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Peter Blocker: The most concerning piece of what the LAO has reported and their analysis of the budget is this ongoing structural deficit of between 30 and \$40 billion.

Nikki Dobay: [00:00:30] Hello and welcome to GeTtin' SALTy, a state and local tax policy podcast hosted by Greenberg Traurig. My name is Nikki Dobay, shareholder in the Sacramento, California and Portland, Oregon offices. We are doing California again, folks, and I'm very pleased to have with me vice president of policy for the California Taxpayers Association, Peter Blocker. Peter, thank you so much for being [00:01:00] here.

Peter Blocker: Nikki, thank you for having me.

Nikki Dobay: Now, Peter, one thing I thought about is I think this is the first time you've been on the podcast. I'm seeing you're shaking your head, so that's good.

Peter Blocker: That doesn't go well over radio or a podcast, but I think that's true.

Nikki Dobay: One thing I do ask new guests is I usually say, how did you get into state and local tax? I think you might have a little bit of a different spin on this. How did you kind of get into doing policy [00:01:30] work in this area?

Peter Blocker: It's a long and funny story, so I'll try and keep it short, but I was interested in politics and getting into politics, and my younger brother had an internship and he started working at a place called CalTax. He called me and he said, "I'm working at this place and you have to come here." He goes like, "I shouldn't have this." He said, "You should be working here." He actually helped me get a meeting with Teresa Casazza, who was president at that time, [00:02:00] and I met Dave Doerr. And I was happy that Dave Doerr told me he prefers to work with young people when they don't have any background in tax because he doesn't have to-

Nikki Dobay: Untrain them?

Peter Blocker: ... untrain them from all the bad stuff they learned. So, that's kind of how I got started and I've been here ever since.

Nikki Dobay: Well, on the next podcast, we'll have to find out what happened to your brother because apparently, you've displaced him when you took his job.

Peter Blocker: He's doing very well.

Nikki Dobay: Okay. Okay. Good. Good. Good.

Peter Blocker: He's very, very well. [00:02:30] Yeah.

Nikki Dobay: I'm glad everything worked out in the family. Well, thank you for that. I always like for the listeners to be able to hear from the folks on the podcast about how they got into this crazy SALT world we live in. We are here today to really talk about California and we're not going to go do a deep dive into any one thing. You're going to get us caught up on what the hell is going on because the legislature is in session and [00:03:00] there was a good spell where California was one of those states that wasn't really on my list of things are going to get crazy, but then-

Peter Blocker: A budget surplus will help with that.

Nikki Dobay: Right. Right. Giant budget surplus for several years, and then all of a sudden last year, things started to get a little... We started hearing like, "Oh, the states are still doing good, except for California."

Peter Blocker: How could that happen?

Nikki Dobay: How could that happen? There was so much money. [00:03:30] And then, you kept hearing that, and then it kind of got worse and worse and worse, and now it seems like there's alarm bells with respect to the budget. So, start out by just talking about the budget a little bit and how bad it is in California.

Peter Blocker: Yeah. It's amazing how you can go from record budget surpluses to this. Governor announced in his January budget announcement, his office says that was estimated a \$38 billion shortfall. [00:04:00] LAO has since come out and said it's \$73 billion. In January, they were \$15 billion shorter. So, as revenues coming in, they're being more pessimistic. The governor's office has put out statements saying, "We're more optimistic." But how do you go from surpluses to this? The state budget has grown over a hundred billion dollars over the last several years, just staggering amount, and that plays into what I think is the most [00:04:30] concerning piece of what the LAO has reported in their analysis of the budget, which is this ongoing structural deficit of between 30 and \$40 billion. So, they predict that for Governor Newsom's remaining of his tenure in office, he will be facing these budget deficits. So, that is where I think all the leverage will come for increasing taxes, looking for more revenue because there's a lot of money they just can't [00:05:00] fix with one-time gimmicks and other changes.

Nikki Dobay: All right. So, it's pretty bad is what you're saying?

Peter Blocker: Yeah. Yeah, that's pretty bad.

