



LOCALLY ADMINISTERED SALES AND USE TAXES

A REPORT PREPARED FOR THE INSTITUTE FOR PROFESSIONALS IN TAXATION

PART I: INTRODUCTION AND EXISTING CONDITIONS

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Table of Contents

Table of Contents	2
Introduction.....	3
Purpose of the Report	3
History of Local Sales Taxes in the United States.	7
Rationale for Local Sales Taxes	11
Challenges Posed by Local Sales Taxes.....	13
Locally Administered Sales and Use Taxes: Existing Conditions	18
General Sales and Use Taxes.....	19
Alabama.....	19
Alaska	22
Arizona	24
Colorado	28
Louisiana.....	33
Idaho	37
Summary.....	37
Local Lodging or Accommodations Taxes.....	39
Local Food and Beverage Taxes.....	43
Local Admissions Taxes.....	45
Availability of Information.....	47
Streamlined Sales and Use Tax Agreement and Locally Administered Sales and Use Taxes. 48	
Tax Automation and Local Sales Tax Compliance	51
Use Taxes and Local Tax Compliance.....	53

Appendix A – A Review of Locally Administered Sales and Use Taxes: Their Characteristics and Conformity to Counterpart State Taxes

Appendix B – State Data Collection Worksheets

Locally Administered Sales and Use Taxes
A Report Prepared for the Institute for Professionals in Taxation

Introduction

Purpose of the Report

One of the most significant developments in state and local government finance over the last 50 years has been the increased role that sales taxes – both general and selective sales taxes – have assumed in the local government tax structure. In 2014, there were an estimated 10,000 local jurisdictions that imposed a general retail sales tax in the United States,¹ a figure that significantly understates the degree to which local governments levy sales taxes when one also considers the number of jurisdictions that impose one or more selective sales taxes (e.g., special taxes on lodging or food and beverages) in addition to the general sales tax. The proliferation of and increased reliance on local sales and similar taxes raise a number of issues for taxpayers and governments alike. For taxpayers,² the primary issue is the cost of achieving an acceptable level of compliance with the myriad taxes. For governments, local sales taxes raise issues of the cost of administering the taxes relative to the perceived benefits of the taxes, as well as concerns regarding tax coordination, tax compliance, and fiscal equalization.

In most states, local government sales taxes are administered by the state tax administration agency as part of its administration of the state sales tax. In these states, the local government governing body is responsible for determining whether to levy a tax and the rate at which it will be levied (within the parameters provided by state law), but the state tax administration agency is responsible for administration, collection and enforcement of the local tax. Taxpayers are required to track their sales by local taxing jurisdiction, collect tax at the correct rate, and remit the collected tax to the state tax administration agency along with a tax return and an accompanying schedule reflecting the tax attributable to various local jurisdictions. Some states, however, allow certain local governments to independently administer, collect and enforce their sales taxes separate and apart from the state administration; taxes administered in this manner are termed “locally

¹ Joseph Henchman & Richard Borean, Tax Foundation, *State Sales Tax Jurisdictions Approach 10,000* (Mar. 24, 2015), available at <http://taxfoundation.org/blog/state-sales-tax-jurisdictions-approach-10000>.

² In the context of this report, the term “taxpayer” should be understood to mean the retailer or seller responsible for collecting the general or special sales tax from the consumer and remitting it to the tax administration agency.

administered sales taxes” for purposes of this report. Where sales taxes are locally administered, taxpayers are responsible for registering for tax collection, filing returns and remitting tax directly to each locality administering the tax, and the local government is responsible for collecting and enforcing the tax.

There are complexities associated with collecting local sales taxes under any regime, even those that are administered by a state agency. Locally administered sales taxes represent a special case in this regard because a taxpayer is required to interact separately with each local government with which it is required to file and because the locally administered taxes often differ materially from the counterpart state tax and from one another, even within the same state.

This report, commissioned by the Institute for Professionals in Taxation,³ is intended to examine in some detail the unique aspects of locally administered sales taxes and to estimate the incremental compliance costs, if any, that locally administered sales taxes present for both taxpayers and governments as compared to local taxes administered by a single state tax administration agency.

The report has three parts:

- Part I is an identification of those jurisdictions that independently administer their local sales taxes as well as a catalog of the key characteristics of the locally administered taxes with an emphasis on where the locally administered tax differs from the counterpart state tax as to the tax base and various administrative and procedural requirements.
- Part II is an analysis and quantification of the incremental costs, if any, that local administration of sales taxes imposes on both taxpayers and governments, based on a survey of a sample of taxpayers and local jurisdictions in the five states – Alabama, Alaska, Arizona, Colorado and Louisiana – that have a significant number of locally administered general sales taxes.
- Part III is an identification of options that states and localities could pursue to simplify compliance with locally administered taxes and potentially reduce costs of compliance and administration for taxpayers and governments.

³ The Institute for Professionals in Taxation is an IRC § 501(c)(3) non-profit organization incorporated pursuant to the laws of the District of Columbia in 1976. It is an educational organization that serves some 4,500 state and local tax professionals in the United States and Canada.

At the outset, a note on several general parameters of the report is in order:

- As noted previously, the term “locally administered” refers to those taxes for which the local government, in contrast to a state tax administration agency, is responsible for providing guidance to taxpayers, registering taxpayers, receiving and processing tax returns and remittances, and generally enforcing the tax, including audit, collection and other actions.⁴ Special attention is paid to two aspects: the degree to which a local government is able to (a) design its own sales tax base or deviate in a substantial manner from the state tax base; and (b) differ from the counterpart state tax in terms of procedures and requirements such as filing periods, statutes of limitations, and protest periods.⁵
- Each state that levies a retail sales tax also levies a complementary use tax on transactions subject to the sales tax. The use tax is imposed generally on transactions involving the “use, storage or other consumption” of taxable property and services in the state where the retail sales tax was not collected by the seller at the time of the transaction – usually because the sale is considered not to have occurred “in the state” under state law.⁶ At the state level, the use tax is commonly levied on the same transactions and at the same rate as the retail sales tax. As discussed in the report, that is not necessarily the case for local jurisdictions that independently administer their sales taxes. Some of those jurisdictions choose not to impose a use tax, while others impose a use tax much like a state use tax, and still others (particularly in Colorado) impose a use tax on a base that is more limited than the sales tax base. For ease of exposition, this report generally uses the term “sales tax” to refer to the retail sales tax as well as the

⁴ Some states authorize local governments to enter into arrangements with third parties other than the state tax administration agency to administer the local sales tax. These are considered “locally administered” for purposes of this report. In the report, the terms “locally administered” and “self-administered” may be used interchangeably and should be considered to have the same meaning.

⁵ Some states, particularly Arizona and Colorado, require or permit the collection of certain local sales taxes by the state tax administration authority, but still allow the local governments some discretion in determining the local tax base. These are discussed in the text of the report along with the locally administered jurisdictions.

⁶ For a discussion *see* Walter Hellerstein and Jerome Hellerstein, *State Taxation*, para. 19.01, 19.02. The use tax is intended to avoid any disincentive to purchase from local sellers required to collect sales tax by imposing an identical tax on purchases where the sale is outside the state, but use occurs in the state. Sellers with a physical presence in the state of use are required to collect the use tax on such transactions.

complementary use tax (if imposed) unless the context requires otherwise, in which case the text differentiates between the two.

- The locally administered taxes discussed in the report are limited to general sales and use taxes that are levied on a wide range of goods and services as well as selected types of transaction-based taxes that are separate from the general sales tax levy, imposed on particular types of goods or services, and generally considered to be taxes levied on the consumer (including those technically imposed on the seller), including lodging taxes, special taxes on food and beverages, and admissions/amusement taxes. The specific types of taxes are displayed in Table 4 and are discussed in detail below. Business license and other taxes and fees generally considered to be taxes imposed directly on the business entity as well as various public utility and telecommunications taxes and fees are not included. When the phrase “local sales tax” or a similar one is used, it is intended to refer to these specific types of taxes unless otherwise noted.
- The term “incremental cost” means those costs, if any, incurred by taxpayers and local governments in complying with and administering locally administered sales taxes that either would not be incurred or are greater than those that would be incurred if those taxes were administered by the state tax administration agency on behalf of the local governments. In other words, the intent is to compare the costs associated with locally administered taxes to the costs that would exist if the state tax administration agency administered the local taxes, rather than to a situation in which there are no local taxes.
- The term “taxpayer” should be understood to mean the retailer or seller who is responsible for collecting the tax from the purchaser and remitting the tax to the state or local tax administration agency. It also includes businesses that self-accrue and report sales and use taxes via a direct pay permit or otherwise.
- As noted in the report, one of the challenges in complying with locally administered taxes is often the lack of readily available information on which jurisdictions impose a particular tax. Consequently, despite our best efforts to identify each jurisdiction imposing a locally administered tax meeting the definition above, there may be some that we did not identify.

- All conclusions in this report were reached using a “more likely than not” standard. For ease of understanding and as a stylistic matter, we sometimes use language such as “will,” “would,” or “should” that could suggest we reached a conclusion on an issue at a standard different than “more likely than not.” Such language is not to be so construed.

