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Jared Walczak: Well, here's the problem. The property tax is about as transparent as you get among major taxes. You probably know what you pay in property taxes. No one knows what they pay in sales taxes. People don't even know what they pay in income taxes much of the time.

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. I'm very pleased today to be rejoined by a good friend and colleague, Jared Walczak. Jared is the Vice President of special projects at the Tax Foundation. Jared, thank you so much for joining me again.

Jared Walczak: [00:01:00] Well, thank you for having me on.

Nikki Dobay: So, Jared, we are just going to catch up. It's been a while since you've been on the podcast, and I can't imagine you haven't been busy. So actually, I want to go back in time a little bit, and what were your overall impressions at the end of 2023 going into 2024 sessions?

Jared Walczak: Well, we knew that this year would be different than the last few. We had about three years of record revenue growth for the states, [00:01:30] and with that, you saw just a massive number of tax reductions, rate reductions in just about every state. Those are individual income tax cuts, corporate income tax cuts, and a few state sales tax reductions, basically tax relief. And now we're at a point where revenues are stabilized. They've even received it a little. This isn't necessarily a problem, it's certainly not a crisis in most states when you have years of record-breaking highs, and you plateau, you're not in crisis, or at least you shouldn't be if you've planned [00:02:00] for it, but it does change the dynamics. So we expected this would be a year where there were fewer tax cuts and that states that had a different agenda where there was more interest in some new taxes, some different types of taxes, more progressivity that they would be exploring some of these options. And that's very much what we're seeing right now.

Nikki Dobay: That's a great point. And I don't know if surprise is the right word, but the states are still, for the most part, there are a few outliers in pretty good shape when it comes to [00:02:30] revenues. As you said, revenue, the growth is not there like it was over the past several years, but the states still, as their budgets are coming out, there seems to be surpluses and things going in the right direction by and large. So where have you been kind of focused or what... Maybe give me your big issues that you've been working on now as we're kind of in the midst of the 2024 session.

Jared Walczak: [00:03:00] There have been a number of issues. Now, there's still states that are looking at tax relief and even offering it, states like Idaho, Utah, Iowa. Others are still looking very much at tax relief. But increasingly, especially along the Eastern seaboard, there's been a lot of interest in some new taxes or more aggressive taxes on both high earners and on businesses. So these are things like worldwide combined reporting sort of reviving this idea that we had in the 1980s. I think [00:03:30] it's a deeply flawed idea, but certainly it's popped up in a number of states this year in Vermont and Maryland, to a lesser extent already sort of gone in New Hampshire, last year in Minnesota as well. We've seen greater interest in digital products taxation and particularly the possibility of putting that on business inputs. So in Virginia, that is an active issue where there is a budget that contains that, the governor's not interested, and we'll have to see where the budget negotiations go. We've seen [00:04:00] higher guilty inclusion on the agenda, higher individual and corporate income tax rates.

And then on the completely opposite side of this, a form of tax relief, but maybe not a well-designed one. There's a lot of interest right now in substantial property tax relief, and sometimes that's manifesting in proposals to eliminate the property tax altogether. We're seeing that in Nebraska, in North Dakota, something close to that in Wyoming, and to a lesser extent in states like Texas and Florida [00:04:30] where it's sort of been a perennial issue. But these are, in some cases, serious proposals in the sense that we should take them seriously. They're not necessarily serious in the sense that they work from a policy standpoint that the numbers add up, and there's, I think, some real pitfalls if that happens.

Nikki Dobay: So let's talk about that because we haven't talked about property tax for a while on the podcast, and this has been a trend. I think we've seen it. Some of the organizations like NCSL [00:05:00] and Institute for State Policy Leaders, we see the legislators talking about what can they do about property taxes. And the property tax, from my standpoint, it's working if it's going up when your property values go up, that's what it's designed to do. So how do you talk to policymakers about this issue? Because I think they want to provide relief for their residents, but [00:05:30] the taxes doing what it's supposed to, the policy's actually working.

Jared Walczak: Well, here's the problem. The property tax is about as transparent as you get among-

Nikki Dobay: Right.

Jared Walczak: ... major taxes. You probably know what you pay in property taxes. No one knows what they pay in sales taxes.

Nikki Dobay: Exactly.

