

State & Local Tips & Considerations

Alon Sherer, Senior International Tax Manager, PwC Israel
Larry Croock, State & Local Senior Tax Manager, PwC Israel

November 30, 2016

Agenda

- I. Managing Your SALT Compliance
- II. Compliance Updates & Tips

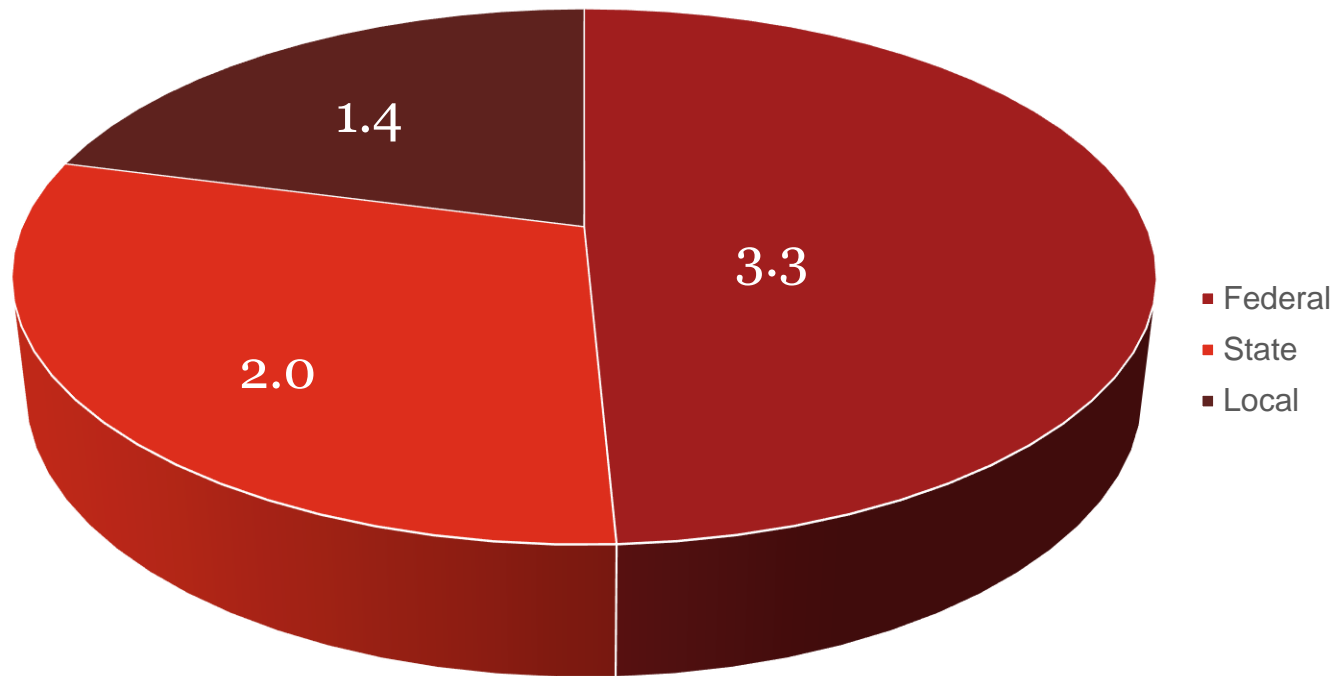


The galaxy of state taxes



FY 2016 U.S. Gov't Tax Revenues

Fed vs SALT (trillions)

