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Local Government Revenues in an IP World:

2013 IMLA Mid-Year Seminar

Taking Care of Business: Municipalities Survive and Flourish

Washington, D.C. – April 15th

PRESENTED BY

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*** Because of the ever changing world of legislation, this presentation may be different when presented on tax day – April 15th.



2013-14 YEAR OF TAXES AND DEFINITIONS

- What is the classification of broadband?
  - Telecomm
  - Cable
  - Interstate Information
- What services/goods are subject to state and local taxation?
  - Local purchases
  - Local purchases over the internet/catalog sales



TAXES

WHAT IS TAXABLE

N.B. This is not only a federal issue!



CAVEATS/GIVENS

- Local governments' future ability to tax or impose fees on any type of communications service provider is at serious risk.
- Communications tax reform *may be inevitable* in 2013-14 at the Federal level. Don't lose at the state level before then.
  - Reform need not be bad for local governments.
  - Locals must be far more active participants if interests are to be protected.
- Communications tax "reform" at the federal or state level is a very dangerous game for local governments who have the most to lose and possible the least to gain.
- Tim Lay Rule: ***"Beware of legislation that has 'fairness' in the title of the bill!"***



Marketplace Fairness Act
H.R. 684/S. 366

- Aims to eliminate the current disadvantage suffered by brick-and-mortar retailers vis-à-vis online retailers by allowing states and local governments to collect sales and use taxes on remote (typically online) sales to their residents.
  - State must adopt either Streamlined Sales and Use Tax Agreement or Alternative Minimum Simplification Requirements.
  - Legislation creations a small seller exception (less $1m in annual sales.)



Marketplace Fairness Act
H.R. 684/S. 366

- Legislation does not create any new taxes nor increase existing taxes, simple provides for enforcement of existing authority.
- Estimates are that legislation would provide $23 billion annually in uncollected tax revenue.



Internet Tax Freedom Act ("ITFA")

- ITFA has been in effect since 1998, currently scheduled to expire in November, 2014.
- Expect activity in next Congress (2013) as 2014 deadline approaches.
- ITFA "walls off" from state and local taxation the largest, and fastest growing, form of communications — broadband.
- ITFA must be repealed or allowed to expire as a condition of reform or this is simply an industry tax reduction exercise, not true tax reform.



ITFA

- As what was formerly telecom is supplanted by broadband, states and locals are left with a shrinking communications service tax base.
- Left in place, the ITFA will eventually “tax exempt” all, or almost all, of the entire telecommunications industry’s services.
- Unless telecom tax “reform” is coupled with ITFA repeal, industry will have no incentive to ever let ITFA expire.



Wireless Tax Fairness Act

- In last Congress legislation passed the House, but was left pending in Senate
  - Would impose a 5-year moratorium on any new “discriminatory”, or any increase in existing, state or local taxes on wireless services; would grandfather existing taxes.
- Has returned in 2013.



The Digital Goods and Services Tax Fairness Act.

- Legislation creates a nationwide “tax preference” for online goods and services over competing brick-and-mortar sales by limiting s state and local taxes on “digital goods and services.”
  - Downloaded music and videos;
  - Pay-per-View (PPV) and video-on-demand (VoD) revenue from the cable franchise fee revenue base.



State Communications Tax Reform



Communications tax “reform”

- Basic approach
  - Collapse all communications-related taxes and fees (cable franchise fees, perhaps PEG fees, DBS, landline telecom & wireless) into a single tax.
  - Move responsibility for imposition, collection and auditing of the tax to the state level.
  - Examples include VA, FL, KY, OH, and NC.
  - DOWNSIDE: Eliminate communications-related ROW fees



Communications tax “reform.”

- Benefits for industry:
  - Lower tax administration costs.
  - Lower taxes, except perhaps for DBS.
  - Greater protection against future tax increases.

- Risks to local governments:
  - Loss of ability to control local tax structure and policy, and thus control over local budget revenues.
  - Loss of auditing authority to ensure correct amounts are paid.



MUNICIPAL BONDS: A CRITICAL ROLE IN LOCAL INFRASTRUCTURE, JOBS

Many thanks to NACo for the following materials. See the originals at:

http://www.naco.org/legislation/Documents/Muni%20bonds-%20infographics.pdf



MUNICIPAL BONDS:

- *Tax-exempt municipal bonds are the single most important tool that local government and special districts use for financing our critical infrastructure. Any change to the taxation status of often voter-approved debt issued by counties risks local public works projects that benefit communities and puts into question the nature of the U.S federal-state-local partnership*
- Current Market = Over 1.5 million municipal bonds outstanding, totaling more than $3.7 trillion