History of Local Sales Taxes in the United States

State-Administered and Locally Administered Sales Taxes – While some limited local deployment of the sales tax has been a feature of the U.S. fiscal landscape since state sales taxes were first adopted in the 1930s, the widespread and more intense utilization that marks the current environment is a phenomenon that occurred largely in the final 40 years of the 20th Century. The first local general sales tax⁷ was imposed in New York City in 1934, followed by the adoption of a limited tax in New Orleans in 1936, the scope of which was expanded in 1938.⁸ The concept spread somewhat in the 1940s and 1950s as several large states, including California and Illinois, began to authorize local sales taxes, and New York State authorized localities other than New York City to impose sales taxes. Still, by 1962, local general sales taxes (including both locally administered taxes and local taxes administered by the state tax administration agency) were imposed in only 12 states.⁹ The next decade saw a significant increase in the use of local sales taxes; local governments in 25 states were imposing a general sales tax in 1972. Since then, the number of states authorizing local governments to impose a general sales tax has grown slowly, but steadily, reaching 34 states in 2012.¹⁰

⁷ In this section, “local sales tax” refers to the general sales tax unless otherwise noted. In addition, when the number of local units and local sales taxes is discussed, it includes both locally administered taxes as well as those administered by the state.

⁸ John F. Due & John L. Mikesell, *Sales Taxation: State and Local Structure and Administration*, p. 267 (1983) (hereinafter “Due & Mikesell, *Sales Taxation*”).

⁹ Based on a review of tax collection data presented in the Government Finances series from the U.S. Bureau of the Census. United States Bureau of the Census, *Data Base on Historical Finances of State and Local Governments* (last viewed Sept. 14, 2015) (hereinafter “U.S. Census Bureau, *Data Base on Historical Finances of State and Local Governments*”), available at http://www2.census.gov/pub/outgoing/govs/special60/Govt_Finances.zip. The District of Columbia is not considered in these numbers. It has imposed a general sales tax since before 1962.

¹⁰ *Id.*

Table 1	
States Authorizing Local General Sales Taxes 1962-2012 (Selected Years)	
Year	Number of States
1962	12
1972	25
1980	28
1990	32
2000	33
2012	34
Source: U.S. Census Bureau. Note this includes states with both state and locally administered general local sales taxes.	

Tracking the number of individual local jurisdictions imposing a sales tax is difficult because there is no public data readily available. In 1972, there were a reported 4,300 local jurisdictions imposing a general sales tax, over half of which were in Illinois, Texas and California.¹¹ From 1976 through 1990, the number of jurisdictions employing the tax ranged between 5,000 and 6,500, despite the increased number of states authorizing local taxes.¹² As noted earlier, the number of jurisdictions imposing a sales tax in 2014 is estimated at roughly 10,000,¹³ as the number of states authorizing local general sales taxes has increased and the number of special purpose local governments with specific responsibilities (e.g., parks, arts, transit) that are allowed to impose a local sales tax has increased.¹⁴

Locally Administered Sales Taxes – There has been little change in recent years in the number of states that allow local governments to independently administer their general sales taxes. That is to say, even though the number of states authorizing local sales taxes has increased substantially, the number of states in which local governments self-administer the general sales

¹¹ Advisory Commission on Intergovernmental Relations, *Local Revenue Diversification: Income, Sales Taxes & User Charges*, p. 32 (Oct. 1974) (hereinafter “ACIR, *Local Revenue Diversification*”), available at <http://babel.hathitrust.org/cgi/pt?id=mdp.39015056569539;view=2up;seq=44>. A reorganization of sales tax administration in Illinois in 1990 reduced the number of local jurisdictions with a sales tax from over 1,000 to fewer than 100 at the time.

¹² Advisory Commission on Intergovernmental Relations, *Significant Features of Fiscal Federalism*, pp. 95-96 (Feb. 1991, Vol. 1), available at <http://babel.hathitrust.org/cgi/pt?id=uc1.32106017376929;view=2up;seq=104>.

¹³ See footnote 1.

¹⁴ For example, local sales taxes are used to assist in financing transit districts in Georgia, Colorado and Utah and to aid in financing stadiums in Minnesota and the District of Columbia.

tax has remained constant; the bulk of the new local taxes over time are being administered by the state tax administration agency. An Advisory Commission on Intergovernmental Relations study in 1973 found that for all local sales taxes authorized in the previous 20 years, only Minnesota opted for local administration when it authorized the Duluth sales tax, while New York, Virginia and Illinois switched from local administration to state administration during the same period.¹⁵ The states with a substantial number of locally administered general sales taxes at that time (1973) were Alabama, Alaska, Arizona, Colorado and Louisiana¹⁶ – the same five that allow a significant number of local governments to locally administer their general sales taxes today.¹⁷

Local Sales Tax Revenues – As more states authorized local sales taxes, receipts from the tax assumed a greater role in the local revenue structure. In 1962, local general sales taxes (both locally and state-administered taxes) comprised only 4.6 percent of total tax revenue at the local level and 3.6 percent of local own-source general revenue.¹⁸ As shown below, by 2012, local general sales taxes accounted for 11.8 percent of local taxes and 7.6 percent of own-source revenues, more than double the relative share in 1962.¹⁹

¹⁵ ACIR, *Local Revenue Diversification*, p. 35. The Duluth tax (and other Minnesota local general sales taxes) are now state-administered.

¹⁶ *Id.*

¹⁷ There is no good source of consolidated data on the local administration of selective local sales taxes such as those identified for this report over time or even at one point in time for all states.

¹⁸ KPMG calculations based on data from the Government Finances series produced by the U.S. Bureau of the Census. U.S. Census Bureau, *Data Base on Historical Finances of State and Local Governments*. In the Census Bureau classification, the term “Taxes” includes property taxes, general and selective sales and gross receipts taxes, corporate and individual income taxes, and all license taxes, including motor vehicle licenses, driver licenses, and other occupational licenses as well as “other taxes” including real estate transfer and severance taxes. Own-source general revenue includes all “taxes” as well as “charges and miscellaneous revenue,” which consists largely of user fees for current services (tuition, waste collection, parking, etc.) and miscellaneous revenue, including interest earnings. Own-source general revenues do not include publicly-owned utility and liquor store receipts or employee retirement and insurance trust earnings.

¹⁹ *Id.*

Local General Sales Tax Revenue as Percent of Total Local Tax and Total Local Own-Source Revenues (Selected Years)		
Year	Percent of Local Tax Revenue	Percent of Local Own-Source Revenue
1962	4.6	3.6
1972	5.5	4.2
1980	9.4	6.3
1990	10.7	6.7
2000	12.2	7.5
2012	11.8	7.6

Source: KPMG calculations based on Census Bureau data. See text for specific sources. Note this includes states with both state and locally administered general local sales taxes.

Local governments also impose certain “selective sales taxes,” on particular activities such as admissions and amusement, food and beverage, and lodging that are analyzed in this report. While there is not an exact match of these taxes with data collected by the Census Bureau, adding a subset of local “selective sales taxes” from the Census data to the general sales tax data shows that the combination of general and selective local sales taxes increased from 5.4 percent of local tax revenue and 4.3 percent of own-source general revenue in 1962 to 14.2 percent and 9.1 percent, respectively, in 2012.²⁰ (See Table 3.) Property taxes, of course, still dominate the local revenue structure, accounting for about 75 percent of all local tax revenue in 2012. Total local tax revenues in 2012 amounted to \$588.8 billion, and local general sales tax receipts totaled \$69.4 billion.²¹

²⁰ *Id.* The total used for “selective sales tax” revenues in these calculations is the total selective sales reported by the Census Bureau less that amount categorized as “public utility selective sales.” The public utility total was subtracted because many of them are gross receipts taxes levied on the business. Utility and telecommunications taxes are not examined in this report.

²¹ *Id.*

Table 3		
Local General and Selective Sales Tax Revenue as Percent of Total Local Tax and Total Local Own-Source Revenues (Selected Years)		
Year	Percent of Local Tax Revenue	Percent of Local Own-Source Revenue
1962	5.4	4.3
1972	6.8	5.2
1980	11.0	7.3
1990	12.9	8.1
2000	14.6	9.0
2012	14.2	9.1

Source: KPMG calculations based on Census Bureau data. See text for specific sources. Note this includes states with both state and locally administered local sales taxes.

Rationale for Local Sales Taxes

The increased use of local sales taxes over time has been driven by several factors.

- **Reducing reliance on the property tax** – Historically, the shift to sales and other local taxes was driven by a desire to diversify the local government revenue base and reduce reliance on local ad valorem property taxes. The property tax has historically been considered the least popular tax employed at the state and local level and efforts to diversify local tax structures were aimed in part at diminishing voter unrest. Sales taxes, on the other hand, have been commonly considered a more acceptable tax source by the general public.²²
- **Varying local revenue capacity** – Local governments differ in their ability to generate revenue from any particular tax base depending on the degree to which the economic base of the jurisdiction reflects the tax base. For example, a retail center has the ability to generate relatively more sales tax revenue than a largely residential community, while a community dominated by a manufacturing facility will likely have a relatively higher property tax yield. Diversifying local revenue bases by adding alternative taxes helps to address differences in the economic and demographic composition of localities where those differences have an impact on the ability to generate revenues from various taxes. Reliance on taxes other than property

²² For a complete discussion of this issue, see ACIR, *Local Revenue Diversification*, pp. 20-25.

taxes can help offset variations in the distribution of taxable property among jurisdictions and moderate differences in the revenue raising capacity of localities.²³

- **Matching users and services** – The growth of local sales taxes has also been driven in some cases by efforts to match the financing of certain services and facilities with the users of those services and facilities. With the property tax, the cost of supporting services or facilities is effectively imposed on property owners in the taxing jurisdiction. Imposing local sales taxes on retail activity in a jurisdiction is a way of ensuring that nonresidents using the services and facilities in that jurisdiction also contribute to financing those services and facilities.²⁴ In recent years, local sales taxes have played a significant role in helping finance sports stadiums, arenas, convention centers and other facilities in a number of localities around the country.²⁵ It is this matching of users to specific facilities and services that has also led to a greater use of local sales taxes by special purpose districts such as transit districts and arts districts.²⁶
- **Constraints on state governments** – Particularly in recent years, increased reliance on local sales taxes as a means of financing local services is, to some degree, due to the stress that state revenue systems have endured as well as a reluctance on the part of state elected officials to raise statewide taxes. Increased access to local revenue sources can also reduce the reliance of local governments on various forms of state financial assistance and make local governments less vulnerable to state decisions that might reduce such aid. Local taxes are also seen by some as enhancing political accountability by providing local officials with resources to tailor services to local needs and conditions.²⁷

²³ For further discussion, see David Sjoquist, *Diversifying Municipal Revenue in Conn.*, Conn. Tax Study Panel (Oct. 23, 2015).