Jared Walczak: People don't even what they pay in income taxes much as the time, especially state income taxes. So you get this tax bill in the mail once or twice a year and it's big and you feel it and it's awful. Everyone hates it. So this transparency, which is a really good thing, contrasted with the lack [00:06:00] of transparency in other taxes, creates significant unrest. And then you combine that with really the last few years where-

Nikki Dobay: Right.

Jared Walczak: ... assessed values have soared. Case-Shiller with a measure of this, I think like 42% average increase in assessed value over a three-year period. We have some numbers from the federal government going through 2022, and it's 36 over three years. I think it's higher than that if you can bring it forward. But regardless, 36, 42, some suggestion, it might be getting close to 50 over [00:06:30] three and a half years. That's huge.

Nikki Dobay: Right.

Jared Walczak: And if your millages, if your rates have not been rolled back, now you're paying 42% more.

Nikki Dobay: Right.

Jared Walczak: And understandably, that doesn't seem right.

Nikki Dobay: Right.

Jared Walczak: You're not getting 42% better government, you're not getting 42% more government, why are you paying 42% more? Now, a lot of responsible local governments have rolled back those millages. They've said, "Inflations raised our costs. Maybe we need some adjustment, maybe we need to grow some things, but we don't need 42% more," and they've made that adjustment, but not everyone has.

Nikki Dobay: [00:07:00] Okay.

Jared Walczak: And if you are one of those residents who hasn't had a local government take care of that or you don't know that it's happening, you are horrified When you see your new assessed value and you go to your legislators and you say, "Do something about this." And state legislators feel like their hands are a bit tied. I mean-

Nikki Dobay: Right.

Jared Walczak: ... this is not their issue, but they have a few tools and they're not great tools. So some of them have said, "Well, let's put assessment limits in, sort of Prop 13 California style," which creates a crisis over the long term because you are

creating a lock-in effect, you are [00:07:30] essentially almost holding harmless properties, not letting their values grow as long as they don't turn over, but someone else has to pay that.

Nikki Dobay: Right.

Jared Walczak: So new homeowners, new properties, sold properties, it gets placed here. And this means it's harder for people to buy their first house, it means that it's more expensive to build new housing. So we sort of have this effect that redounds that it's harder to have housing, to build housing because of the way the tax structure is. We don't want [00:08:00] this. This is bad, but policymakers say, "Well, here's a way to provide relief." We see levy limits. That's a much better approach where we're saying, "Effectively, let's force the millages to roll back to some degree to keep everything in check." Or when people aren't satisfied, there's the radical approach, which is, "What if we just didn't have a property tax?" And that's the proposal in Nebraska right now, something called the EPIC option, which is actually larger than just property taxes-

Nikki Dobay: Right.

Jared Walczak: ... but that was the impetus for it. But it's eliminating the income [00:08:30] tax, individual and corporate, the property tax, taking away the current sales tax and replacing it all with a supposedly broad-based consumption tax. And the numbers don't add up. I mean, the proponents are saying they can do it with a seven and a half percent tax. We recently did an analysis, we think it'd be a close to a 22% tax-

Nikki Dobay: Okay.

Jared Walczak: ... just to replace the revenue. And honestly, there's some good reason to believe it could be even higher than that. It wouldn't work, but it's out there. It's potentially going to be on the ballot in the fall.

Nikki Dobay: Well, and how do the [00:09:00] state legislators get their... I think the tools that they do have sound right, but if they're going to eliminate the property tax, they're just going to, all of a sudden, take on with this new broad-based consumption tax, the revenue for the localities. I mean that's... And that also seems to go to this issue of local control.

Jared Walczak: Absolutely. Our system of fiscal federalism has local governments [00:09:30] raising at least a portion of their own revenue so that it's under their control. If the state government is assuming functionally all of that, then we're completely changing the nature of local government. Now, I mean, listen, local governments are not completely autonomous, they're not independent. They are political subdivisions. They're accountable to the state. In most states, they don't have complete home rule authority.

Nikki Dobay: Right.

Jared Walczak: It's constrained, but still they make most of their decisions on their own and they have their own tax authority. I mean, that's [00:10:00] just basic to being a governing unit. So you change this, the state's basically running them.