Nikki Dobay: Okay. All right. Good thing we got that out of the way. It sounds like one thing California might not have done with all that money they got from the federal government was use it for one-time spending, which is kind of what the states

were supposed to do. Well, we'll just put it aside there. Okay. So, it's bad and the legislature is in session and initially, [00:05:30] we heard from the governor no new broad-based taxes, and then the assembly echoed that, but that doesn't mean no new taxes.

Peter Blocker: Yeah, that's right. The governor, he says no new broad-based taxes. He says he's not interested in taxes, but he said the budget doesn't have taxes and there's about over \$400 million in new taxes. Yeah. \$300 million of that is from an NOL conformity proposal, which is [00:06:00] not conformity. Though, that's how they described it. There's some revenue there for the elimination of the bad debt deduction and some other small changes that add up, but you have to keep in mind that's the amount of new revenue they are looking for before LAO... That's when they were at \$38 billion shortfall. LAO says it's much greater. So, even if the governor's more optimistic, it's likely that the amount in his May revision, [00:06:30] in May he'll come out with his new revised numbers for the budget, which they need to pass by June 15th, and it's likely he's going to have a bigger number than \$38 billion.

So, we've tried to address some of the issues with the NOL conformity proposal, for example. So, even if he didn't get rid of it, could he actually make it through conformity, it makes things like that much more difficult if they need more revenue [00:07:00] because any changes we are proposing would result in less revenue. At some point, they will have to make up the difference, so that's where I think the governor has had tax increases in the past, which he just doesn't call tax increases. Yeah. They're conformity or just, yeah, it's the way that it's phrased or as long as it's not broad-based, I think maybe there's some wiggle room there when describing [00:07:30] whether you're going to pass taxes or not.

Nikki Dobay: I think it's one of those think it, be it type things like if you just say it's not a new tax or it's not a tax increase, it isn't, but I wonder if that's actually true.

Peter Blocker: Yeah.

Nikki Dobay: Okay. So, from the governor's perspective, more towards May when we see how much worse it gets. And then, what about, there's not any crazy proposals coming out of the legislature, [00:08:00] are there?

Peter Blocker: No, of course not.

Nikki Dobay: Oh, okay.

Peter Blocker: We have crazy proposals when we have record surpluses, so of course we wouldn't have those when we actually are looking for money.

Nikki Dobay: Right. Right.

Peter Blocker: Yeah. We have a few of our usuals like AB 2200, which is universal healthcare, things like that, but we do have some new novel ideas. One is we are expecting a digital advertising tax to be proposed. That's something [00:08:30] that California hasn't seen before. We've only followed those proposals and the rest of the country, and of course closely follow what's happening in Maryland with that, but we are expecting at least the chair of the senate tax committee here, Senator Glazer, may introduce something and has expressed that that's something he wants to do. He has said that it might not be a digital advertising tax, but it's what they've explored and they had informational hearing on the proposal. It's garnered a lot of attention during the hearing. [00:09:00] I think it was mostly focused on the Maryland's digital advertising tax and really looking at something like that.

Nikki Dobay: Yeah. That was an interesting hearing. I was there and testified on behalf of the business community and taxpayer community. Everybody else was there, of course, in favor of this idea. Some more on the side of just protecting democracy and journalism, but I did have to sit at the same table with Professor Shanske [00:09:30] and have a little bit of back-and-forth there, so that was a lovely opportunity.

I will say that I also noticed just this morning, there was a news article in the tax press about Tennessee's proposal, which is they're trying to pivot away from this idea of a digital advertising tax to this bartering tax idea, and the majority of that article was about a couple of the folks that testified [00:10:00] in California. So, the gentleman from Meta that testified about digital advertising generally, I'm spacing on his name, and then there are also several quotes from Shanske in that article. So, it seems like if I'm reading between the tea leaves from some of the comments at the informational hearing, they're trying to say this is less like Maryland and more like this bartering tax concept, but the Maryland tax and the Tennessee proposal are pretty much [00:10:30] the same tax substantively.