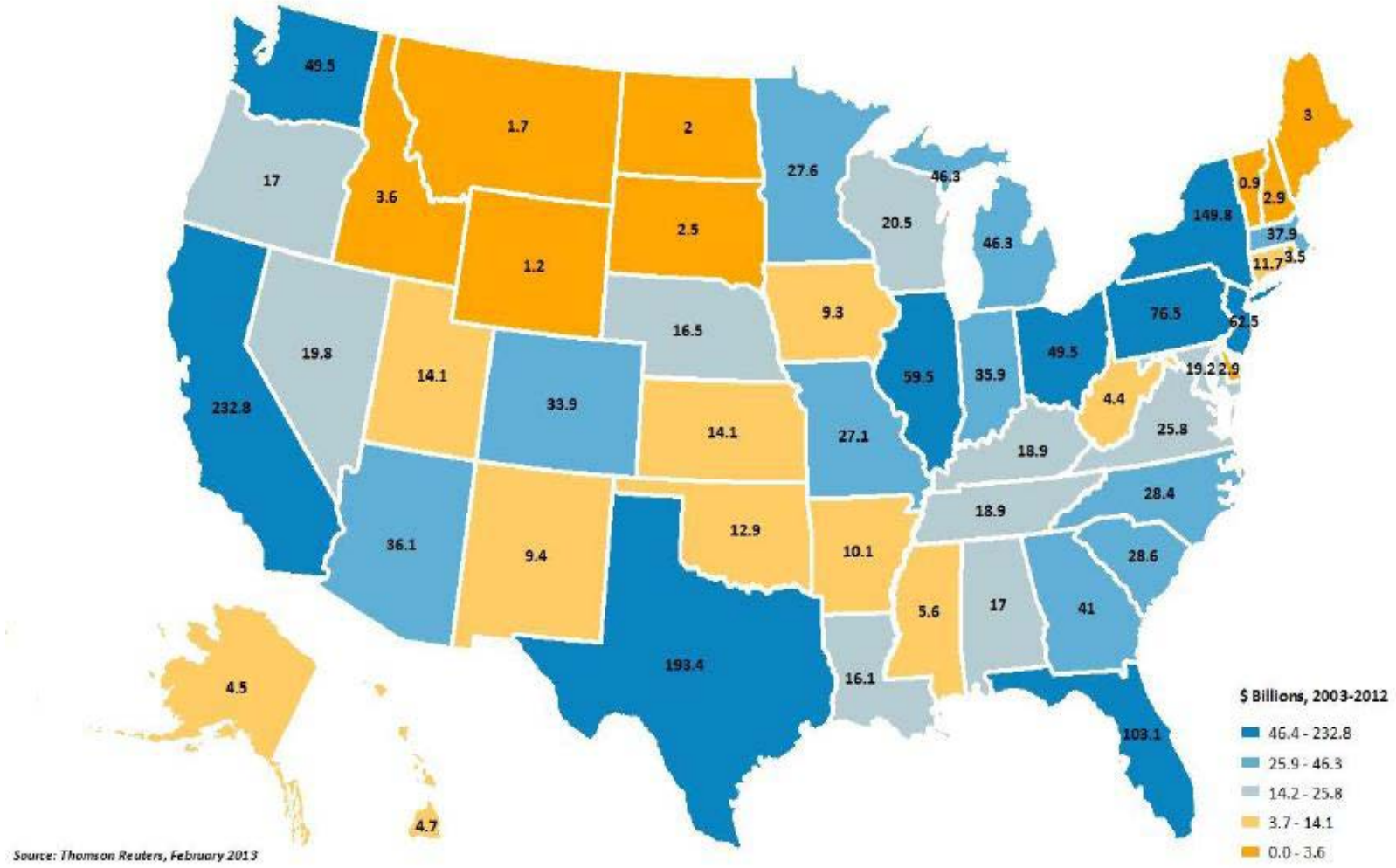


TAX-EXEMPTION REDUCTION AND ELIMINATION PROPOSALS

- **Senate Budget Resolution – Suggests the possibility of a cap being placed on tax expenditures, which could include the exemption for interest earned on municipal bonds.**
- **FY2013 White House Budget Proposal – 28% Cap on Municipal Tax Exemption**
  - Impact: If a 28-percent benefit cap on tax-exempt interest had been in effect during the last decade, it is estimated that this would have cost states and localities ***an additional $173 billion in interest expense for infrastructure projects financed over the past ten-year period***
- **2010 Simpson-Bowles Commission – Full Repeal of Municipal Tax Exemption**
  - Impact: If this proposal had been in place during the 2003–2012 period, it is estimated that the $1.65 trillion of state and local infrastructure investment ***would have cost governments an additional $495 billion of interest expense***



State and Local Governments Municipal Bonds for Infrastructure, Total Value, 2003-2012



Source: Thomson Reuters, February 2013


Q&A

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