Nikki Dobay: Well, I mean, even states that have no home rule control, essentially, they still have local property taxes.

Jared Walczak: Absolutely.

Nikki Dobay: Washington is the state that comes to mind that is a state-level property tax, but there's still local property tax piece. And to take away even that piece of the funding really [00:10:30] just seems to turn the system on its head.

Jared Walczak: It does. I mean, 72% of local taxes across the country are property taxes. For a state to be taking that away means taking away the primary source of revenue for local governments. And it's not easy to replace that. I mean, you can have local sales taxes and a lot of places do, but it's not easy to replace the property tax revenue. So it means the state has to assume it. It probably means with less economically efficient taxes, it's going to fall in the income tax or it's going to be a broadening of the sales tax base to have more business inputs. It's going to be something [00:11:00] that is more economically distortionary than the property tax, and it's going to change the locus of control because if the government at the state level is controlling the purse strings, that can come with additional obligations. It also means that during recession, local government really isn't controlling its own revenues in the same way state governments may curtail that more. It's always a concern with the transfers local governments get from state governments, but imagine it's basically all of your revenue.

Nikki Dobay: Right.

Jared Walczak: I don't think there's a lot of concerns here and [00:11:30] I don't think being adequately considered as some of these states try to go down this path, usually by a citizen process. The more radical approaches are not originating in legislatures, although in Wyoming, there's certainly a drive to functionally eliminate the property tax for most residential homeowners in exchange for a two percentage point increase in the sales tax.

Nikki Dobay: In Nebraska is the elimination of the property tax that's legislative right [00:12:00] now.

Jared Walczak: There is legislation. It has not gone anywhere-

Nikki Dobay: Right.

Jared Walczak: ... and there is an effort to put it on the ballot to go around the legislature, and that's probably the more likely route if this were to happen.

Nikki Dobay: And do you have any sense where the local governments are on this? Have you heard kind of an outcry on this side? Because it would seem to me that they wouldn't be super [00:12:30] pumped about this.

Jared Walczak: Local governments do not want their funding streams blown up.

Nikki Dobay: Okay.

Jared Walczak: If anything, I think that local governments are often dragging their feet a little too much on positive reforms. They don't want any change-

Nikki Dobay: Right.

Jared Walczak: ... because they like the certainty, they like the current system no matter what it is, but they've got a really good point here. I mean, this is blowing up the entire system.

Nikki Dobay: Right. And I've definitely made my fair share of statements asserting why I think home rule is not [00:13:00] always best, especially when it comes to compliance for multi-state taxpayers. But for property tax purposes, local administration makes sense. Assuming it's real property, you know where your real property is. And so the administration and those funds going to those localities for them to control and make use of really is sound tax policy.

Jared Walczak: It is. And like I already [00:13:30] mentioned, there's an economic case to be made here that this is a more efficient tax. It also comes closer to having the benefit tax apply than almost any other major tax we could talk about. When you are paying your local taxes, most of what most local governments do are services that benefit the vast majority of residents and homeowners. There's not a lot of transfers that happen at the local level. So this is funding your schools, your fire, your EMS, your police, your roads, all of the things that make your property more valuable. [00:14:00] And it does scale to some degree with the value of your property, what the value of those services is to you. And I sometimes hear people say, "Well, I don't have kids in school, so I'm not getting any benefit of the schools." And I don't know. When they go to sell their property and they wanted to see what they get for it, I bet they get more in a place with a good school district. And I bet that just overall, it's better to live in a place with a good school district.

Nikki Dobay: I think that's right. As a dog owner without kids, [00:14:30] and I grumbled about property taxes, but as they say, taxes are the cost we pay for civilization. And I think your point is well taken. We actually want the residents and their children to be well-educated and that just is good for everybody. So how have you been advocating on this issue and how have you been helping to the extent

this isn't at the ballot where we know it's very difficult to engage? No, but the voters [00:15:00] don't want to hear from you and I. it's so weird. But how are you helping the policymakers understand this issue?