Peter Blocker: Yeah. I've heard the term bartered tax used in relation to this behind the scenes, so not a surprise. Yeah. It was interesting in that you had at the hearing, and there were some witnesses who were there to describe the state of journalism and the potential author of this potential tax increase has said that it is this cause that [00:11:00] has caused him to kind of cross into the pro-tax arena, as he has not traditionally supported tax increases. But you even heard from witnesses from former journalists that they had issues and concerns with a digital advertising tax, so it's interesting.

There's another proposal, AB 886, from Assemblymember Buffy Wicks, the California Journalism Preservation Act. That's another proposal that is looking to find a way to fund journalism [00:11:30] different than this one, more targeted, another novel approach. But definitely, it's interesting that both of these proposals have come about because of journalism. It's not like they're separate. This idea of wading into the digital advertising tech space have both come about because of that. We're expecting a digital advertising tax at some point, maybe

not expecting it now, but I wouldn't have thought a few [00:12:00] years ago that this is what would've brought about these proposals.

Nikki Dobay: Right. This was definitely California. There kind of been these mumbles, some folks saying like, "Oh, California should think about this," but I'd always assumed it would be in the broader context of funding for general funding or education or some housing. I mean, I think there's a couple problematic things. One, you just talked about these structural budgetary issues [00:12:30] you all are going to have, as well as just the current deficit, and guess what this money won't do any good for.

Peter Blocker: Exactly.

Nikki Dobay: Yeah. Dealing with those bigger issues. I mean, that's one. This is kind of having just one aside and say typical California. It's like you guys need money, but you've decided or the proponents of this have decided to create a new project to fund, so they're just going to find some money for this. Not that I'm saying it should be passed [00:13:00] to fund things more broadly. I don't want the listeners to think I'm saying that, but then regardless if this money were going to structural issues or a specific cause, this tax is going to be the subject of litigation for many years, is likely to be found unconstitutional, and is not going to be a stable source of funding. So, kind of a bad idea all around.

Peter Blocker: Yeah. Just to that [00:13:30] point about the general fund needing help, we still see proposals even when there was a surplus looking for money for dedicated revenue sources. There was a bill AB 71 from a number of years ago. We have a surplus, but it's looking for funding for homelessness programs, and it originally proposed a corporate tax increase in the elimination of water's-edge, which elimination of water's edge worldwide combined reporting, those we have heard we may see this year. I've joked before about [00:14:00] how there are legislators who annually propose some of the taxes we expect corporate tax increase based on CEO pay. Like I said, elimination of water's-edge, those things. It's concerning that we haven't seen those yet and we've still seen a lot of bad proposals, mostly coming from moderate Democrats. Even a Republican has proposed something that is not typical as far as tax increases go. But the fact that if they need this revenue now, if [00:14:30] they need money for the general fund, something that's going to be caught up in litigation forever, I assume, regardless of what happens in Maryland. It's not a quick fix.

Nikki Dobay: No. No. Again, I do hope that they see that there's just so much wrong with these types of proposals and if they do want some stable funding, to take a harder look at that issue [00:15:00] in general and not just pass targeted discriminatory taxes because I don't think those are great for anyone.

Peter Blocker: Yeah.

Nikki Dobay: Other things that we need to... My eye's twitching a little bit, but what else do I need to be concerned about?

Peter Blocker: Yeah. We have the same senator, who may author digital advertising tax, has a bill that would end local sales tax sharing agreements. That [00:15:30] has been an ongoing issue here. The governor has vetoed a number of those bills that have reached his desk. Sort of some infighting with the cities. Some cities benefit from these. Those that do not have disagreements, they want the revenue. But what is most concerning and has caught our attention on this one is that it would end all of these agreements. So, essentially, there's a contract in place and it would wipe it out prematurely, so that's very concerning. That's one that I think [00:16:00] a lot of taxpayers are going to be watching closely.

A lot of labor bills I think that we've expected, but the unemployment fund issue here, California businesses are paying higher taxes because of the money owed on UI funds, and there's a bill to extend UI unemployment insurance benefits to striking workers, which of course would make matters worse. That actually reached the governor's desk last year, but [00:16:30] was vetoed. There are some other proposals that would increase unemployment insurance related taxes, so that's been a big one. And that's another one of those where California legislators have been pretty good about not passing broad-based tax increases, but whether they're taxes or fees, but other ways that I think is becoming costlier for employers to operate in California.