²⁴ See *ACIR, Revenue Diversification*, p. 21 and David Sjoquist, *Diversifying Municipal Revenue in Conn.*, Conn. Tax Study Panel (Oct. 23, 2015).

²⁵ See e.g., District of Columbia Ballpark Fee (D.C. Code § 47-2762), Ballpark Sales Taxes (D.C. Code § 47-2002.05) and Verizon Center Sales Taxes (D.C. Code § 47-2002.06); King County Stadium Taxes (Wash. Rev. Code § 82.14.360) (currently not levied); Minneapolis Metrodome Taxes (Minn. Stat. § 473.592).

²⁶ See e.g., “Twin Cities” Metropolitan Transportation Area Sales Tax (Minn. Stat. § 297A.992); Colorado City Regional Transportation District (Colo. Rev. Stat. §32-9-119); Texas Metropolitan Transit Authorities (Tex. Tax Code Ann. § 322.101); Virginia Arts or Cultural Districts (Va. Code Ann. § 15.2-1129.1); Louisiana Cultural Product Districts (La. Rev. Stat. Ann. § 47:305.57).

²⁷ David Sjoquist, *Diversifying Municipal Revenue in Conn.*, Conn. Tax Study Panel (Oct. 23, 2015).

Challenges Posed by Local Sales Taxes

State-administered Local Taxes – While few would argue that local sales taxes have no role in local government finance, they do pose a variety of practical and policy issues for consideration by policymakers as the number of governments employing the taxes increases and the role of sales taxes in the local revenue mix grows. Primary among these is the additional complexity inherent in local sales taxes. Layering a large number of additional taxing units on the 46 state (including the District of Columbia) sales tax regimes, which differ substantially from one another, necessarily creates additional complexity for sellers that are responsible for complying with state and local sales tax laws and procedures. The compliance challenges are particularly acute for businesses with sales tax responsibilities in multiple states and multiple localities, as is common for many sellers in today’s economy. Compliance issues can be especially challenging for Internet-based and other remote sellers that make sales into a potentially large number of states and localities, but may have actual physical business operations in very few.

Local sales taxes necessarily create additional compliance costs for sellers, as compared to a single sales tax levied at a single rate throughout the state. Even if the state administers local sales taxes and they are identical to the state sales tax in all regards except the rate imposed in the local jurisdictions, sellers with collection responsibilities are required to monitor the local tax rates, have systems and procedures in place to identify the appropriate jurisdiction to which a transaction should be sourced, determine the appropriate tax rate for each transaction, and account for and report to the state the local tax attributable to each local jurisdiction. This is no small task given the roughly 10,000 local taxing jurisdictions and the facts that sales in particular jurisdictions may be subject to multiple local levies (e.g., city, county and special purpose district), some special purpose district boundaries differ from city and county boundaries, and city and certain other jurisdictional boundaries may change as a result of annexation.

Locally Administered Sales Taxes – The locally administered sales taxes that are the subject of this report pose additional complexity for taxpayers when contrasted to local sales taxes that substantially mirror the state sales tax and are administered by the state tax administration agency. In complying with locally administered taxes, a taxpayer must interact with each local government individually. In addition, as is examined in detail in the report, jurisdictions administering their own sales taxes are often given significant latitude to deviate from the state sales tax in determining

the local sales tax base as well as the administrative procedures governing the tax. Some of the major areas of additional complexity, and therefore areas of additional compliance costs, posed by locally administered sales taxes, as compared to local sales taxes administered along with the state tax where the only deviations from the state tax are the local rates, are:

- **Obtaining Information on the Tax** – Our research indicates that the task of obtaining information on the existence of locally administered taxes, the rates at which they are imposed, and other features of the taxes can be burdensome. Information regarding which local jurisdictions self-administer their taxes, the tax rates, or even whom to contact for such information is frequently not available from a central source (e.g., the state tax administration agency). This is particularly true for the specialty taxes, but is also true for general sales taxes in certain states. In addition, copies of ordinances or other authoritative sources providing details of the administrative and procedural aspects of the taxes are often even scarcer. For example, we have been unable to identify a centralized location for information on which local governments in North Carolina levy a locally administered lodging or food and beverage tax; the same is true for Georgia food and beverage taxes, and Ohio and Pennsylvania amusement taxes as well as a number of other locally administered taxes in other states as discussed below. In addition, we have not identified a central source of information on the specific elements of the local sales tax bases in Colorado and Louisiana.
- **Registration** – Where they have a filing responsibility, taxpayers usually must register for sales tax collection and remittance with each individual locality that administers its tax. These registrations often require information on the taxpayer and (in some cases) certain officers of the taxpayer, on operations at locations within the jurisdiction, and other information – all of which must be kept current. Jurisdictions in which the state administers local sales taxes do not require separate local sales tax registrations.
- **Tax Rates and Sourcing** – The issues associated with identifying and applying the correct tax rate that exist with a state-administered local sales tax are magnified for locally administered taxes. In addition to monitoring changes in tax rates, taxpayers are required to obtain data to ensure the sales are assigned to the appropriate jurisdiction, the appropriate tax rate is matched to that jurisdiction, and the tax is remitted to the correct jurisdiction. This can be difficult and may require securing the services of a third-party provider. Using Zip Codes or Zip + 4 (the

most readily available geographic identifiers) is not sufficiently precise for accurate sales tax sourcing. Zip Code boundaries often do not align with political subdivision and taxing district boundaries. For example, one Zip Code may cross the boundary of two taxing districts with different rates, and a two areas within a single Zip Code (and within a single political subdivision) may have different rates. As a result, many larger businesses use a third party provider to assist with sourcing and obtaining the correct tax rate for each transaction.

- **Tax Base** – Dealing with the differences between the state sales tax base and the bases of locally administered taxes (as well as differences in tax bases among local governments within a state) is probably the most difficult compliance issue presented by locally administered taxes. Any difference in tax base between the state and localities and among localities requires a taxpayer to be able to identify and monitor the variations across jurisdictions and to program a seller’s point of sale (POS) system and other order processing and tax automation systems to ensure the tax is applied correctly. Depending on the nature of the variations across jurisdictions, this aspect of local sales tax administration may effectively require a seller to treat each individual locally administered tax as a separate “state” for purposes of maintaining any system for determining taxability of transactions, applying the correct tax rate and reporting tax collections.
- **Administrative Procedures** – The administrative and procedural requirements of locally administered taxes often vary from the state and across local jurisdictions within a given state. Such requirements include tax registration, return filing dates, protest periods, penalty provisions, and exemption certificate requirements – each of which complicates the task of tax compliance.
- **Return and Remittance Filing** – Complying with a locally administered sales tax necessitates filing a separate return and tax remittance with each local jurisdiction. This can be a substantial undertaking for multijurisdictional businesses depending on the number of returns filed and the nature of the returns involved. Each additional return creates additional opportunities for errors, missed deadlines, and other issues.²⁸

²⁸ While some states with local administration have moved extensively to electronic return and remittance filing and allow multiple local returns to be filed through a single electronic portal (e.g., Alabama and Louisiana), separate returns are still required for each jurisdiction.

- **Enforcement and Collection** – Local administration also means that any enforcement or collection procedures, such as audits, notices, and appeals, are commonly dealt with on a jurisdiction-by-jurisdiction basis, which can require significant time, particularly when dealing with audits and appeals, if taxpayers have responsibilities in a number of local jurisdictions.

Beyond issues of compliance cost to the taxpayer, local administration of sales taxes raises certain other issues to consider, as follows:

- **Costs to Local Governments** – Local administration of sales taxes necessarily requires expenditures by local governments that they would not be required to make if the local taxes were administered by the state. Some of the costs that are currently incurred at the local level, however, would likely shift to the state tax administration agency. We attempt to quantify those costs in Part II of the report.
- **Tax Coordination** – Without some method for coordinating taxes among overlapping local taxing jurisdictions, use of sales taxes by different types of local jurisdictions creates the likelihood of overlapping tax rates, resulting in higher effective rates. Depending on the magnitude of the differentials, this can lead to possible distortion of consumer choices regarding where (and, in some cases, what) to buy.²⁹ For example, if a county and a city within that county are each authorized to levy a sales tax of four percent, items purchased within the city would be subject to a total tax of eight percent (compared to a total tax of four percent outside the city) without some coordination mechanism. Many states provide that the county tax would not apply within the city (or apply at a reduced rate) to reduce the tax differential on sales within and without the city. Other coordination mechanisms, such as a revenue sharing program, are also available to reduce the tax differential.
- **Fiscal Equalization** – One role of state government is to use state revenues to offset differences in revenue-raising capacity among local governments and ensure that services (e.g., public education, highways) are provided at a relatively consistent level across the state. If sales tax revenue raising capacity is concentrated in certain jurisdictions, local sales taxes may

²⁹ Due & Mikesell, *Sales Taxation*, 291-293.

complicate the task of state government in equalizing fiscal resources across jurisdictions for financing certain services.³⁰

Supporters of local sales tax administration generally believe it leads to improved taxpayer service because of the greater proximity to the taxpayer, better audit coverage than provided by the state, and the ability to tailor the tax to local needs and conditions. Local administration of sales taxes also ensures that the state government does not interfere with the flow of local revenues to local governments.