Jared Walczak:

We have a recent paper, a colleague and I have a paper on Nebraska providing some analysis, going through the argument for why the property tax is good and shouldn't be eliminated, but also running the numbers and showing that the calculations that proponents are using in Nebraska is way off. We've been doing engagement in Wyoming and in other states. And more broadly, we're [00:15:30] trying to communicate a message to potential voters just to make sure that the broader public understands what the trade-offs here are. Now, ultimately, they have to make their own decision at the ballot box. It's not my job to tell them what they should vote for or against and that's not what we do, but I want people to be informed and I want them to understand the issues. And in particular, this codes as a fairly conservative issue, not exclusively. I mean, I think just about everyone can be upset at property taxes from time to time. [00:16:00] But when there's more of the visceral anger that, "Why should I pay taxes on something I already own? Look at these tax increases. How is this fair?" That tends to be more conservative.

So I have tried to get in front of more conservative audiences. I have a piece recently in National Review making the conservative case for maintaining the property tax. And there shouldn't be a left-right issue. I'm speaking to you because I think conservatives need to be the ones [00:16:30] who approach this issue. It's that this is where it's coming from. I think that the discontent is more from conservatives, it's showing up more in red states, and I don't think it's conservative to repeal the property tax. So I'm trying to address that in some of those audiences as well.

Nikki Dobay:

On the West Coast, Oregon and California both have caps. And to the point you made about Prop 13, in Oregon, our values don't even reset on resale. So [00:17:00] the brunt of the burden is on new construction. And there's been recently a lot of discontentment about that because, to your point, it makes it harder to even build affordable housing. And so while these caps went into effect when we were in a similar economy where the values were very high, long term, they are not the answer either.

Jared Walczak:

Yeah. When you have assessment limits, you are restricting the construction [00:17:30] of new housing. You're distorting the market. So conservative market types should really dislike that. Although if you're on the left and you're concerned about housing affordability and availability, you should be concerned about this too. If you're concerned about these distortions, lock-in effects not being able to relocate. Some of those things code maybe more conservative because their competitiveness issues, it's creating issues there. If you're concerned about lower income individuals, if you're concerned about minorities who do not have perhaps [00:18:00] the legacy of home ownership and you're concerned about the fact that when they go to buy a house, they have to pay

not just for themselves, but for the family that's lived somewhere for 40 years and is paying next to nothing, maybe that goes a little more left.

Nikki Dobay: Right.

Jared Walczak: Although I think that all of these issues should matter to everyone across the spectrum. There's good reason to want to keep property taxes in check. Assessment limits are a broken way of doing it. California is unfortunately a case in point on that, case [00:18:30] in point in a liberal state, although it was not necessarily a liberal measure. There are similar examples in red states. It's very popular. It's easy to grab onto. You latch onto it because which voter doesn't like to hear that their property taxes will barely ever go up? But it's really bad policy.

Nikki Dobay: Yeah, I agree despite benefiting from that policy living in Oregon. So it really sounds like the best thing to do here, and I think I heard this at [00:19:00] a conference at the end of last year, is there can be some looking at what the spending needs are of the localities or the jurisdiction and kind of addressing any inflationary issues or additional costs and then resetting that rate to account for these massive increases we've had in values.

Jared Walczak: Yes. In some states, you set [00:19:30] the budget first and the millages follow. You say, "We need to raise X amount, what millage rate do we need to get there?" Not simply, "These were our mills last year. The property tax base is massively larger now, I guess we get a lot more money." The other way you can approach this is by having some sort of state imposed limitation. It's often called a levy limit or a revenue limit. And it can have a growth factor built in, it can have an inflation factor built in, it can even have a voter override because there might be cases where you want to [00:20:00] increase property taxes for some specific purpose.

And it's almost certainly going to exclude new construction because you'd expect if there's more people, if there's more housing stock, you want to raise additional revenue. But if your existing housing stock is now worth 40% more than it was three years ago, you don't need to raise 40% more. It's the right thing to do probably to roll back those millages to some degree to bring the revenue more in line with where it had been. And levy limits can do that in a neutral way that's not distorting the market, that's not [00:20:30] saying someone pays almost nothing and others pay a massive amount. You want property taxes to scale-

Nikki Dobay: Right.

Jared Walczak: ... with assessed value, and assessed value to be real and meaningful. You just don't need the actual property tax bills to soar just because assessed value have risen.

Nikki Dobay: And are there good models out there or good states that have good mechanisms in place so that when the property values go back down, the budgets aren't severely cut, they can kind of just [00:21:00] increase the millage rate? And again, it would seem that that would create a lot of stability in the property tax that people are paying.

