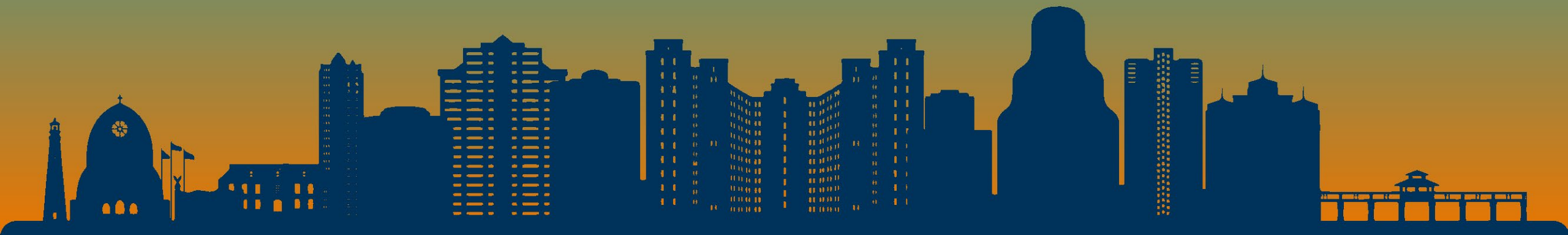


JOHN BONK & BRIAN SENGSON



State and Local Tax

LEA GLOBAL NORTH AMERICAN REGIONAL CONFERENCE



John Bonk CPA

- **National State and Local Tax (SALT) practice leader.**
- **17 years of experience in public accounting, assisting clients with multistate tax issues.**
- **Works with clients in a wide array of industries.**
- **Assisted many foreign companies understand their state tax obligations, due to having customers located in the United States.**



Brian Sengson, Esq.

- **State and Local tax (SALT) partner.**
- **Primary practices: SUT, Income/Franchise, GRT, TAS, and C&I.**
- **Publications:**
 - **Mercer Law Review (Georgia State Tax Survey Article)**
 - **Bloomberg (Georgia C Corp Income Tax Navigator – in progress)**
- **Industry specialties: software, e-commerce, professional services, healthcare, and manufacturing.**



Key SALT Topics for International Consideration

- **Income/Franchise Taxes**
- **Gross Receipts Taxes**
- **Sales/Use (Indirect) Taxes**
- **Credits and Incentives**

Key SALT Topics for International Consideration

- **Income/Franchise Taxes**
 - **Nexus considerations**
 - **P.L. 86-272**
 - **Treatment of gain from the sale of a business**

Key SALT Topics for International Consideration

- Income/Franchise Taxes
 - **Nexus considerations**
 - “Doing business” standard
 - Factor-based nexus standard
 - FOB designations and look-through sourcing

Key SALT Topics for International Consideration

- Income/Franchise Taxes
 - **P.L. 86-272**
 - Prohibits states from imposing a net income tax derived from interstate commerce so long as certain requirements are met.
 - Revised MTC Regulations
 - Providing post-sales assistance through an electronic chat or email that customers access through the company's website
 - Placing internet 'cookies' on computers of customers that are designed to gather market or product research
 - State adoption and challenges

Key SALT Topics for International Consideration

- **Income/Franchise Taxes**
 - **Treatment of gain from the sale of a business**
 - Complex issue (with little direct guidance) determining the state income tax impact of a sale of a business or division (e.g., apportionable/allocable and sales factor exclusion).

Key SALT Topics for International Consideration

- **Income/Franchise Taxes**
- **Gross Receipts Taxes**
- **Sales/Use (Indirect) Taxes**
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Key SALT Topics for International Consideration

- **Gross Receipts Taxes (often overlooked)**
 - OH CAT
 - WA B&O
 - TN Business Tax
 - OR CAT
 - NV Commerce
 - DE GRT

Local gross receipts taxes should also be considered...

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- **Income/Franchise Taxes**
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Key SALT Topics for International Consideration

- **Sales/Use (Indirect) Taxes**
 - **Nexus**
 - **Taxability**
 - **Exposure mitigation**
 - **Successor liability / Statute of Limitations**
 - **Prospective compliance solutions (e.g., Avalara, Sovos, Vertex)**

Sales Tax – Examples

- **Foreign SaaS Company**
 - **No presence in the U.S.**
 - **U.S. customers across multiple states**
 - **Does not file a U.S. Federal return**
 - **Required to file in Washington and Texas, both Franchise/B&O and Sales Tax**
 - **SaaS taxability roughly 50% of states**

Sales Tax – Examples

- **Foreign Clothing Company**
 - Utilizes warehouses in the U.S.
 - U.S. customers across multiple states
 - Does not file a U.S. Federal return
 - Required to file sales tax at warehouse locations and where thresholds broken
 - Needed to review if state tax filings required even though no Federal
 - Clothing taxability about 90% of states

Sales Tax – Examples

- **Amazon Seller**
 - **Is the client shipping goods to customers or using FBA?**
 - **Amazon will collect all sales tax on sales through Amazon, but not your website.**
 - **Potential state income tax issues because of warehouse inventory.**

Key SALT Topics for International Consideration

- **Income/Franchise Taxes**
- **Gross Receipts Taxes**
- **Sales/Use (Indirect) Taxes**
- **Credits and Incentives**

Key SALT Topics for International Consideration

- Credits and Incentives
 - **Statutory**
 - Hiring
 - Retraining
 - Investment
 - **Negotiable** (ancillary services)

Key SALT Topics for International Consideration

