



Income and Franchise Tax Minimization Studies

An Opportunity To Reduce The State Tax Burden

EHTC State and Local Tax Services

INCOME & FRANCHISE TAX

- Tax Minimization Studies
- Business Structure Reviews
- Allocation and Apportionment Planning
- Combined, Consolidated, & Unitary Planning
- Nexus Studies
- Amended State Tax Returns from IRS Audits
- Single Business Tax Training

SALES & USE TAX

- Reverse Audits
- Compliance System Review
- Direct Pay & Compliance Agreements
- Exemption Certificate Documentation
- Industrial Processing / Manufacturing Exemption
- Utility Studies
- Nexus Studies
- Sales & Use Tax Training
- Transportation Company
- Procurement Company

PROPERTY (AD VOLOREM) TAX

- Real Property Tax Reviews
- Personal Property Tax Reviews

TAX AUDIT & APPEALS

- Sales & Use Tax Audit Defense & Appeals
- Income & Franchise Tax Audit Defense & Appeals
- Property Tax Audit Defense & Appeals
- State and Local Tax Litigation Support
- Merger & Acquisition Due Diligence Reviews
- Voluntary Disclosure

BUSINESS INCENTIVE SERVICES

- Business Relocation & Expansion Services
- Tax Credits, Exemptions, & Abatements
- Grants, Financing, & Infrastructure Assistance

The problem facing the multistate taxpayer is the multitude of tax returns to be filed in different states. States differ, not only in name and geography, but also in their approach to taxation. Although the income tax is most common, some states impose a gross receipts tax and Michigan has a value-added tax. Tax rates also vary from state-to-state.

If the variety of different taxes and rates is not enough, each state may have a different filing standard or differing interpretations of the standards used to determine, if a return needs to be filed. This is called "nexus", the minimum amount of business activity that would subject a business enterprise to taxation within a state. The type of tax determines the nexus standard. However, each state may have a little different twist or turn on their own nexus standard.

Once the multistate filings are determined, the tax base is divided among the states by a combination of allocation and apportionment. Nonbusiness income is usually allocated to the state of domicile, while business income is apportioned. Again, there is no uniformity among the states on the definition of nonbusiness income.

Apportionment formula statutes vary greatly among the states. The standard three-factor formula, property, payroll, and sales is the most common. However, some states have four factors, while other states have only one factor. To complicate matters, some states apply a different weight to the various apportionment factors. Even if the apportionment statute is clear, there may be wide diversity of what's included in the numerator and denominator.

When a multistate business fails to recognize and plan its multistate tax activities, there exists a very real possibility that the tax base will be taxed by more than one state. The complicated laws and rules may cause property and/or sales to be reported in more than one state. When a multistate enterprise recognizes its state tax dilemma and becomes involved in planning, it can take advantage of the complexity and differences in the application of state taxes to minimize its overall state tax burden.

Methodology For Multistate Tax Planning

Review of the existing corporate structure is necessary, including the type of entities. Different types of entities are subject to various taxes and some types of entities, flow-through entities, for example, may be exempt from certain types of taxes. Effective tax planning strategies often involve the mere changing of the form of the entity. For each of the entities identified in the corporate structure, it will be necessary to identify all the shareholders/partners/members and their respective ownership percentages. For each of the entities, it is necessary to identify the state of organization and more importantly, the state of commercial domicile. It is necessary to identify all the tangible and intangible assets owned by each of the entities within the corporate structure.



Income and Franchise Tax Minimization Studies (Continued)

About EHTC

Echelbarger, Himebaugh, Tamm & Co., P.C. (EHTC), a professional corporation was established in 1977 by Dennis M. Echelbarger. Since that time, our Firm has grown to become one of the largest, most successful, local accounting firms in the Greater Grand Rapids, Michigan area, and we are a recognized leader in the business community. Our success is based on building partnering relationships with our customers. We are large enough to serve a wide diversity of customers but small enough to maintain personalized attention.

EHTC's professional team is highly trained to provide technical and consulting services in the areas of accounting, taxes, and strategic planning to nonprofit, profit and service organizations and related entities.

Minimizing your tax liability requires careful, advance planning rather than preparing tax returns as deadlines near. Our tax professionals provide complete tax services and are assisted by our extensive tax library and the latest technology.

We pay careful attention to your unique circumstances such as your current requirements and your plans for the future. We then recommend a plan that best suits your needs while minimizing financial risk.

The **past years tax returns** and **proforma data going forward** are reviewed to get an idea of the business environment of the company. Prior-year returns are reviewed for calculation and the make-up of the apportionment data. A database and spreadsheets are set up for use in testing strategies.

A **nexus study** must be completed before planning can start. The purpose of the nexus study is to identify each state in which the company may have a filing obligation. It is important to recognize that multiple nexus standards exist in many states. The nexus study identifies all sales by state of destination, it identifies property by state of location, and it identifies payroll by state. Furthermore, the nexus study identifies the extent of business activity in each state. The tax laws of every state where the company has property or payroll and is conducting a business activity are reviewed to determine if nexus exists.

The **creative tax planning** is the next stage in the tax minimization study. The corporate structure could be the major factor in determining the overall level of taxation. A modification to or some other change in the corporate structure can often reduce the tax base exposed to tax. The overall tax base exposed to state taxation might be reduced by some creative tax planning in the apportionment area. The various states in which the company operates have different types of tax structures. A state tax planning minimization study may be able to arrange the corporate structure in a way that will mesh with the tax structure of the various states to achieve an overall reduction of tax liability. Taxes can often be reduced in a particular state by filing a combined or consolidated return. In the same light, sometimes the tax liability can be reduced in a state by filing a separate return.

The final step in the study is to run **pro forma numbers** to quantify the effects of the planning scenarios and then conduct a **due diligence review** of business operations to assure the ideas presented make sense from both a tax and business perspective.