Jared Walczak: So New York and Massachusetts have pretty good models of levy limits that take most of these things into account, that restrain growth, but if the bottom falls out of the market, sort of allow a catch-up. Nevada would be an example of a state that didn't use to have this, that had limits, and there was a downward ratchet [00:21:30] that it reset. So after the Great Recession, Nevada got hit really hard. One of the first things you were probably going to cut out of your budget was traveling to Las Vegas after the Great Recession.

Nikki Dobay: Right.

Jared Walczak: So they got hammered and property values just plummeted and their caps ratcheted down with it. Then, of course, they caught up again. The values are significantly higher, but it was going to take years and years for them to be able to collect what they had been collecting [00:22:00] previously. And we suggested, and I don't know that they did because of us, but they ultimately did make an adjustment to eliminate that downward ratchet. You want to limit the rate of growth, but you do not want it to reset if you have a collapse.

Nikki Dobay: Right. So are these kind of good policy things that states could be doing where they're wanting to create some relief for their residents? Are those resonating? You're making progress on this, Jared.

Jared Walczak: I [00:22:30] think we're making progress.

Nikki Dobay: Good.

Jared Walczak: Levy limits have caught on in more states. Sometimes they've been tied to truth and track taxation measures, which can be a good thing. And we're trying to convince [inaudible 00:22:43] that those are much more responsible ways to go about this than assessment limits or massive homestead exemptions or just eliminating the property tax, but it's a continuing battle. Texas recently adopted extremely large homestead exemptions. Wyoming, [00:23:00] the governor vetoed a measure that would've functionally limited the property tax for most residents, but that veto, it's a good place to start. He was right to do that, but legislators are looking at trying it again. So we will see. You know as well as I do that in policy, you rarely have a victory and then just rest on your laurels and say, "Well, that's done. We don't have to worry about that again."

Nikki Dobay: Right. Well, and I do think that this is an issue where... Again, there's a huge outcry right now because of [00:23:30] the significant increases in values we've seen on the real property side. And as soon as we start to see a bit of a turn

there, it will get much quieter on this front. But what we don't want is a bunch of bad policies being passed when we know long-term that's not going to fix the problem.

Jared Walczak: Absolutely. And sort of returning to the things we started talking about, [00:24:00] right now, property tax revenues are robust and lots of other revenues for most states are robust as well. And sometimes it can be easy to say, "Well, we can just get rid of this. We have lots of other revenues elsewhere." But someday, whether it's this year, next year, or five years from now, revenues may be tighter. And it makes sense to provide tax relief where you can. But being really aggressive on something that doesn't actually grow your economy is going to make it much harder when things are tough. And if [00:24:30] you radically reduce the property tax or even eliminate it altogether, eventually, and maybe very soon, you're going to be raising some other tax and it's going to be way worse for your economy than the property tax.

Nikki Dobay: Right. And I feel like the Nebraska proposals that we're seeing are about as far as you can get to the trying to export your tax base because again, the property tax is so localized and make so much sense for the services that [00:25:00] people receive. And to just completely detach from that, which is a very big revenue source for the locals and to the states to some extent, but really seems to be going in the wrong direction.

Jared Walczak: I think it really is, and it's a big issue this year. So it's something we're focusing on a lot, but it's one of several issues. I feel like it's a more defensive year in many ways, but it's interesting that it's defensive in [00:25:30] some states saying, "Are you sure you want to go that far with illuminating attacks?" And in other states saying, "Are you sure you want to go that far in creating a brand new tax that no one's ever tried before?" So it's just one of those years.

Nikki Dobay: Right. Well, we just have a couple more minutes. So what other big issues that you're focused on this year or expect or things keeping you up at night on the tax front?

Jared Walczak: I can work some late nights in this job, but thankfully tax [00:26:00] doesn't keep me up at night.

Nikki Dobay: Good.

Jared Walczak: Maybe it should, but it really doesn't.

Nikki Dobay: Good.

