) - organization of property tax member firms

### ❖ Big-4 accounting firm websites & newsletters

- Deloitte ([State Tax Matters](#))
- PWC ([Tax Insights](#))
- [KPMG](#)
- [EY](#)

# Step 4: Identify research tools/sources

## - Law, Accounting and Consulting Firm Websites

### ❖ [The Sales Tax Institute](#)

- Sales tax economic nexus charts and links to supporting data
- Articles, tips, white papers, sales tax training.

### ❖ Sales tax technology (software) providers' websites

- Typically have white papers, articles, webinars, blogs, tax rate lookup tools
- Examples:
  - [Avalara](#)
  - [Vertex](#)
  - [TaxJar](#)



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# Step 5: Conduct the research

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## - Using Subscription Research Tools

- ❖ Index browsing vs searching
- ❖ Search terms
  - Key words
  - Spelling
  - Alternate meanings
  - Wildcard (\*)
- ❖ Connectors
  - AND, OR, NOT
  - Parentheses and quotation marks
- ❖ Keep the Hierarchy of Authority in mind
- ❖ Your approach should vary based on the research tool
  - e.g., Bloomberg vs. Checkpoint vs. LexisNexis, etc.

# Step 5: Conduct the research

## - State government websites

### ❖ State Legislature Websites

- How is the site laid out?
- Enacted legislation
  - Use search functions
  - Search by topic, year
  - When was the relevant provision enacted?
- Pending legislation
  - Where is the bill in the legislative process?
  - Read the bill summary and notes
  - Review the bill's text
    - Redline, green text, etc.

# Step 5: Conduct the research

## - State government websites

- ❖ State Revenue Department (DOR) Websites
  - “Laws and Guidance” or “Law and Policy” sections
    - Use keyword searches, or
    - browse & search by type of guidance (regulation, ruling, policy statement, information letter, guide, forms & instructions).
    - Pay attention to effective dates – does this apply to your tax year?
    - Watch for superseded or obsolete regulations & rulings.
    - Contact information – but don’t rely on oral advice from state DORs. (verify via primary sources)
  - News & press releases
  - Instructional videos (e.g., how to file a sales tax return)
  - Webinars

# Step 5: Conduct the research

## - Interpreting Case Law

- ❖ Analyzing court decisions and their implications
  - Identify Relevant Cases
    - Landmark rulings
    - Recent decisions
    - Similar fact patterns
  - Understand the Court's Reasoning
    - Legal principles applied
    - Interpretation of statutes
  - Evaluate the Impact
    - Precedents set
    - Implications: how the decision affects tax compliance and strategies.

# Step 5: Conduct the research

## - Other websites

- ❖ Professional organizations, law firms, accounting firms, consulting firms, articles, blogs, white papers
- ❖ Should NOT be relied on as your sole source.
  - Use these sources to identify issues, learn concepts and latest developments
  - Then go to primary sources (statute, regulations, rulings, case law) and do your own research.
  - Look for links and citations to primary sources
  - Read footnotes in articles and publications

# Step 5: Conduct the research

## - Impact of AI (Artificial Intelligence) on state tax research

### ❖ Opportunities

- Enhanced speed and efficiency
- Still need to verify the result via independent research & primary sources
- Can help you write-up your findings

### ❖ Challenges

- Reliability
- Privacy – DO NOT use confidential data or client information
- Evaluating nuances

# Step 6: Test your conclusions

## Step 6: Test your conclusions

- ❖ Consult multiple sources to test your conclusions
- ❖ Investigate and resolve conflicting guidance
- ❖ Confirm via primary sources (statute, regulations, case law)
- ❖ Refine search
- ❖ Keep hierarchy of authority in mind
  - Primary vs. secondary sources



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# Step 7: Document & communicate conclusions & recommendations

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## ❖ Format

- Memo to file
- Letter to client
- Matrix
- Procedure document
- Audit appeal petition

## ❖ Content

- Conclusions should include alternatives, recommendations
- Might have no single “best” alternative
- Evaluate pros/cons of alternatives and likelihood of prevailing
- Consider accounting rules & disclosures (ASC 450, FIN 48)

## ❖ How communicated/disseminated?



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# Step 8: Ensure ongoing accuracy & compliance

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## Staying Current with State Tax Changes

- ❖ Make staying up-to-date a HABIT
- ❖ Monitor legislative updates and tax agency announcements
- ❖ Subscribe to state tax alerts and newsletters
- ❖ Set ongoing searches in tax research tools
- ❖ Periodically re-evaluate tax positions (e.g., quarterly, annually)
- ❖ Periodically update tax matrices and taxability guides
- ❖ COMMUNICATE changes/updates to all internal & client stakeholders.

# Conclusion

# Key takeaways

- ❖ There is no single perfect way to do state tax research
  - Approach varies by state, issue, tax type, available resources, etc.
- ❖ Understand (and document) the facts and key issues **before** starting your research.
- ❖ Be disciplined - **How** you conduct your research is as important as where you search.
- ❖ Understand the hierarchy of authority and the difference between primary and secondary sources.

# Key takeaways

- ❖ Document conclusions, alternatives and recommendations in a clear, actionable manner.
- ❖ Communicate recommendations & procedures to all stakeholders
- ❖ Follow-up to ensure proper implementation.
- ❖ Re-evaluate and update periodically to ensure ongoing accuracy.
- ❖ Make staying current a HABIT.



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## **Charleston**

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