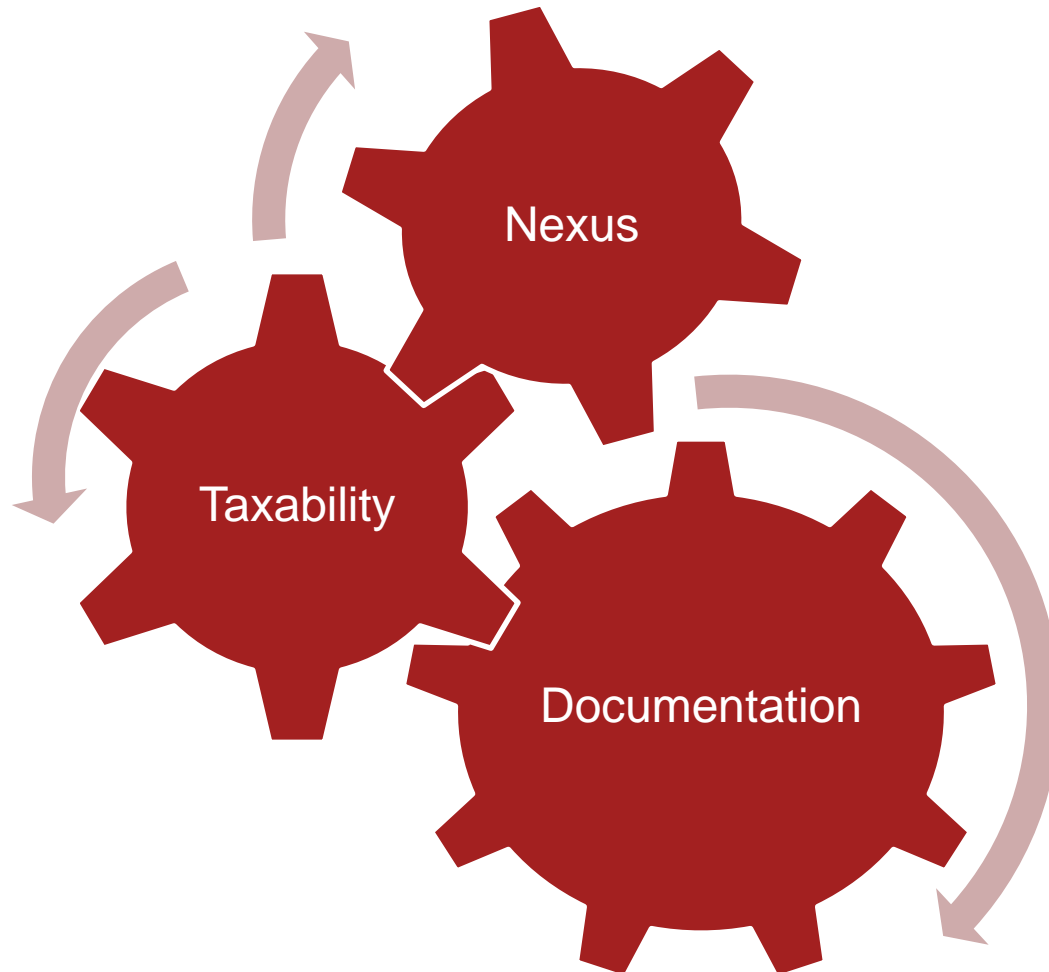


Managing your SALT Level

- Income Tax / Indirect Tax
- Financial Reporting
- Corporate Due Diligence
- State Audits



Key SALT Considerations



Notable Activities Which May Create Nexus

Capital Assets



Inventory



Contractors/Agents



Employees



Office



Solicitation Activities

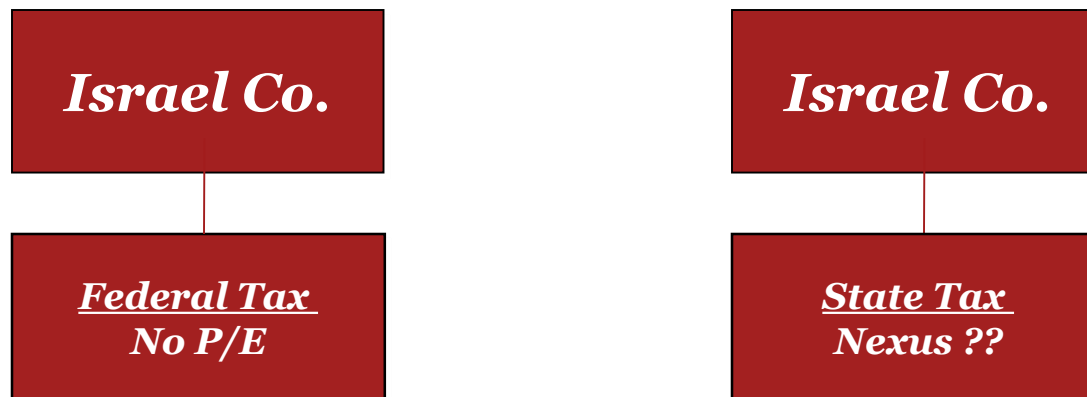
Public Law 86-272 (P.L. 86-272)

- In-state **solicitation** - activities of employees engaged in interstate commerce are limited to the mere solicitation of sales of **tangible personal property**, provided that the employees send the orders out of state for approval and processing
- Does NOT apply to sales tax, gross receipts tax or capital taxes
- Does NOT generally apply to foreign companies