Nikki Dobay: Peter, with respect to timing, you noted [00:17:00] that the budget process needs to be complete by June 15th, so May, I think there'll be another revenue forecast maybe, and then there'll be updates to the governor's budget. Aside from that, if we're looking at just one-off tax or revenue raise or proposals, can those come about at any time? Is there any point when we can worry less or do we just need to be on high alert?

Peter Blocker: I hate [00:17:30] to bring bad news, but high alert all the time, 24/7 in California. Yeah. We can see those one-off bills anytime. What is very stressful is that all major policy from the governor's office, so anything that costs money, a lot of the bigger policy proposals have traditionally last, or not to say traditionally, but until maybe last five, six years and this has been increasing, [00:18:00] we've seen everything get into the budget, become part of the budget process. So, budget trailer bills in California is where you can see a proposal pop up, one of these ideas, that it's being talked about now as this one-off policy proposal. We're going to see it in a bill. It'll then have to go through the policy process, have to get floor votes, then go to the other house, et cetera. These appear in a budget trailer bill and they just hit the ground running [00:18:30] very quickly, very little time or room for debate, and they can be very difficult to stop, so that is where we get nervous. This is the environment where that kind of thing can happen, right?

Nikki Dobay: Yeah.

Peter Blocker: There's already been this proposal for the budget and now we know or it's likely that they made the budget forecast. They may be looking at, the numbers may be worse, so it's in that period between May and June 15th where you could just see these budget trailer bills appear. [00:19:00] And sometimes they're part of bigger proposals, so there's things that people like, and then something that they don't like. That's what causes us a lot of stress and where you can see a lot of bad proposals. So, on top of the fact that we could just see something in the last week of session that there's a bad proposal, a bad bill that comes forward, they can waive rules to do things like that, but typically, you're going to have to get through some policy committees and give us at least a fighting chance. But [00:19:30] with the budget, it's much more difficult.

Nikki Dobay: And there, you can see that's where all these negotiations are happening and people are getting their pet projects in. And that's what's making me very nervous about California this year is these big bold statements that we don't want any new broad-based taxes or just broad-based taxes. There's a whole lot of things that can happen with very tiny little narrow targeted discriminatory [00:20:00] taxes or big discriminatory taxes against large corporate taxpayers or whatnot. There's a whole lot of other things outside of broad-based taxes, so California is stressing me out too.

Peter Blocker: Yeah. This problem also occurs where you get proposals that maybe aren't as bad as you thought and they're still bad. How much do you push against those? [00:20:30] You just can't go out and oppose them. There's a lot of conversations we have to have and a lot of discussions because the last thing you want to do is to push back against, for example, an NOL conformity proposal and that turn into a limitation on tax credits for several years or some sort of temporary fix. Yeah. Even if it's temporary, but I think that is where some of the danger is.

Nikki Dobay: The one last thing I'd say on that is [00:21:00] I think what also makes things happening through the budget process really hard is even if we're talking about something like an NOL suspension, although they're calling it conformity, there's a lot of nuances there. And this happened the last go-around with the NOL suspension in California is that was never supposed to be anybody actually losing NOLs. It was just supposed to kind of be smoothing out the budgetary process, but there were [00:21:30] taxpayers that lost their NOLs because tax is complicated and tax is difficult, but you don't get those policy conversations or the time to really focus on the language to make sure that it's buttoned up.

Peter Blocker: Yeah. There can be a reluctance to take amendments because sometimes a legislator, if it's not a passion for them, if they're not tuned in to do it, once it gets out of a policy committee, gets out of one of the houses, the last thing [00:22:00] they want to do is have to go back and have another boat on it or there's many political reasons why they don't want to do what is best to better tax policy.

Nikki Dobay: To your point, sometimes you don't want to mess with it because you don't want to get something that's worse.

Peter Blocker: Exactly. Exactly.

Nikki Dobay: And I know having been at cost, you walk that fine line of you don't let perfect be the enemy of good, and you have to know when not to tinker because there's too [00:22:30] much risk.

