

Alert | State & Local Tax (SALT)

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SALT Q1 Legislative Highlights and Trends

This GT Alert highlights some of the legislative trends in state and local tax that emerged during Q1 2023.

- *States keep cutting rates.* The states by and large remain flush with cash and continue to cut income tax rates. In the first quarter of 2023, five states cut rates. While most of the rate cuts continue to be to personal income tax rates, at least one state – Utah – has cut its corporate income tax rate.¹
- *States continue to move toward single sales apportionment.* Montana passed legislation that will require single sales factor apportionment for tax years beginning after Dec. 31, 2024.² Virginia passed bills that will allow certain corporations to elect to use a single sale factor beginning with taxable year 2023.³ Tennessee’s recently introduced budget bill also includes a single sales factor provision. And New Mexico’s omnibus tax bill, which passed, includes a single sales factor apportionment provision.⁴ The governor, however, used her line-item veto power to remove various tax provisions, including the shift to a single sales factor.
- *States continue to introduce digital advertising tax, data tax, social media bills despite the Maryland litigation.*⁵ While nine states have introduced bills targeting data and digital advertising taxes, only one has progressed.⁶ Specifically, Kentucky House bill 360 (HB 360) expanded the 6% sales tax on

¹ AR SB 549; MT SB 121; UT HB 2138; VA HB 2319; WV HB 2526.

² MT SB 124.

³ VA HB 1978, VA SB 1346.

⁴ NM HB 547.

⁵ See *Chamber of Commerce v. Franchot*, U.S. Chamber of Commerce Litigation Center, and *Comptroller of Maryland v. Comcast of California, Maryland, Pennsylvania, Virginia, West Virginia LLC et al.*, case number 32, in the Maryland Supreme Court.

⁶ Including, but not limited to: CT SB 351, CT HB 5658, CT HB 5673, IA SF 486, IL SB 2307, IN HB 1517, KY HB 5, KY HB 360, MA SD 1439, MA SD 1711, MA SD 1768, MA SB 1892, MA SB 1896, MA HB 2787, MA HB 2821, MA HB 2828, MA HB 2930, MA HB

telemarketing service to include all online advertising provided through text messages or “other modes of communications, including but not limited to various forms of social media.” But seven days after HB 360 was signed, Kentucky’s governor signed Kentucky House Bill 5, which removed the sales tax on social-media-related telemarketing as passed in HB 360. Thus, it appears Kentucky will also continue to wait and see what happens in Maryland.

- *Uptick in proposals to tax electric vehicle (EV) charging stations.* Although no bills on taxing EV charging stations passed in the first quarter of 2023, at least 12 states are considering such new taxes.⁷
- *Oregon taxpayer favorable bills are moving.* The Oregon House Revenue Committee is considering a handful of bills that would help taxpayers. Those bills include repealing throwback for apportionment purposes;⁸ giving the Oregon Tax Court jurisdiction over local income tax matters;⁹ allowing standing association in the Oregon Tax Court for declaratory judgment actions;¹⁰ and providing state and local tax base alignment for local income taxes.¹¹ These bills have all had hearings and appear to be moving forward this session.

This is not an exhaustive list of all the state tax bills and proposals that have passed or are moving this legislative session. Rather, they show some trends that have emerged during the first quarter of 2023. Most legislatures are still in session. Thus, these trends are likely to evolve, and other new trends are likely to emerge.

Authors

This GT Alert was prepared by:

- **Nikki E. Dobay** | +1 916.868.0616 | Nikki.Dobay@gtlaw.com
- **DeAndré R. Morrow** | +1 202.533.2317 | morrowde@gtlaw.com

Greenberg Traurig’s State and Local Tax (SALT) Team:

Arizona

- **Jake B. Smith** | +1 602.445.8334 | smithjake@gtlaw.com

California

- **Bradley R. Marsh** | +1 415.655.1252 | Bradley.Marsh@gtlaw.com
- **G. Michelle Ferreira** | +1 415.655.1305 | ferreiram@gtlaw.com
- **Colin W. Fraser** | +1 949.732.6663 | frasercw@gtlaw.com
- **Courtney A. Hopley** | +1 415.655.1314 | hopleyc@gtlaw.com
- **Natalie Mackary** | +1 949.732.6540 | mackaryn@gtlaw.com
- **Cris K. O’Neill** | +1 949.732.6610 | oneallc@gtlaw.com

2966, MA HD 1507, MA HD 1683, MA HD 3052, MA HD 3144, MA HD 3230, MA SB 1846, MD HB 711, NY AB 3959 (=SB 2012), NY SB 1845, NY SB 5662, NY AB 4821 (= SB 3192), NY AB 5842 (= SB 5551), NV AB 421 .

⁷ GA HB 406 , ID HB 130 , ID HB 185 , IL HB 2525 , IL HB 2561 , KS HB 2004 , MA SD 795 , MN HF 2878 (= SF 2855), MO HB 414 , NC HB 128 , NE LB 505 , OR HB 2301 , TX HB 3802 , WY HB 275

⁸ OR HB 2546

⁹ OR HB 2576

¹⁰ OR HB 2575

¹¹ OR HB 2548

- Shail P. Shah | +1 415.655.1300 | Shail.Shah@gtlaw.com
- Ruben Sislyan | +1 310.586.7765 | sislyanr@gtlaw.com
- James T. Smith | +1 415.590.5104 | James.Smith@gtlaw.com
- Jennifer A. Vincent | +1 415.655.1249 | vincentj@gtlaw.com

Colorado

- Marc J. Musyl | +1 303.572.6585 | musylm@gtlaw.com
- Neil Oberfeld | +1 303.685.7414 | oberfeldn@gtlaw.com
- Andrew P. Rubin | +1 303.572.6552 | rubina@gtlaw.com

Delaware

- Jonathan I. Lessner | +1 302.661.7363 | lessnerj@gtlaw.com

Florida

- Marvin A. Kirsner | +1 954.768.8224 | kirsnerm@gtlaw.com
- Joel D. Maser | +1 954.765.0500 | maserj@gtlaw.com

Illinois

- Lawrence H. Brenman | +1 312.456.8437 | brenmanl@gtlaw.com

Massachusetts

- Brian Gaudet | +1 617.310.6000 | gaudetb@gtlaw.com
- James P. Redding | +1 617.310.6061 | reddingj@gtlaw.com

New Jersey

- Martin L. Lepelstat | +1 973.443.3501 | lepelstatm@gtlaw.com

New York

- Scott E. Fink | +1 212.801.6955 | finks@gtlaw.com
- Barbara T. Kaplan | +1 212.801.9250 | kaplanb@gtlaw.com
- Glenn Newman | +1 212.801.3190 | newmang@gtlaw.com
- Shira Peleg | +1 212.801.6754 | pelegs@gtlaw.com
- Ivy J. Lapidés | +1 212.801.9208 | lapidesi@gtlaw.com

Northern Virginia

- Richard J. Melnick | +1 703.903.7505 | melnickr@gtlaw.com

Oregon

- Nikki E. Dobay | +1 916.868.0616 | Nikki.Dobay@gtlaw.com

Texas

- Josh Prywes | +1 214.665.3626 | prywesj@gtlaw.com

Washington, D.C.

- **DeAndré R. Morrow** | +1 202.533.2317 | morrowde@gtlaw.com

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