PE VS. Nexus

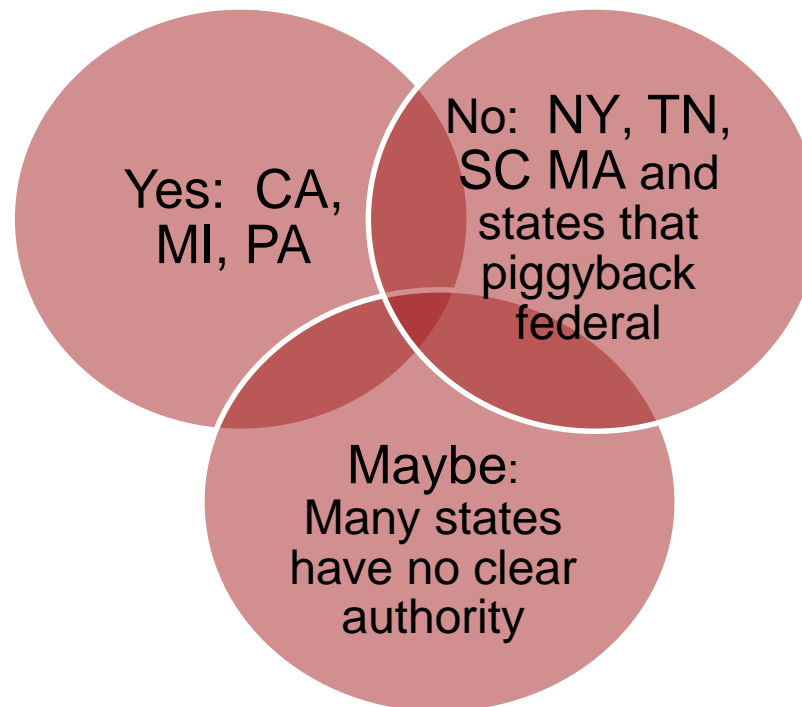
Israel Co. holds inventory on consignment in U.S.

- Treaty protection does not apply to states
- No statute of limitations for non-filers



ECI vs. Worldwide Income

If a foreign corporation has state nexus but does not have federal taxable income by reason of treaty protection or lack of ECI, will it be subject to state income tax?



Nexus impacts you in more ways than one

- Liability @ corporate level and personal liability
- Understating/overstating apportionment
- Due diligence
- Compliance cost
- FAS 109, FIN 48, IAS 12
- Statute of limitations

Steps you should take if you have nexus?

- Do nothing? (not recommended)
- Assess & quantify the exposure
- Voluntary disclosure (VDAs) and/or amnesty programs
- Protective return

Be Proactive

Taxability – Income Tax Considerations

- Apportionment methodology
 - Tangible personal property vs service
 - Market vs cost of performance
 - Single sales factor vs 3-factor
- Payroll Withholding
 - State in which work performed
 - State of residence
 - Reciprocal agreements

Taxability – Sales Tax Considerations

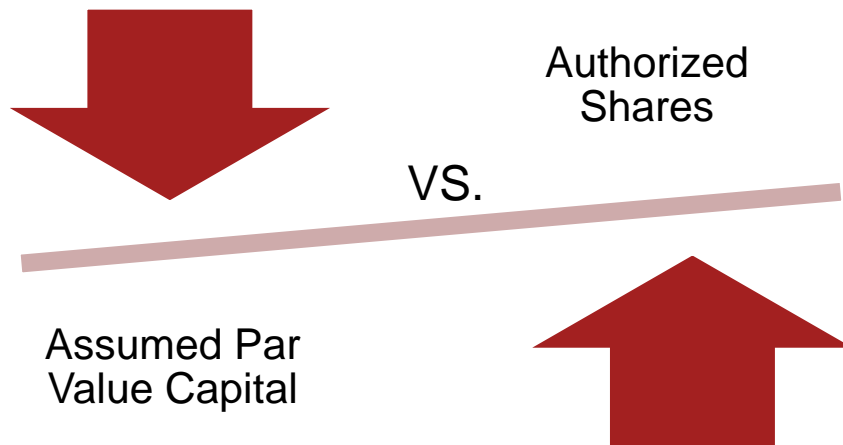
State	Software	SaaS	Info Service / Data Processing
CA	Exempt	Exempt	Exempt
FL	Exempt	Exempt	Exempt
NJ	Taxable	Taxable	Taxable
TX	Taxable	Taxable	Taxable
MA	Taxable	Taxable	Taxable
NY	Taxable	Taxable	Taxable

Documentation

Income/Franchise Tax	Sale / Use Tax
Nexus study	Nexus study
Tax attributes (NOLs, credits)	Requesting & collecting exemption/reseller certificates
Tracking sales by state	Tracking sales by state
Tracking inventory by state	Product / service taxability
Tracking payroll by state	Tracking sales by state - Bill to vs. Ship to
Tracking basis	Tax rates (state, city, district)
Filing method	

Compliance Updates & Tips

Delaware Franchise Tax Planning



- Considerate of the number of shares actually needed
- Equity Method - consistent with Federal income tax reporting

