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Wednesday, August 16, 2023

12:00 p.m. – 7:30 p.m.	Registration
1:00 – 1:15 p.m.	Welcome and Introductions Charles Drury, COST Michael Carchia, COST Chair, Capital One Doug Lindholm, COST
1:15 – 2:45 p.m.	Update on States’ Digital Services Tax Initiatives Thus far, Maryland is the only state to have imposed a Digital Services Tax (DST). This session will update the pending legal challenges of that tax. The presenters will provide background on the development of DSTs in foreign countries as a temporary replacement for outdated national corporate income taxes. The presenters will then address the legal problems with state DSTs, including constitutional constraints and federal restrictions such as PITFA. Finally, the panelists will review various DST justifications based on a consumption tax “gap”, a severance tax, a regulatory tax, and an excess profits tax, and explain why each approach fails to provide a valid rationale for enacting a state DST. Moderator: Doug Lindholm, COST Speakers: David Blum, Akerman* Trisha Fortune, Ryan* Jeff Friedman, Eversheds Sutherland(US)*
2:45 – 3:00 p.m.	Refreshment Break / Networking
3:00 – 4:00 p.m.	Top 10 Technology Litigation Cases – Both Transactional and Income The most important transactional and corporate income tax cases relevant to technology companies are covered in this session. The discussion will encompass both pending and fully litigated cases. The speakers will also identify emerging trends within state tax litigation of digital products and other technology-related issues.

	<p>Moderator: Marilyn Wethekam, COST</p> <p>Speakers: Jordan Goodman, HMB Legal Counsel* Steve Kranz, McDermott Will & Emery* Leah Robinson, Mayer Brown*</p>
4:05 – 5:05 p.m.	<p>How Important is Knowing Your Customers’ Locations for Sourcing Digital Products & Related Privacy Concerns</p> <p>States want sales and use taxes on digital products primarily sourced using purchaser address information; most states want corporate income taxes sourced (and expect taxpayers to know) where their customers received a product (or benefit, if treated as a service). However, unlike the delivery of tangible personal property that requires address information, digital products can be sold without obtaining an address from a customer (<i>e.g.</i>, gift card, crypto currency, etc.). How should this be addressed? Should states require some address information, default to “origin” location, etc.? The presenters in this session will address these issues, SSUTA and MTC initiatives, along with potential privacy concerns. The presenters will also discuss the issues resulting from the efforts by some states to source receipts to a customer’s location, and the difficulties of the threshold issue of obtaining that information and the additional issue that the look through does not represent the market of the taxpayer.</p> <p>Moderator: Fred Nicely, COST</p> <p>Speakers: Andre Burvant, Jones Walker* Paul Melniczak, Reed Smith* Priscilla Parrett, Vallejo, Antolin, Agarwal & Kanter*</p>
5:10 – 6:10 p.m.	<p>The State Tax Implications of International (OECD) and Federal Tax Reform</p> <p>This session will provide a status update on the OECD’s global tax reform and its implications for U.S. federal and state taxation. The panelists will discuss the likely 2024 launch of the Pillar 2 reforms in the EU and other major nations and the far-reaching impact on U.S. technology companies. The session will cover the delay in Pillar 1 implementation and its ramifications for international and U.S. state-level DSTs. The panelists will also discuss the similarities and differences between the international reforms and the TCJA’s GILTI and the Inflation Reduction Act’s corporate alternative minimum tax, and any spillover impact on state corporate income taxes.</p> <p>Moderator: Karl Frieden, COST</p> <p>Speakers: Erinne Fuhring, PwC* Sasha Kerins, Grant Thornton*</p>
6:10 – 7:30 p.m.	<p>Welcome Reception</p> <p>Take this opportunity to start your tax networking with friends and colleagues in a casual atmosphere. Compare notes on today’s presentations.</p>
Thursday, August 17, 2023	
7:30 a.m. – 5:20 p.m.	Registration
7:30 – 8:00 a.m.	Continental Breakfast / Networking
8:00 – 9:00 a.m.	Choice of Two Breakouts
	<p>California’s Office of Tax Appeals – Update</p> <p>While some tech companies are seeking to avoid California, California is still the headquarters or primary state location for most tech companies. This session will address the California’s Office of Tax Appeals administrative and litigation processes.</p>