³⁰ ACIR, *Local Revenue Diversification*, pp. 40-44. To address the various issues raised by local sales taxes, the ACIR made several recommendations, including requiring all local tax bases to be uniform with the state base, state administration and origin sourcing for local taxes, promoting universal or widespread coverage of local taxes, constraining local rate options to avoid possible distortions, and taking steps to equalize local resources where necessary. *Id.* pp. 2-3.

Locally Administered Sales Taxes: Existing Conditions

Table 4 presents summary information on the number of jurisdictions (by state) that impose a locally administered³¹ general sales tax or a selective sales tax on lodging, food and beverages or admissions and amusement.

Table 4						
Locally Administered Sales Taxes – By State and By Type						
State	As of Date	Sales and Use	Rental	Lodging	Food and Beverage	Admissions and Amusement
Alabama	February 2016	327	133	132		
Alaska	January 2016	100		44		
Arizona	February 2016	14				
California	June 2014			465		
Colorado	December 2015	72		49		
Florida	January 2016			40	1	
Georgia	December 2015			267	N/A*	
Idaho	February 2016	7		13	9	
Illinois	June 2015		1	N/A*		N/A*
Indiana	September 2015				1	
Louisiana	February 2016	63				
Maryland	January 2015			26		
Minnesota	October 2015			132		
New York	February 2016			N/A*		
North Carolina	February 2016			159	5	
Ohio	January 2014			410		63
Oklahoma	March 2015			40		
Oregon	February 2016			107		
Pennsylvania	December 2015			60		349
South Carolina	December 2014			122	129	
Tennessee	July 2012/2015			133		3
Vermont	February 2016			2	2	2
Virginia	December 2013			184	190	22
Washington	February 2016					56
West Virginia	February 2016			130		
* Unable to locate listing of the jurisdictions imposing and administering this tax.						
Source: KPMG compilation based on various sources. See Part I, Appendix A for detail.						

³¹ See p. 5 for definition of “locally administered.” If a local government is allowed to have the state tax administration agency administer the tax (e.g., Alabama) and has exercised that option, it is not included in these totals.

As shown in Table 4, there are more than 3,800 jurisdictions in 25 states that impose and locally administer one or more of the taxes. The most commonly authorized tax is a local lodging tax; over 2,400 local jurisdictions in 21 states administer such a tax. There are six states that authorize local administration of general sales taxes, seven states that allow locally administered special taxes on food and beverages, and eight states with local governments that self-administer a tax on admissions and amusement. There are over 500 jurisdictions with a locally administered general sales tax. In addition, 133 Alabama local governments impose and administer a separate tax on rentals, and the City of Chicago imposes a unique Personal Property Lease Transaction Tax on selected transactions.

Detailed information on each of these types of taxes is presented (by state) in the Appendices to Part I which catalogs, for each type of tax: (a) state law authorization for the tax; (b) number of jurisdictions imposing the tax; (c) range of rates at which the tax is commonly imposed; and (d) general nature of the tax, major exclusions and exemptions from the tax base, and key administrative and procedural provisions, focusing on whether these features conform to or deviate from the counterpart state tax, presuming one is levied. The remainder of this section summarizes the key findings for each type of tax with an emphasis on general sales taxes in Alabama, Alaska, Arizona, Colorado and Louisiana because of the impact these taxes have on a wide range of taxpayers in contrast to the specialized lodging, food and beverage, and admissions taxes found elsewhere.

General Sales and Use Taxes

Alabama

General – Alabama law authorizes each county and each municipality to levy a general sales and use tax, a rental tax and a lodging tax.³² As to administration, each local government may administer the tax itself, contract with a third party to administer the tax on its behalf, or enter into an agreement with the Alabama Department of Revenue for administration of the tax. Table

³² The general authorization for the adoption of county sales, rental and lodging taxes is found at Section 11-3-11 of the Alabama Code of 1975. The authorization of municipal sales taxes is at Ala. Code §§ 11-51-200 (general sales tax), 11-51-202 (lodging), and 11-51-207 (rental tax).

5 presents the breakdown of local taxes by type of administration as of February 2016. There are 67 counties and roughly 460 incorporated municipalities in Alabama, meaning that each county and nearly 90 percent of Alabama cities have adopted a general sales tax.³³

Table 5								
Alabama Local Sales, Rental and Lodging Taxes – By Type of Administration (As of February, 2016)								
	Self-Administered		Third-Party Administered		State-Administered		Total	
	City	County	City	County	City	County	City	County
General Sales	38	12	233	44	142	11	413	67
Rental	44	3	83	3	52	1	179	7
Lodging	60	1	59	12	33	14	152	27
Source: Alabama Dept. of Revenue, Local Tax Rates Report for the Month of February, 2016								

Tax Rates – Alabama law does not restrict local government tax rates. County sales tax rates range from 0.5 to 5 percent. City sales tax rates (where imposed) also range from 0.5 to 5 percent. There appears to be some informal rate coordination among local governments; when local tax rates are combined with the state rate (4 percent), the total state-local rate commonly runs in the 8 to 10 percent range throughout the state.³⁴

Use Tax and Nexus – Alabama local governments also impose a use tax on taxable transactions. Alabama Department of Revenue rules provide, however:

A seller may only avoid the responsibility for collecting and remitting a local jurisdiction’s sales or use tax when the seller lacks physical presence within the local jurisdiction that would be sufficient to create an obligation to collect and remit state sales or use tax if the sales transaction or use in question was an interstate transaction.³⁵

In other words, with respect to the collection of use tax on sales into a local jurisdiction, a seller must have the requisite physical presence nexus in the individual local jurisdiction before a

³³ Computations based on data from various sources.

³⁴ All observations are based on a review of state and local sales tax rates obtained from Avalara Inc. at www.taxrates.com (last visited Feb. 3, 2016). Cities and counties are each authorized to impose rates that differ from the general rate on autos, farm machinery and manufacturing machinery; such rates are not common.

³⁵ Ala. Admin. Code r. 810-6-5-.04.02.

collection requirement may be imposed by the locality, rather than nexus in the state being seen as satisfying the nexus requirement for all locally administered sales taxes.

Conformity with the State Tax – In contrast with other states, authorizing locally administered general sales taxes, Alabama requires that any general sales tax levied by a municipality be subject to all definitions, exceptions, exemptions, proceedings, requirements, rules and regulations, statutes of limitation, penalties, fines, punishments, and deductions for the corresponding state tax.³⁶ In addition, any rules adopted for county sales taxes “shall be consistent” with those adopted by the Department of Revenue.³⁷ As a result, there is a considerable degree of similarity between Alabama local taxes and the counterpart state tax with respect to the tax base and administrative provisions. Local governments are allowed to opt out of state-enacted temporary tax holidays³⁸ and the jurisdiction of the Alabama Tax Tribunal.³⁹

Return Filing and Enforcement – Alabama returns are filed with the entity administering the tax – the individual locality, a third-party administrative entity on behalf of a locality, or the state. The state and the third-party contractors, as well as a number of self-administered jurisdictions, provide for electronic filing of local returns. The Department of Revenue requires electronic filing of state sales tax returns, including local sales taxes administered by the state, for most taxpayers. In addition, all local sales taxes and rental taxes may be filed electronically through the Alabama Optional Network Election for Single Point Online Transactions (ONE SPOT).⁴⁰ Audit and enforcement activities for self-administered taxes and third-party administered taxes are the responsibility of the local government. Many local governments contract with a third-party administrator for audit services.

Other Taxes – Alabama cities and counties may also impose a sales tax on certain rentals of tangible property and lodging – both of which may be administered under the three options available for general sales taxes. The number of local governments imposing such taxes and the

³⁶ Ala. Code § 11-51-201.

³⁷ *Id.* § 11-3-11.2(b).

³⁸ *Id.* §§ 40-23-213; 233.

³⁹ *Id.* § 40-2B-2(g)(2).

⁴⁰ Alabama Dep’t of Revenue, *ONE SPOT Program*, available at http://revenue.alabama.gov/salestax/one_spot.cfm (last visited July 22, 2016).

manner in which they are administered are shown in Table 5. About 35 percent of the jurisdictions have elected to have the state administer the local rental or lodging tax. Rental taxes are commonly levied at a rate of about 3 percent, and the maximum local lodging tax rate is 12 percent.⁴¹ Similar to the sales tax, state law provides that local rental and lodging taxes must be “parallel to the state levy and assessment” of the counterpart state tax.⁴²

Alaska

General – Alaska is unique among states authorizing locally administered general sales taxes in that the state does not impose a state-level general sales tax.⁴³ Instead, the state delegates the authority to impose a sales tax to boroughs (which are much like counties in other states) and cities. Currently, nine boroughs impose a borough-level general sales tax, and 98 cities impose a city tax. This is out of a total of 19 organized boroughs, one unorganized borough, and 144 total municipalities.⁴⁴ If a borough levies a sales tax, the borough is also responsible for administering any general sales tax imposed by cities within the borough. Of the nine boroughs that levy a sales tax, there are only two in which there are cities (seven total) that also levy a sales tax that is collected by the borough; there are three boroughs that levy a tax, but no city therein does; and there are four “unified” boroughs (meaning a consolidated borough-city government) that levy a unified tax throughout the borough. The remaining 90 city sales taxes are administered separately by the individual city governments, rather than on a borough-wide basis. About 65 of these cities exist in the geographically expansive “unorganized borough.”⁴⁵ The two largest cities, Anchorage and Fairbanks, do not impose a city sales tax and are not in a taxing borough. In 2015, all local

⁴¹ Ala. Dep’t of Revenue, *Local Tax Rates Report for the Month of February, 2016*, pp. 180, available at <https://revenue.alabama.gov/salestax/sales/index.cfm>.

