

## State and Local Sales Tax Base Conformity Issues in Other States

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Louisiana Sales Tax Streamlining & Modernization Commission

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### Chairwoman Stokes, Members of the Commission,

Thank you again for the opportunity to address you today. At the request of the commission I have put together a brief summary of other states that struggle with sales tax base conformity issues between state and local governments.

Louisiana is one of just a few states that have local sales tax bases, collections, and audit functions which are separate from the state. By our count, just five states other than Louisiana have unique situations in this regard: Alaska, Arizona, Colorado, Idaho, and New Jersey.

### Alaska Sales and Use Tax

Alaska does not impose a statewide general sales tax, but does allow municipalities to levy sales taxes, and grants them both rate and base authority. Home rule municipalities have general powers of taxation, and may assess a sales tax on sales, rents, and services (any or all), subject to exemptions and limitations established by statute. Within these three “sources,” home rule municipalities possess the authority to set out sales tax exemptions by ordinance.<sup>1</sup>

Home rule boroughs may wholly or partially exempt a source from the borough sales tax that is taxed by a city within that borough, though all boroughs—home rule and general law—are obligated to collect city sales taxes.<sup>2</sup> Cities within a borough may have distinct bases *within* these sources, but cannot tax a source untaxed by the borough.<sup>3</sup> General law cities and boroughs possess somewhat more limited authority. Some boroughs and cities elect to forego the imposition of a sales tax altogether.<sup>4</sup>

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<sup>1</sup> AS § 29.45.650.

<sup>2</sup> Alaska Department of Commerce, Community and Economic Development, *Alaska Taxable 2014*, Vol. LIV, Jan. 2015, <https://www.commerce.alaska.gov/web/portals/4/pub/osa/14taxable.pdf>, at 7-8.

<sup>3</sup> AS § 29.45.700.

<sup>4</sup> Alaska Department of Commerce, Community and Economic Development, at Tables 2-3.

## Arizona Transaction Privilege (Sales) Tax

Arizona's Transaction Privilege Tax (TPT) is assessed at the state, county, and municipal level, with different rates for each classified taxable activity (e.g., utilities, restaurants, amusements, retail, and transient lodging).<sup>5</sup> Each taxing authority sets its own rates for the designated taxable activities, and some classifications (*viz.*, commercial lease, recreational vehicle surcharge, and rental car surcharge) are not subject to tax in all jurisdictions.<sup>6</sup>

Arizona cities, moreover, can be subdivided into "program" and "non-program" cities, where the Arizona Department of Revenue collects and audits taxes in program cities and local government assumes this responsibility in non-program cities. Currently, there are fifteen non-program cities, including Phoenix and Tucson. A TPT simplification effort is underway, with the Department of Revenue set to become the single point of administration and collection of the TPT at all levels beginning January 1, 2016. Counties and municipalities will, however, continue to exercise independent authority in setting rates for each of the classifications.<sup>7</sup>

## Colorado Sales and Use Tax

Colorado has 294 taxing jurisdictions, including the state itself, various special districts and authorities, metropolitan districts, statutory cities and towns, home rule cities, and counties. Home rule jurisdictions (of which there are 69) are entitled to set their own rates and bases; statutory jurisdictions and special jurisdictions (224) must adopt the state sales tax base, but are authorized to opt into any of eleven enumerated exemptions, such as groceries, machinery and tools, and farm equipment, among others.<sup>8</sup>

Home rule jurisdictions have 89 potential exemptions from which to choose.<sup>9</sup> Because many jurisdictional boundaries overlap, these jurisdictions yield a total of 756 areas with different rates and bases.<sup>10</sup> Statutory jurisdictions are administered and audited by the state department of revenue, while home-rule jurisdictions run their own collection and audit operations, often relying on contract auditors.<sup>11</sup>

In 2013, the legislature adopted language instructing the Department of Revenue to make recommendations for the establishment of a uniform sales tax base,<sup>12</sup> but the state has yet to act on those recommendations.

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<sup>5</sup> A.R.S. T. 42, Ch. 5, Art. 2.

<sup>6</sup> See, e.g., Arizona Department of Revenue, *TPT Tax Rate Table*, Oct. 2015, <https://www.azdor.gov/Portals/0/TPTRates/201510.pdf>.

<sup>7</sup> *Id.*, *TPT Simplification*, <https://www.azdor.gov/TPTSimplification/About.aspx>.

<sup>8</sup> Colorado Department of Revenue, *Uniform Sales and Use Tax Base Throughout the State*, Dec. 15, 2013, <https://www.colorado.gov/pacific/sites/default/files/Uniform%20Sales%20and%20Use%20Tax%20Base.pdf>, at 5-6.

<sup>9</sup> C.R.S.A. T. 39, Art. 26.

<sup>10</sup> Colorado Department of Revenue, at 3-5.

<sup>11</sup> Bruce Nelson, *Colorado Sales Tax Collection: The "Local" Headache*, EKS&H, 2014, <http://www.eksh.com/resources/articles/colorado-sales-tax-collection-the-local-headache>.

<sup>12</sup> C.R.S.A. § 39-26-128.

## Idaho Local Option Sales Tax

In addition to Idaho's state sales tax, resort cities and auditorium districts may optionally adopt their own sales taxes by referendum. Counties possessed similar authority through 2009, though their sales tax base was required to be coterminous with the state base.<sup>13</sup> Upon the approval of a supermajority of voters, however, a resort city may impose a sales tax upon all or part of sales subject to the state sales tax.<sup>14</sup> At present, thirteen resort cities impose local option sales taxes, with many, but not all, choosing to limit the local sales tax to lodging, alcohol (by the drink), and restaurant food.<sup>15</sup> Auditorium districts are only permitted to impose an optional tax on lodging (an option also available to resort cities), authority which might be better characterized as an accommodations tax.

## New Jersey Sales and Use Tax

While New Jersey imposes a general rate of seven percent, qualified businesses may charge a 3.5 percent rate on most retail sales (exempting alcohol, cigarettes, motor vehicles, machinery equipment, and energy) within the state's Urban Enterprise Zones,<sup>16</sup> and businesses in Salem County can assess the 3.5 percent reduced rate on most retail sales of tangible personal property, but not on the entire state sales tax base. Motor vehicles, alcoholic beverages, cigarettes, taxed services, prepared foods, occupancy and admissions, and other goods and services subject to the state sales tax are assessed at the standard 7 percent rate.<sup>17</sup>

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<sup>13</sup> Idaho S.L. 2003, ch. 363, § 4, [http://legislature.idaho.gov/sessioninfo/2003/sessionlaws\\_vol2\\_2003.pdf](http://legislature.idaho.gov/sessioninfo/2003/sessionlaws_vol2_2003.pdf).

<sup>14</sup> I.C. § 50-1046.

<sup>15</sup> Idaho State Tax Commission, *Local Sales Tax*, <https://tax.idaho.gov/i-1117.cfm>.

<sup>16</sup> N.J.S.A. 52:27H-80.

<sup>17</sup> New Jersey Division of Taxation, *New Jersey Sales Tax Guide*, BULLETIN S&U-4, May 2008, <http://www.state.nj.us/treasury/taxation/pdf/pubs/sales/su4.pdf>.