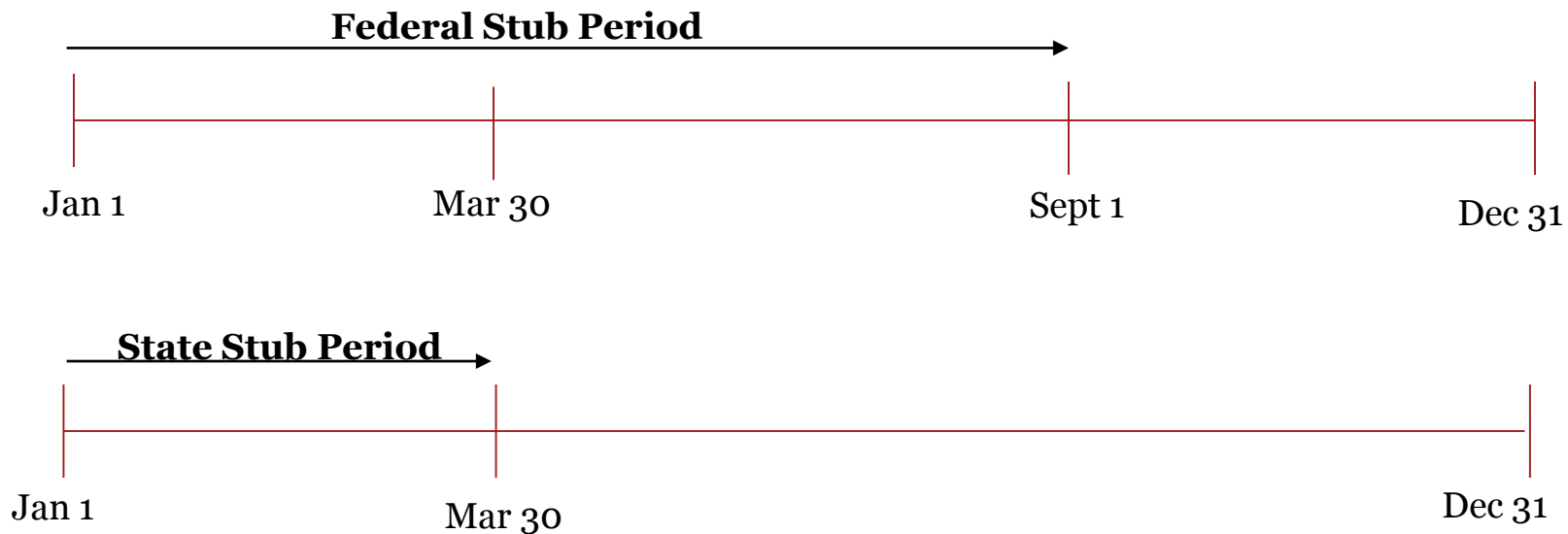
IRS vs State Reporting Deadlines

Corporate Deadline	Federal	State
Corporate: Pre-Change	15 th day of 3 rd Month following year-end	15 th day of 3 rd or 4 th month following year-end
Corporate: Post-Change	15 th day of 4 th Month following year-end	15 th day of 4 th or 5 th month following year-end

Pitfalls – Stock Acquisition

Federal Consolidated vs State Unitary Combined Reporting

- P Purchases T on March 30
- Federal Election made by P to include T in Consolidated federal return beg. Sept 1
- Instant unitary



R&D Credits & Incentives

Income Tax Credits / Sales Tax Exemptions

- Salaries & Wages
- Contract Labor
- Tools & Supplies
- Depreciable Property

***** Biotech, Manufacturing, Hi-Tech *****

Thank You!

Alon Sherer, International Tax Manager, PwC Israel

03-7954520

alon.sherer@il.pwc.com

Larry Croock, State & Local Tax Manager, PwC Israel

03-7954852

larry.croock@il.pwc.com

בקרו באתר
הבלוגים שלנו
www.pwcblogs.co.il

בקרו באתר
האינטרנט שלנו
www.pwc.com/il



©2016 Kesselman & Kesselman. All rights reserved.

In this document, "PwC Israel" refers to Kesselman & Kesselman, which is a member firm of PricewaterhouseCoopers International Limited, each member firm of which is a separate legal entity. Please see www.pwc.com/structure for further details.

PwC Israel helps organisations and individuals create the value they're looking for. We're a member of the PwC network of firms with 223,000 people in more than 157 countries. We're committed to delivering quality in assurance, tax and advisory services. Tell us what matters to you and find out more by visiting us at www.pwc.com/il



This publication has been prepared for general guidance on matters of interest only, and does not constitute professional advice. It does not take into account any objectives, financial situation or needs of any recipient. Any recipient should not act upon the information contained in this publication without obtaining specific professional advice. No representation or warranty (express or implied) is given as to the accuracy or completeness of the information contained in this publication, and, to the extent permitted by law, Kesselman & Kesselman, and any other member firm of PwC, its members, employees and agents do not accept or assume any liability, responsibility or duty of care for any consequences of you or anyone else acting, or refraining to act, in reliance on the information contained in this publication or for any decision based on it, or for any direct and/or indirect and/or other damage caused as a result of using the publication and/or the information contained in it.