⁴² Ala. Code § 40-12-224.

⁴³ In July 2016, Alaska Governor Bill Walker proposed enactment of a statewide sales tax effective January 1, 2018. The draft bill, not enacted, would have required local sales taxes be collected by the state beginning in 2022. *See* Transmittal Letter from Governor Bill Walker to Honorable Speaker Chenault, July 8, 2016.

⁴⁴ Office of the State Assessor, *2015 Alaska Taxable* (Jan. 2016), available at <https://www.commerce.alaska.gov/web/Portals/4/pub/OSA/AlaskaTaxable.pdf>. (*See* Table 2, 2015 Municipal Sales Taxes, Special Taxes and Revenues.) (Hereinafter referred to as “2015 Alaska Taxable.”) An “organized borough” has a functioning borough-level government whereas the “unorganized borough” does not.

⁴⁵ The unorganized borough is located outside the 19 organized boroughs and comprises more than 50 percent of Alaska’s total land.

governments in Alaska collected about \$233.5 million in general retail sales taxes, approximately \$44 million of which was collected in Juneau and \$57 million of which was collected in the Kenai Peninsula Borough and the cities therein.⁴⁶

Tax Rates – Borough sales tax rates range from 2.5 percent (e.g., Ketchikan Gateway Borough) to 7 percent (e.g., Wrangell City and Borough), while the city sales tax rates range from 1 percent (e.g., City of White Mountain) to 7 percent (e.g., City of Kodiak). The tax rate in about 70 jurisdictions ranges from 3 to 5 percent. The sales tax rate in some Alaska municipalities fluctuates by season. For instance, the sales tax rate in the City and Borough of Sitka increases from 5 percent to 6 percent in the summer, and the City of Whittier imposes a city sales tax only in the summer.⁴⁷

Use Tax and Nexus – Alaska statutes authorize boroughs and cities to impose a use tax as a complement to the sales tax. The authorizing statute for the imposition of sales and use taxes limits the scope of the local tax to “sales, rents or services provided in the [jurisdiction].”⁴⁸ Most local ordinances do not contain “nexus” or “doing business” language specifically defining those entities with an obligation to collect the local tax, but do limit the scope of the tax to activities taking place within the jurisdiction.

Conformity with the State Tax – As there is no state sales tax, each jurisdiction is responsible for determining its own tax base, procedures, and enforcement provisions, within some parameters established in state law. There is no centralized location for such information, and while we identified similarities across the codes of selected jurisdictions, there is no model code to which a jurisdiction must adhere. State law prohibits taxation of certain items, such as sales and purchases of goods and services related to orbital space facilities and sales of refined fuel for other than use in the borough or city.⁴⁹ Beyond this, local governments are free to determine their own exemptions and exclusions. A review of selected local ordinances indicates the taxes often incorporate exemptions for sales for resale and casual sales. Other frequently identified exemptions include funeral and mortician services, medical services, and prescription drugs. Likewise, cities

⁴⁶ 2015 Alaska Taxable.

⁴⁷ *Id.*

⁴⁸ Alaska Stat. §§ 29.45.650; 29.45.700.

⁴⁹ *Id.*

and boroughs establish their own administrative procedures and other requirements through local ordinances. Some of the administrative and procedural differences among jurisdictions, including filing dates and statutes of limitations, are discussed in the Alaska summary appearing in Part I, Appendix A.

Return Filing and Enforcement – Returns are filed individually with up to 100 separate jurisdictions. There is no centralized electronic filing utility, and paper returns are the norm. The two largest sales tax jurisdictions (City and Borough of Juneau and Kenai Peninsula Borough), for example, do not offer an electronic filing capability. Taxpayers are assigned to filing frequencies based on the amount of tax remitted. All audit and enforcement activities are conducted by the individual local governments.

Other Taxes – Alaska local governments may also impose other local excise taxes, including a bed tax, alcohol tax, and a car rental tax.⁵⁰ These taxes are imposed at the point of sale and are separate from, and in addition to, any local sales tax. The most common of these other taxes is the bed tax, imposed in 44 jurisdictions. (See Table 4.) Unlike the sales tax, a borough is not required to administer these other city-level taxes. Each borough or city is responsible for collecting these other local taxes on its own behalf, even if both the city and borough impose tax on the same transaction. These other local taxes are remitted on separate returns for each tax type.

Arizona

General – The Arizona Transaction Privilege Tax (TPT) is a tax on gross receipts and income that is levied for the privilege of engaging in business in the state.⁵¹ It is levied on 16 different classifications of business, and there are different deductions and exemptions for each classification. In 2012, there were 98 deductions or exemptions.⁵² The TPT is unique among states

⁵⁰ Forty-seven local governments (15 boroughs and 32 cities) impose a local bed tax, ten local governments (two boroughs and eight cities) impose an alcohol tax, and three localities (two boroughs and one city) impose car rental taxes. 2015 Alaska Taxable.

⁵¹ Ariz. Rev. Stat. Ann. § 42-5008.

⁵² Transaction Privilege Tax Simplification Task Force, *Final Report*, p. 3 (Dec. 13, 2012) (*hereinafter* “TPT Simplification Task Force Report”).

and has some characteristics of an income tax, a gross receipts tax and a retail sales tax. It operates most like a retail sales tax and is thus considered a sales tax for purposes of this report. The TPT is levied by the state, counties and cities.⁵³ Each of the 15 counties in Arizona imposes a county TPT. The Arizona Department of Revenue administers the tax on behalf of each county. Each of Arizona's 91 cities and towns also imposes a city TPT; they fall into two groups.

- “Program cities” for which the Department of Revenue administers the local tax,⁵⁴ and
- “Non-program cities” each of which administers its own TPT.

There are currently 77 program cities and 14 non-program cities. The non-program cities include some of the largest cities in Arizona, including Phoenix, Scottsdale, and Tucson.⁵⁵

Tax rates – TPT rates vary among the local jurisdictions. The state general TPT rate is 5.6 percent, but rates vary depending on business classification.⁵⁶ County general TPT rates range from 0.25 percent to 2 percent in La Paz County. Most fall in the 0.5 to 1 percent range.⁵⁷

For non-program cities, TPT rates range from 1.4 to 6.1 percent, again depending on the business activity classification. The highest rate is 6.1 percent on telecommunications receipts in Glendale. In most non-program jurisdictions, the general rate falls in the 1.75 to 2.5 percent range.⁵⁸ For program cities, the TPT rates range from 0.1 to 7 percent, depending on the jurisdiction and the

⁵³ Ariz. Rev. Stat. Ann §§ 11-201; 9-240.

⁵⁴ Ariz. Dep't of Revenue, *Transaction Privilege Tax (TPT)/Licensing*, available at <https://www.azdor.gov/Business/TransactionPrivilegeTax.aspx> (last visited Feb. 3, 2016). This source notes that Sedona transitioned from a non-program city to a program city on January 1, 2016.

⁵⁵ Arizona Dep't of Revenue, *TPT Non-Program Cities*, available at <https://www.azdor.gov/Business/TransactionPrivilegeTax/NonProgramCities.aspx> (last visited Feb. 3, 2016) (*hereinafter* “TPT Non-Program Cities”). The total in Table 1 reflects only the non-program cities. While the focus of the analysis is on locally administered taxes (which in the case of Arizona means a non-program city), there are significant similarities between program and non-program city taxes and certain compliance issues related to program cities. As a result, this discussion generally covers both types of jurisdictions.

⁵⁶ Ariz. Rev. Stat. Ann. § 42-5010.

⁵⁷ Ariz. Dep't of Revenue, *Transaction Privilege and Other Tax Rate Tables*, Effective January 1, 2016 available at <http://www.azdor.gov> (last visited Feb. 3, 2016).

⁵⁸ Arizona Dep't of Revenue, *TPT Non-Program Cities*, available at <https://www.azdor.gov/Business/TransactionPrivilegeTax/NonProgramCities.aspx> (last visited Feb. 3, 2016).

activity subject to tax. The most common rate employed is in the 3 to 4 percent range.⁵⁹ Local TPT rates are cumulative and in addition to the state TPT, meaning the total rate applicable to a transaction is the sum of the state, county and city TPT rate.⁶⁰

Use Tax and Nexus – The Model City Tax Code (MCTC) (see below) includes the imposition of a use tax as a complement to the sales tax, but both program and non-program cities may choose not to impose a use tax. Approximately 40 of the 91 cities have elected not to impose a use tax.⁶¹ Establishing nexus with the state of Arizona obligates the seller to collect the state and county sales and use tax components of the TPT, but not a city TPT, unless the seller has nexus with the individual city.⁶²

Conformity to the State Tax – Arizona provides both program and non-program cities considerable flexibility in structuring their tax as it relates to the tax base and to some extent with regard to other features of the tax. Over time, there have been efforts to bring consistency and some uniformity to local TPTs, even where local flexibility exists. The centerpiece of these efforts is the MCTC.⁶³ The goal of the MCTC is to provide greater uniformity among local TPTs while retaining the right of an individual city or town to establish its own tax base. The MCTC sets forth a model local tax code based in large part on the state TPT; it then identifies various options from which an individual city may choose in structuring its TPT and provides model language for implementing each option.⁶⁴ Each city and town that has enacted a TPT has adopted the MCTC,

⁵⁹ Ariz. Dep't of Revenue, *Transaction Privilege and Other Tax Rate Tables*, Effective January 1, 2016, available at <http://www.azdor.gov> (last visited Feb. 3, 2016).