Peter Blocker: Yeah. I'm sure that's true of any legislature throughout the country. There's some of these rules, but it just seems like or at least I've heard stories from others to validate this, that it's just more dangerous in California. It's easy for a bill to get taken over and out of your control.

Nikki Dobay: Well, the stakes are so much higher. I mean, California's almost every taxpayers' biggest state, multi-state, taxpayers' biggest state, so a minor [00:23:00] tweak has a huge impact, whereas a tweak in Oregon or a tweak in North Dakota or South Dakota isn't going to make that big of a difference. So, when people heard digital advertising tax proposal in California, that set a lot of people's hair on fire.

Well, Peter, this has been a really depressing conversation and I think we're going to have to catch back up May, June to see what the hell's going [00:23:30] on then, and if anything else pops up in the interim, we'll do that as well. Before we go, two things to tell the listeners. CalTax, California Taxpayers Association, is a wonderful association. They do great work. If you have tax issues in California, please reach out to Peter and the rest of the staff. They are an amazing team. But we also have to do a surprise non-tax question.

You all had your annual meeting last week and it's one of my favorite meetings. [00:24:00] I was not able to go because of another conference commitment, but it's always just a fun meeting. It's a great group of people that go, so it's always fun to see all the folks that attend regularly, the people on your board, and then there's some kind of reoccurring panels that are great. So, there's a lot I missed about it, but as a person that was there in the room, what was the highlight for you at this year's meeting? For those of us who weren't there, what was your favorite [00:24:30] part of the 2024 CalTax Annual Meeting?

Peter Blocker: Yeah. If you're listening to this and you've never attended the annual meeting, it is a lot of fun and there is a lot that's hard to translate unless you've been there. One thing, Dave Doerr was a longtime policy analyst for CalTax, had a long tenure in the legislature as the principal chief consultant of the Revenue and Taxation Committee, and he passed away a couple of years ago, [00:25:00] so we've since created an award in his honor, the Dave Doerr Award, that is given to distinguished people in the tax world. And this year, Barry Weissman was the winner of the award, and he actually worked for CalTax for a couple of years after what he thought was going to be retirement and has done a lot of great work, and I've worked with them for as long as I've been doing this. A really great guy. I'm really happy to see him get the award. [00:25:30] That was probably my favorite part.

Nikki Dobay: Oh, that's awesome. Barry's such a great guy, so that's a pretty special thing to have happened and that's so great that you guys created that award. But the bigger question is who's taking over the California Tax Machine book? Because that's a big Dave legacy as well.

Peter Blocker: Yeah. For those of you who haven't seen the California Tax Machine or read it before, Dan Walters, who is a longtime [00:26:00] columnist, he works for The Sacramento Bee for years. In Sacramento, we call it the Bible of taxes or of California taxes, and it's a long read. It's great. It has everything and just for reference, it's great. Yeah. But it has been updated a number of years. Rob Gutierrez is president of CalTax. He and I tried to update it a few years ago and it was hard, a lot of work. There's just so much. Dave, once again, [00:26:30] if you've seen it, he didn't leave much out.

Nikki Dobay: No. No. I'm looking at it on my shelf and it's a thick one. It's a couple of inches.

Peter Blocker: Yeah. I'm very lucky that I have some of the digital files that were used to create it, so Control+F is very helpful for me when looking at that. I know other people don't if you buy a copy, but it's great, and would love to see it updated someday or soon, and maybe we can make that happen. I know a lot of people would like that.

Nikki Dobay: All right. Well, [00:27:00] you guys need an intern to get working on that.

Peter Blocker: Exactly.

Nikki Dobay: All right. I'll lobby Rob on that too.

Peter Blocker: Yeah. Yeah.

Nikki Dobay: Well, Peter, thank you so much for this conversation. Again, it's raised probably everybody's stress level, but hopefully, we could again bring it down a few notches in upcoming months. Although, it's not sounding like the budget's going in the right direction. Thank you again. Thank you to the listeners for tuning in. Contact information for Peter and I [00:27:30] will be in the show notes. If you have any questions or comments, do feel free to leave those in the show notes as well, and I look forward to being with you again soon on the next GeTtin' SALTY.