	<p>Moderator: Stephanie Do, COST</p> <p>Speakers: Josh Booth, Ryan* Josh Grossman, Grant Thornton* Shail Shah, Greenberg Traurig*</p>
	<p>Issues with Sales Taxation of Digital Business Inputs</p> <p>State sales and use taxes were intended to tax end user consumption. However, many states are expanding their tax bases to the digital economy and inadvertently (or intentionally) taxing business-to-business digital transactions. This results in tax pyramiding and reduces the attractiveness of business investment in the state. The presenters will highlight the design flaws in states' sales tax systems and provide some solutions to minimize state taxation of digital business inputs or related manufacturing processes. Proactive advocacy, including the use of COST articles and its Sales Tax Systems Scorecard, as well as PITFA, will be part of the discussion.</p> <p>Moderator: Marilyn Wethekam, COST</p> <p>Speakers: Deborah Bierbaum, MultiState Associates* Vanessa Frank, PwC* Diane Yetter, YETTER*</p>
9:05 – 10:05 a.m.	Choice of Two Breakouts
	<p>Conundrums with the States' Marketplace Facilitator Laws</p> <p>Is uniformity obtainable now that all 45 states (and D.C.) with sales taxes, and Alaska with its local sales taxes have some version of a marketplace facilitator law? The presenters in this session will address variations in states' marketplace laws, including how multiple facilitator (tiered) transactions are handled and marketplace seller issues. The panelists will also analyze the states' collection requirements expanding to other taxes and fees (some not centrally administered by a state agency).</p> <p>Speakers: Michele Borens, Eversheds Sutherland (US)* Trisha Davidson, YETTER* Matt Hedstrom, Alston & Bird*</p>
	<p>Mitigating Tech Industry Property Taxes and Tax Incentive Issues</p> <p>Property taxes are often the largest single state and local tax obligation incurred by businesses, including technology enterprises. The presenters will address valuation issues faced by the technology sector and strategies for fair valuations. The panellists will also discuss methods to obtain, retain, and expand property tax incentives.</p> <p>Speakers: Bradley Marsh, Greenberg Traurig* Fred Nicely, COST</p>
10:05 – 10:20 a.m.	Refreshment Break / Networking
10:20 – 11:20 a.m.	Choice of Two Breakouts
	<p>Transfer Pricing at the State Level</p> <p>State transfer pricing audits have accelerated over the last few years. This session will analyze the various state approaches to transfer pricing, including similarities with and differences from federal transfer pricing audits. The panelists will also discuss how to prepare for and handle a state transfer pricing audit, particularly as it relates to technology company issues.</p> <p>Moderator: Doug Lindholm, COST</p> <p>Speakers: Jim Besio, EY* Paul DiSangro, Mayer Brown* Christopher Lutz, Jones Walker*</p>