⁶⁰ Arizona Dep't of Revenue, *Model City Tax Code*, Article IV Sec. 400, available at <http://modelcitytaxcode.az.gov/articles/articles.htm> (last visited Feb. 3, 2016) (*hereinafter* "Model City Tax Code").

⁶¹ See Option 15 of the Option Charts accompanying the Model City Tax Code, available at http://modelcitytaxcode.az.gov/Option_Charts/model.htm (last visited on Feb. 3, 2016).

⁶² The Model City Tax Code, Article III, Sec. 300(a)(1) requires TPT licensing by those "engaging or continuing in business within the city or town."

⁶³ The actual content of the MCTC is governed by the Municipal Tax Code Commission, consisting of nine local officials. The Department of Revenue maintains the official master version of the code, information on the options selected by each participating local government, and other information on the TPT in the various cities. See Ariz. Dep't of Revenue, *Introduction: Model City Tax Code*, available at <http://modelcitytaxcode.az.gov/intro/intro.htm> (last visited Feb. 3, 2016).

⁶⁴ *Id.* See also TPT Simplification Task Force Report, p. 5.

meaning that both state-administered program cities and locally administered non-program cities are governed by it and may choose from the options provided in the MCTC.⁶⁵

The MCTC provides roughly 60 options to cities in the design of their tax. They may impose tax on certain items not taxed at the state level, and they may choose not to adopt certain state-level exemptions.⁶⁶ The Department of Revenue maintains an online listing of the available options and which jurisdictions have exercised them.⁶⁷ The most significant differences between the state and local tax bases are in the areas of advertising, speculative building, residential rentals, commercial leases, licenses for use, and the taxation of food for home consumption.⁶⁸ In addition, some 40 jurisdictions have chosen not to impose a use tax as part of the local TPT.⁶⁹

The MCTC also contains provisions governing local TPT procedures and administration (e.g., statute of limitations, due dates, and protest periods) as well as a Taxpayer Bill of Rights. The MCTC provisions are generally consistent with the state TPT. The MCTC does not generally allow local deviations on procedural matters, thus establishing substantial consistency between the state TPT and local TPTs in this regard.

Return Filing and Enforcement – Each of the 14 non-program cities administer its own TPT, and taxpayers file returns and remittances directly with the individual city. Cities design and provide their own tax forms. Some, but not all, non-program cities provide an electronic filing option. Returns and remittances for program cities are filed with the Department of Revenue, which requires electronic filing for most taxpayers. Effective January 1, 2015, the Department assumed responsibility for audits of local TPTs for both program and non-program cities. All audits must be approved by the Department, which is also responsible for issuing all assessments and training all auditors. Both program and non-program cities may employ additional auditors or

⁶⁵Ariz. Dep't of Revenue, *City Profile: Listing of Cities*, available at http://modelcitytaxcode.az.gov/City_profiles/City_profiles.htm (last visited Feb. 3, 2016).

⁶⁶ See Model City Tax Code, Appendices II and III.

⁶⁷ See Arizona Dep't of Revenue, *Option Charts*, http://modelcitytaxcode.az.gov/Option_Charts/option_charts.htm (last visited Feb. 3, 2016).

⁶⁸ TPT Simplification Task Force Report, p. 6.

⁶⁹ *Id.*

retain contract auditors, but those individuals are also subject to training and direction by the Department of Revenue.⁷⁰

Responsibility for administration of all local TPTs (including for non-program cities) was scheduled to shift to the Department of Revenue effective January 1, 2015. This transition has been delayed and is expected to occur in 2016. Once this is accomplished, taxpayers will register for all local TPTs and file all local TPT returns and remittances with the Department. Local governments will, however, still retain the flexibility to determine their own tax base within the confines of the MCTC. The delay is, in part, attributable to revising the state computer and processing system to accommodate the filing of local TPT returns on a “by location” basis, in contrast to filing consolidated information for all locations of a taxpayer within an individual jurisdiction.⁷¹ The Department recently announced that the all businesses with more than one location are required to file returns electronically with the Department for all tax periods beginning on or after June 1, 2016, and that the transition to state administration of local TPTs will continue throughout 2016.⁷²

Colorado

General – In Colorado, counties, cities and certain special purpose districts impose local sales taxes. The administration of these taxes varies by type of government as does the degree of latitude granted to local governments in structuring the tax and its administration. There are currently 50 counties and ten types of special districts that impose a sales tax; all county and special district taxes are collected and administered by the Colorado Department of Revenue.⁷³ There are 222 municipalities that impose a city sales tax as of January 1, 2016.⁷⁴ This includes 151 municipalities that are considered “statutory municipalities” for which the Department of Revenue

⁷⁰ Interview with Tom Johnson, Arizona Department of Revenue, January 21, 2016.

⁷¹ *Id.*

⁷² Notice, Arizona Dept. of Rev., Transaction Privilege Tax (TPT) (June 29, 2016), available at [https://www.azdor.gov/TransactionPrivilegeTax\(TPT\).aspx](https://www.azdor.gov/TransactionPrivilegeTax(TPT).aspx) (last visited July 5, 2016).

⁷³ Colo. Dep’t of Revenue, *DR 1002: Colorado Sales/Use Tax Rates* (June 24, 2015), available at <https://www.colorado.gov/pacific/sites/default/files/DR1002.pdf> (*hereinafter* “DR 1002”).

⁷⁴ *Id.*

administers the local tax.⁷⁵ Of the remainder, 70 municipalities are “home-rule municipalities” that administer their own tax.⁷⁶ Two counties, Denver and Broomfield, are self-administered as they are both consolidated city-county governments. One home-rule city, Manitou Springs, has contracted with the Department to administer the local tax.⁷⁷

Tax Rates – The state sales and use tax rate is currently 2.9 percent.⁷⁸ County sales tax rates range from 0.25 percent in Arapahoe County to 5 percent in San Juan County. Most counties fall in the 1 to 2 percent range.⁷⁹ Rates in the statutory municipalities range from 1 to 5 percent, with most falling in the 2 to 4 percent range.⁸⁰ Home-rule municipality sales and use tax rates are also commonly in the 2 to 4 percent, with the highest being a 5.5 percent sales tax rate in Black Hawk. The use tax rate is lower than the sales tax rate in six jurisdictions.⁸¹ Local sales taxes are cumulative and are in addition to the state sales tax, meaning that state, county, city, and special district rates are combined to determine the total rate applicable to a transaction.

Use Tax and Nexus – With respect to use taxes, counties (other than Denver and Broomfield) and statutory cities may impose a use tax only on sales of motor vehicles and building materials.⁸² There are 85 counties and statutory cities that do not impose any use tax.⁸³ Based on research conducted for this report, the scope of the use tax base among home-rule cities generally falls in one of three categories:

- Storing, using, or consuming in the state any articles of tangible personal property purchased at retail;⁸⁴

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ Colo. Rev. Stat. §39-26-106.

⁷⁹ DR 1002.

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² Colo. Rev. Stat. §29-2-109.

⁸³ DR 1002.

⁸⁴ *See* Lone Tree, Colo. Ordinances § 4-3-120(c); Edgewater, Colo. Ordinances § 4-2-310.

- Storing, using, or consuming in the state any articles of tangible personal property *or taxable services* purchased at retail;⁸⁵ or,
- Purchases of building materials and motor vehicles.⁸⁶

As to nexus, a seller is required to have nexus or be “doing business” in an individual local tax jurisdiction (i.e., county, statutory city or home-rule city) before it may be required to collect tax on sales sourced to that jurisdiction.⁸⁷

Conformity with the State Tax – The administrative provisions governing county, special district, and statutory city taxes (where the Department of Revenue administers the tax for all such jurisdictions) are governed by and consistent with the state sales tax. Home-rule municipalities, on the other hand, are given substantial deference in administering their own sales taxes. There are, however, several restrictions on administration, including:

- Home-rule municipalities must follow, and conform their ordinances where necessary to, the statute of limitations, the amount of penalties and interest payable, and the posting of bonds pursuant to C.R.S. § 39-21-105(4).⁸⁸
- No sales tax of any home-rule municipality may apply to the sale of construction and building materials, if such materials are picked up by the purchaser and if the purchaser presents to the retailer a building permit or other documentation evidencing that a local use tax has been paid or is required to be paid.⁸⁹

⁸⁵ See Alamosa, Colo. Ordinances § 18-86; Wheat Ridge, Colo. Ordinances § 22-66(a).

⁸⁶ See Broomfield, Colo. Ordinances § 3-08-010; Parker Municipal, Colo. Ordinances § 4.03.150.

⁸⁷ See Colorado Department of Revenue, General Information Letter 14-005 (Apr. 28, 2014). The position stated by the Department in the General Information Letter is consistent with the rule established by the Colorado Supreme Court in *Associated Dry Goods v. City of Arvada*, 593 P.2d 1375 (Colo. 1979). That case rests on U.S. Supreme Court due process jurisprudence that may be challenged as having been superseded by *Quill* and other cases. No challenge has, however, apparently been brought in Colorado.

⁸⁸ Colo. Rev. Stat. § 29-2-106(8).