Jared Walczak: That said, I think there are some real concerns out there. Digital product taxation continues to be a big issue. And hey, if we're talking about eBooks and audiobooks and streaming and other consumer digital products, it makes perfect sense to have them in the base. There's no reason to distinguish

between a tangible and a digital product, but the vast majority of transactions in the digital product space are business inputs. We already tax enough of those, we don't need to tax more. And [00:26:30] sometimes this gets framed as a tech tax, "Do we need to tax tech more?" But the reality is that every business out there is using this. I mean, try to find me a business of any size that doesn't have some subscription services that are delivered electronically, it doesn't have something processed in the cloud. It doesn't matter whether you are a farmer, a manufacturer, or a small business owner, whatever you are, you're using these services. And if you have to pay taxes on them, then [00:27:00] it's becoming much more difficult to operate in a particular location.

I think sometimes you hear, "Well, if you have a business input in your sales tax, you get tax permitting." And that's true. I think it's too simple because there's two different things that can happen. One, at every stage of the production process, you tax it again and again and again. And eventually, all of this is passed along to the consumer.

Nikki Dobay: Right.

Jared Walczak: The other is that it's absorbed by the business and they're at a competitive disadvantage against their peers. And really what makes the difference on whether you can pass this along or [00:27:30] not is, I mean, it's an elasticity question, but the real simple answer is, does it apply to your peers as well or not? So if you are providing a good or service and you have out-of-state competitors that are not subject to that level of, say, digital taxation or other business input taxation, well, you just don't have the profit margins they do anymore.

Nikki Dobay: Right.

Jared Walczak: You're operating in a much worse environment. And I worry when states start talking about, "Well, we're just going to do a broad expansion of digital taxation and see [00:28:00] what happens." In Virginia, a state that has done extraordinarily well with all of its data centers is talking about a meaningful expansion right now. It's not everything goes into the digital tax bucket, but it's a meaningful expansion. And that was not the original intent of the legislation, but that's where it stands right now within the budget. And the governor has said he doesn't want it, but we'll see where those negotiations go and what happens. I think it's more than a billion-dollar tax increase if it happens, and it's all going to be on Virginia businesses. [00:28:30] And that worldwide combined reporting, there are definitely a few significant issues, especially in the business tax space, mainly on the East Coast.

Nikki Dobay: Yeah. And then California's its own beast and is looking at all sorts of wacky things too. Well, Jared, thank you so much for catching up with me and filling me in on what you've been up to. And we'll definitely keep an eye on Nebraska and property taxes generally. And then [00:29:00] also Virginia, I know everybody's waiting to see what the governor does, and I hear the legislature is

getting set to come back. So it sounds like something is going to happen there and we'll have to see where that proposal ultimately lands.

So surprise, non-tax question, spring has sprung, so I'm not sure where you've been traveling these days. We have desperately been trying to plan a vacation and have been doing an abysmal job at it. So [00:29:30] my question is, do you have any fun spring travel coming up or just spring activities that you're excited about? And I'll say from my perspective, we moved to Bend. I was back in the snow this year. All those Northeastern Ohio driving instincts had to kick back in. We had our first 70 degree-day yesterday, and I am just so looking forward to being able to eat dinner outside and be outside and have warm weather. So if [00:30:00] I can't take a trip, I'm just looking for things to do in the warm weather. How about you now that spring is kind of here?

Jared Walczak: It's a busy time of year, so no significant trips, but planning on spending a three-day weekend in Quebec in about a month. Looking forward to that. I'm relatively recently married, so my travel has changed a little. My wife, when I say things like, "Hey, we could go to Gates of the Arctic," she says, "What's that name again? Gates of the Arctic? Why do we go there?" So some of my travel has changed, [00:30:30] but Quebec sounds like a lot of fun and that's coming up soon.

Nikki Dobay: All right. Is she on board for Alaska?

Jared Walczak: She's on board for Alaska in summer with road access.

Nikki Dobay: All right. So parameters. There's just-

Jared Walczak: Parameters.

Nikki Dobay: ... parameters. All right. Well, that makes perfect sense. Well, maybe I'll see you in Quebec. I'm still seeing if that one will work for me. But thank you again for joining me. Thank you to the listeners for tuning in. Contact information for Jared and I will be in the show notes. If you have any questions [00:31:00] or comments, please feel free to leave those in the show notes. And I look forward to being with you again soon on the next GeTtin' SALTy.