	<p>Remote Workers and Other Issues of the Gig Economy</p> <p>The Pandemic-related acceleration of remote working has created or exacerbated a number of state and local tax issues. The panelists will discuss the implications of remote working on multistate personal income tax filing and withholding responsibilities, corporate income tax sourcing, and employment taxes. The speakers will also address independent contractor rules relating to the Gig economy.</p> <p>Speakers: Deborah Bierbaum, MultiState Associates* Randy Pedersoli, Andersen* Katie Quinn, Jones Walker*</p>
11:25 a.m.– 12:25 p.m.	<p>What’s Up with the Metaverse, NFTs, Crypto and More – And What are the SALT Issues</p> <p>The Metaverse, NFTs, Crypto currency, and other developing digital platforms create unique state and local tax issues with state tax legislators and administrators attempting to fill in the gaps with their current (often outdated) tax laws. This session will cover these issues including some recent state actions to tax these products.</p> <p>Moderator: Fred Nicely, COST</p> <p>Speakers: Kathleen Cornett, Alston & Bird* Mike O’Brien, EY* Jackie Orea, Andersen*</p>
12:25 – 1:30 p.m.	Lunch – Networking
1:30 - 2:30 p.m.	Choice of Two Breakouts
	<p>Video Streaming, Lodging, and Other Local Tax Issues</p> <p>Local taxes continue to create complex and non-uniform outcomes, often precipitating controversial audits and protracted litigation. This session will survey issues with local transactional taxes, including attempts to tax accommodation services and current litigation over using right-of-way franchise fee laws to tax video streaming services. The panelists will provide an overview of an STRI study on problems associated with the decentralized administration of local lodging taxes, including some states’ efforts to rectify the lack of uniformity in local tax administration.</p> <p>Moderator: Stephanie Do, COST</p> <p>Speakers: Samantha Breslow, HMB Legal Counsel* Eric Carstens, McDermott Will & Emery* Nikki Dobay, Greenberg Traurig*</p>
	<p>Beyond Population: How Technology Companies Can Use Alternative Datasets and Methods to More Effectively Apportion Their Service Receipts</p> <p>The overwhelming trend for apportionment has been the transition to a single sales factor along with market sourcing for services. Whereas cost-of-performance focused on the taxpayer’s own activities, market sourcing requires taxpayers to consider their customers’ perspective. With limited information about customer usage or where benefits are derived, taxpayers often resort to estimates based on relative population or GDP. In this session, we’ll discuss how technology companies can use alternative datasets (including both internal datasets and 3rd party datasets) to more accurately apportion their services receipts. Using real-world examples, we’ll demonstrate how taxpayers can not only reduce their potential tax liability, but also make their compliance process more efficient. We’ll discuss how to identify and leverage 3rd party datasets such as retail data, financial data, and cell phone location data. We also discuss techniques and best practices for analyzing raw data, tools for visualizing the results, and telling an effective apportionment story.</p> <p>Moderator: Marilyn Wethekam, COST</p>

	<p>Speakers: Dave Gutowski, Reed Smith* Darren Sweetwood, Deloitte*</p>
2:35 – 3:35 p.m.	<p>Choice of 2 Breakouts</p>
	<p>Best Practices for Handling Complex Technology Industry Audits This session will turn those tax audit cloudy skies into clear blue skies. The technology sector has its own unique challenges with tax audits, especially with some state tax agencies imposing taxes on products not existing at the time a definition was placed into a state’s tax law. The presenters will explain best practices for dealing with statutory and regulatory ambiguities, and more broadly with how to manage audits effectively and efficiently. Waivers, documentation requests, sampling, and negotiating settlements are covered in this session.</p> <p>Speakers: Stefi George, Akerman* Greg Pullman, KPMG* Craig Tatlonghari, RSM*</p>
	<p>Tips for Tax Automation for the Technology Industry When working in (or for) a technology company, you grow accustomed to continuous change in the way your company does business. Technology used for tax compliance is also dynamic, with adaptations to simplify compliance with a multitude of complicated state tax laws. The presenters in this session will provide tax automation tips for both transactional taxes and income taxes.</p> <p>Speakers: Naziya Ansari, RSM* J.D. Hogan, Deloitte* Joni Johnson-Powe, KPMG*</p>
3:35 – 3:50 p.m.	Refreshment Break / Networking
3:50 – 5:20 p.m.	<p>Ask The Experts Really, free advice from practitioners? That’s right! This is your chance to question practitioners and get their views on state and local tax issues related to your technology operations and issues. The panel will answer questions that have been submitted by attendees as well as discussions they’ve had with attendees during the Workshop that would be of interest to other attendees. Finally, the panel will address trends they expect to see in 2023 and beyond, as they apply to the technology industry as well as the use and impact of technology in general.</p> <p>Moderators:</p> <p>Panelists: Samantha Breslow, HMB Legal Counsel* Lindsay Crews, Deloitte* Matt Hedstrom, Alston & Bird* Carl Joseph, EY* Jackie Orea, Andersen* Jodie Scott, KPMG* Craig Tatlonghari, RSM* Jamie Yesnowitz, Grant Thornton* Diane Yetter, YETTER*</p>
5:20 – 6:30 p.m.	<p>Reception All attendees are welcome to attend a closing reception to network with other attendees and sponsors and speakers. Please take advantage of this opportunity to round out your Workshop experience.</p>
6:30 p.m.	Workshop Adjourns

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