⁸⁹ *Id.* § 29-2-105(2).

- No home-rule municipality may apply sales tax to the retail sale of tangible personal property or the furnishing of services if the transaction was previously subjected to a sales or use tax lawfully imposed on the purchaser or user.⁹⁰
- A home-rule municipality may apply a rate in excess of the general rate to prepared food or food for immediate consumption, but not to food for domestic home consumption.⁹¹
- Any statutory or home-rule municipality that provides an exemption for the sale of food shall define “food” as defined under the state sales tax C.R.S. § 39-26-102(4.5).⁹²
- Home-rule municipalities must have the same dispute resolution procedures as the state.⁹³
- The use tax of any local government may not apply to the storage of construction and building materials.⁹⁴
- Home-rule cities are bound by the state Taxpayer Bill of Rights.⁹⁵

Generally, the Colorado courts require home-rule municipalities to mirror the state where there is a need for statewide conformity (i.e., it is considered a matter of statewide concern) as that test has been developed by the state courts.⁹⁶ Many of the provisions above have not been tested to determine whether the courts would consider them matters of statewide concern, thus obligating home-rule cities to follow them.

With respect to determining the local sales tax base, home-rule municipalities are granted considerable independence. They are generally free to adopt their own sales and use tax ordinances, devise their own definitions, determine their own tax base, and promulgate their own rules within the parameters of state law outlined above. As a result, local tax bases differ in some

⁹⁰ *Id.* §§ 29-2-105(3)-(4).

⁹¹ *Id.* § 29-2-105(5).

⁹² *Id.* § 29-2-105(8).

⁹³ *Id.* § 29-2-106.1.

⁹⁴ *Id.* § 29-2-109(7).

⁹⁵ Colo. Const. art. X, § 20.

⁹⁶ *Walgreen Co. v. Charnes*, 819 P.2d 1039 (Colo. 1991).

significant regards from the state base, with local tax generally being imposed on a broader range of goods and services than the state. Some significant differences between the state and local tax bases are in the taxation of sales of freight services, pre-written software, custom software, information services, storage space, admissions, residential electricity and other utilities, machinery and machine tools (i.e., manufacturing machinery and equipment), and food for domestic home consumption. For this project, we collected information on the tax treatment in each home-rule city of electricity and other utilities, food for home consumption, and machinery and machine tools. That information is collected and presented in Part I, Appendix B.

A 2013 report by the Department of Revenue found that 82 percent of home-rule municipalities impose tax on food for domestic home consumption and 89 percent impose tax on residential power, both items that are exempt at the state level.⁹⁷ That report also compared an “average” home-rule tax base, using Westminster as a proxy, to the state tax base. The state had 79 exemptions from sales tax; Westminster shared only 45 of those exemptions.⁹⁸ Most of the 34 exemptions to which Westminster did not conform were relatively small from a fiscal standpoint at the state level, save for certain items such as sales of food for home consumption and residential power.⁹⁹ The only item that the state taxed, but most home-rule municipalities exempted, was cigarettes.¹⁰⁰

Even counties, statutory cities and special districts for which the Department administers the tax are granted some flexibility with respect to determining the tax base. Each jurisdiction that levies a sales tax has the option of incorporating any of 11 different state exemptions into its tax base. The most significant of such “opt-in” exemptions are food for home consumption, machinery and machine tools, gas, electricity and other utilities for residential use, low-emission vehicles, and farm equipment.¹⁰¹ The Department maintains a listing of the available options and which special districts (but not counties or statutory cities) have exercised them on Colorado Form DR 1002.

⁹⁷ Colorado Dep’t of Revenue, *Uniform Sales and Use Tax Base Throughout the State* (Dec. 15, 2013), available at <https://www.colorado.gov/pacific/sites/default/files/Uniform%20Sales%20and%20Use%20Tax%20Base.pdf>.

⁹⁸ *Id.*

⁹⁹ *Id.*

¹⁰⁰ *Id.*

¹⁰¹ DR 1002.

Return Filing and Enforcement – Home-rule cities administer their sales taxes separately from the state. The local governments create the tax forms required for filing and collect the tax that is due them. Some home-rule cities provide an electronic filing option. Home-rule municipalities also have the authority to audit taxpayers with respect to local compliance and they sometimes employ third-party contract auditors to assist.

Lodging Taxes – Home-rule jurisdictions may also impose taxes on the short-term rental of various types of lodging and accommodations. There are 49 home-rule jurisdictions with a separate, self-administered lodging tax. The taxes go by a variety of names, including “Lodger’s Tax,” “Accommodations Tax,” “Hotel Tax,” and “Hotel and Motel Room and Accommodation Services Tax.” In practice, however, most of them work the same as the state tax on lodging and are imposed on lodging rented for 30 days or less. The cities vary as to whether the tax is in addition to the city sales tax or if the tax is a substitute for the sales tax. For instance, in Denver the 10.75 percent lodging tax substitutes for the sales tax, but in Durango, the 2 percent lodging tax is in addition to the city sales tax.¹⁰² The home-rule lodging tax rates are sometimes stated as a flat rate that begins at \$2.00 per night. When stated as a proportion of the hotel charge, they run as high as 10.75 percent.

Louisiana

General – The Louisiana Constitution authorizes local government subdivisions (parishes and cities) and school boards to levy and collect a local sales tax if approved by their respective voters.¹⁰³ The constitution further provides that other political subdivisions (special purpose districts) may impose sales taxes as authorized by state statute.¹⁰⁴ Currently, all but one of the 64 parishes, many cities, and a variety of special districts and bodies such as police juries and school

¹⁰² See De. Rev. Municipal Code Sec. 53-171(b) and Durango Municipal Code 23-89.

¹⁰³ La. Const. art. VI, § 30.

¹⁰⁴ *Id.* art. VI, § 29.

districts impose a sales tax. There are over 370 different tax rates levied within the various parishes when all parish, city, and special district levies are considered.¹⁰⁵

All local sales taxes are administered locally and collected by a single entity in each parish.¹⁰⁶ The state changed to parish-level collection in 1992 from a system in which each local government that imposed a sales tax generally administered its tax separately from the state or other localities. Central collectors currently operate in 59 parishes; the collector in Concordia parish also serves as the collector in Caldwell, Catahoula, LaSalle, and Tensas parishes.

Tax Rates – The state constitution limits the total rate of local tax to 3 percent, but also provides that local governments may impose taxes in excess of 3 percent if the higher rate is authorized by general or special state legislation and is approved by the voters of that locality.¹⁰⁷ The legislature frequently grants such authority. As a result, the combined local tax rate in a parish ranges up to 7.66 percent for the portion of Iberville parish located within the University Club Center Economic Development District,¹⁰⁸ producing a combined state and local rate that ranges from 11.66 percent in this portion of Iberville Parish to 4 percent in Cameron Parish (where there is no local tax).¹⁰⁹

Use Tax and Nexus – Louisiana local governments are authorized to impose a use tax as a counterpart to the local sales tax. Louisiana imposes tax collection obligations on those “engaged in business in the taxing jurisdiction” with “in the taxing jurisdiction” defined as “within the physical boundaries of the taxing authority,” meaning the parish or other taxing jurisdiction in the case of local taxes.¹¹⁰ As a result, a seller is required to have substantial nexus or “be engaged in

¹⁰⁵ Based on rates available through the Parish E-File system maintained by the Louisiana Department of Revenue. Louisiana Dep’t of Revenue, *Parish E-File*, <https://parishe-file.revenue.louisiana.gov/lookup/lookup.aspx> (last visited Sept. 9, 2015) (*hereinafter* “Parish E-File”).

¹⁰⁶ La. Rev. Stat. Ann. § 47:333.14.

¹⁰⁷ La. Const. art. VI, § 29.

¹⁰⁸ Parish E-File. For a listing all local sales tax rates, *see* Louisiana Department of Revenue, Local Sales Tax Collecting Agencies and Rates, *available at* [www.revenue.louisiana.gov/taxforms/1003\(10_02\).pdf](http://www.revenue.louisiana.gov/taxforms/1003(10_02).pdf) (last visited on November 22, 2015).

¹⁰⁹ Act 26 of the First Extraordinary Session of the 2016 Louisiana Legislature increased the state sales and use tax rate by to 5 percent for the period April 1, 2016 to April 1, 2019.

¹¹⁰ *See* La. Rev. Stat. Ann. §§ 47:301(4)(d) and 47:301(26).

business” in an individual parish before it is required to collect sales and use tax for jurisdictions within that parish.

Conformity with the State Tax – The Louisiana Uniform Local Sales Tax Code (UTC), effective July 1, 2003, establishes a set of procedural and substantive parameters to govern the structure and administration of local sales taxes throughout the state.¹¹¹ It provides for a uniform local sales tax code, a uniform local tax return and remittance system, and uniform administrative provisions for all local sales taxes. The UTC governs the assessment, collection, administration, and enforcement of the sales and use tax of all local taxing authorities, except that local ordinances continue to control matters such as the tax rate, effective date of the tax, use of proceeds and vendor compensation.

The UTC brings a substantial degree of uniformity among local governments and conformity to the state sales tax as it relates to procedural and administrative requirements. Local governments are, however, granted substantial discretion in determining their tax base. Local sales tax ordinances are subject to the general definitions in state law.¹¹² With respect to exemptions, the UTC first specifies a set of exemptions that apply to all local sales taxes (drawn largely from the list of exemptions from the state sales tax in Louisiana Revised Statutes § 47:305). They are found in Louisiana Revised Statutes § 47:337.9 and include a wide range of goods and services, including advertising and broadcasting services, certain dental and medical equipment and devices, drilling rigs, a variety of fuel and utilities, and certain non-profit related matters. These exemptions must be incorporated into every local tax.¹¹³

The UTC also identifies a set of exemptions that are optional for local sales taxes.¹¹⁴ The section is structured such that the local tax ordinance must incorporate the optional exemption for it to apply. Each local taxing authority (e.g., parish, school board, law enforcement, or city) in the parish

¹¹¹ The UTC was enacted as Act 73 of the 2003 Regular Legislative Session. It is codified at La. Rev. Stat. Ann. §§ 47:337.1 through 47:337.101.

¹¹² La. Rev. Stat. Ann. §§ 47:301-318.

¹¹³ *Id.* § 47:305D(1). Within this section, there are also certain exemptions that are limited to the state tax only, such as prescription drugs, food for home consumption, and various orthotic, prosthetic and medical devices.

¹¹⁴ *Id.* § 47:337.10. There are certain other exemptions outside the sales tax statute that also apply to local sales tax. They are identified at La. Rev. Stat. Ann. § 47:337.11.

must adopt the exemption for it to apply to its portion of the combined local taxes in the parish. Otherwise, an item will be only partially exempt at the local level.

As part of this project, we cataloged the exemptions and exclusions (including those applicable to the state tax only as well as those mandatory and optional for local taxes) in Louisiana law and reviewed local materials to determine whether the exemption had been adopted by each parish. [The results are presented in the Louisiana portion of Part I, Appendix B.] This review found that local governments tend to be relatively uniform in that they either all adopt a state exemption or exclusion or none (or very few) of them adopt it. Of the 179 exemptions and exclusions reviewed, all parishes incorporate about 125 of them. Of those remaining, there are roughly 40 that are not incorporated into any parish ordinance (including some that are characterized in state law as applying only to the state tax), and about ten exemptions that five or fewer parishes have adopted. In other words, there appears to be significant similarity in the tax base across parishes, but the local base differs from the state base in about 30 percent of the areas examined – either because state law is such that the exemption applies only at the state level or the local governments generally opt out of the exemption. The major areas in which the local tax bases differ from the state include machinery and equipment used in manufacturing and certain other businesses and industries, interstate telecommunications by certain call centers, food for home consumption, and certain custom computer software.¹¹⁵

Return Filing and Enforcement – Local sales taxes for all jurisdictions within a parish are collected and administered by a single entity within each parish. Returns are filed with the individual parish collectors. A number of parishes offer an electronic filing option in addition to the filing of paper returns. As a part of the UTC, the Louisiana Department of Revenue now operates a Parish E-File system that allows taxpayers to file returns electronically through a single portal.¹¹⁶ The parish collection entity is also responsible for auditing local sales taxes. Many parishes retain private, third-party contract auditors as part of their enforcement efforts and have done so for a number of years.

¹¹⁵ See Louisiana portion of Part I, Appendix B. Acts 25 and 26 of the First Extraordinary Session of the 2016 Louisiana Legislature made a number of changes to the applicability of certain state sales and use tax exemptions beginning April 1, 2019. These changes did not affect local sales and use tax exemptions.

¹¹⁶ See https://parishe-file.revenue.louisiana.gov/default_1.aspx.

Idaho

Idaho permits voters of resort cities to enact local-option taxes on items and activities subject to the state sales tax.¹¹⁷ Specifically, resort city voters may choose to tax (1) hotel occupancy; (2) liquor by-the-drink, wine and beer sold at retail for consumption on premises; and (c) all or part of all sales subject to the state sales tax.¹¹⁸ Currently, 13 Idaho cities impose at least one of the local option taxes.¹¹⁹

Beyond a requirement that a resort city may not impose tax on an item exempted from the state sales tax, state law provides substantial discretion to local governments in determining the tax base and the procedures for administering the local tax. Local governments primarily use this discretion to narrow the tax base and to limit the tax to some extent to goods and services generally consumed by visitors to the city. Returns are filed separately with each local government, which is also responsible for any enforcement efforts. A local government may contract with the Idaho Tax Commission for administration of the tax if it follows all relevant provisions of the state sales tax.¹²⁰ No local government has elected this option.

Summary

Five states – Alabama, Alaska, Arizona, Colorado and Louisiana – authorize a broad range of local governments to independently administer their sales taxes.¹²¹ Local general sales taxes are an important revenue source in each of these states; they account for more than 25 percent of total local tax revenue in each state other than Alaska and reach as high as nearly 50 percent in Louisiana.¹²² Each of these states represents a somewhat different approach when it comes to the degree of discretion granted to localities in determining the administration, procedures and base of

¹¹⁷ Idaho Code §§ 50-1044, 50-1046.

¹¹⁸ *Id.* § 50-1046.

¹¹⁹ See Idaho Tax Commission, *Local Sales Tax*, available at <https://tax.idaho.gov/i-1117.cfm> (last visited Feb. 3, 2016).

¹²⁰ Idaho Code § 50-1049.

¹²¹ In Arizona and Colorado, some local governments in which the sales tax is administered by the state are allowed flexibility in determining the tax base, a feature that also contributes to compliance issues.

¹²² U.S. Bureau of the Census, 2012 State and Local Government Finances. Data available at <http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmk>. The national average is 12 percent.

the tax, the steps they have taken to consolidate administration, and their approach to return filing and enforcement. Key observations include:

- The states cover a wide spectrum in terms of placing limits on the discretion of local governments when it comes to determining the tax base and various provisions concerning the administration of the tax such as statutes of limitations, penalties, and return filing. They range from Alabama, which requires the tax base and procedures of all local sales taxes (regardless of whether administered locally or by the state) to be parallel to the state sales tax, to Alaska, which has no state sales tax and allows local governments substantial discretion in structuring the local sales tax and its administration. Colorado home-rule cities are also afforded substantial latitude in determining the local sales tax base.
- Arizona and Louisiana have attempted to bring some uniformity to local taxes by enacting the Model City Tax Code and the Uniform Local Sales and Use Tax Code, respectively. These codes establish a series of administrative and procedural requirements for all local sales taxes in the state. They also contain a series of options from which localities (including program cities for which the state administers the tax in Arizona) may choose in structuring the local tax base. The result is the imposition of some constraints on local choices regarding the tax base, but there are still substantial differences between the state and local sales tax bases in each case. The result is similar in Colorado for home-rule cities where state law governs a variety of procedural and administrative provisions, but the base is left largely to individual home-rule jurisdictions. In Colorado, cities, counties, and special districts for which the state administers the local tax are also able to select from a menu of certain exemptions.
- Louisiana centralizes local tax collection and administration at the parish level for all jurisdictions in the parish. Alaska has a similar arrangement where boroughs imposing a borough-level sales tax collect for cities in the borough that also impose a tax – a situation that exists in only two boroughs covering seven cities.
- Many of the local governments provide an electronic filing option. In Alabama and Louisiana, the state tax administration agency provides a vehicle through which a taxpayer may file an electronic return for any locally administered jurisdiction.

- These states also vary with respect to imposition of use taxes at the local level. In Alabama and Louisiana, all localities levying a sales tax also levy a use tax. Arizona, Alaska, and Colorado allow localities to choose whether to impose a use tax; some have chosen not to do so or to limit the scope of the tax in the case of Colorado.
- With respect to tax collection responsibilities (or nexus), Alabama, Alaska, Colorado and Louisiana require that a seller have nexus within a particular local jurisdiction before it can be required to collect tax on sales into that jurisdiction. Arizona requires that all sellers with nexus in the state must collect county-level taxes, but a seller must have nexus in a city before a collection obligation is imposed.

Local Lodging or Accommodations Taxes

As shown in Table 4, we identified 21 states in which one or more local governments impose a locally administered tax on the rental of hotel, motel and other transient lodging accommodations (known by various names across the states). These are Alabama, Alaska, California, Colorado, Florida, Georgia, Idaho, Illinois, Maryland, Minnesota, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Tennessee, Vermont, Virginia, and West Virginia. We identified over 2,400 jurisdictions in these states that impose such a tax, including ten states in which more than 100 jurisdictions impose the tax.¹²³

General Characteristics – The basic characteristics of the various lodging taxes are shown in Table 6. Of particular note is that while all but two states with locally administered lodging taxes also levy a state-level tax on transient accommodations, only Alabama, Florida,¹²⁴ Idaho, Minnesota, Oklahoma and Vermont provide an option for the state to administer the local tax. Where authorized, localities use locally administered lodging taxes extensively, with ten states having over 100 such taxes, and only Idaho and Vermont having fewer than 20 locally

¹²³ As discussed above, “locally administered” means that individual local governments (or third-party designees) are responsible for administration, collection and enforcement of the tax. If a local government is allowed to have the state tax administration agency administer the tax and has exercised that option, it is not included in these totals.

¹²⁴ Florida law provides that the local lodging tax is to be administered by the state tax administration agency unless the county adopts an ordinance opting to locally administer the tax.

administered levies.¹²⁵ Lodging tax rates are generally constrained by state law to less than 10 percent, but five states allow rates greater than that.

Locally Administered Lodging and Accommodations Taxes: General Characteristics					
State	State-Level Taxation*	State-Administered Option	Counties Imposing Tax	Municipalities Imposing Tax	Range of Rates
Alabama	Yes	Yes	27	152	Up to 12%
Alaska	No	No	29	15	4% to 12%
California	No	No	55	410	4% to 14%
Colorado	Yes	No	0	49	Up to 14.85%
Florida	Yes	Yes	40	1	2% to 6%
Georgia	Yes	No	75	192	Up to 8%
Idaho	Yes	Yes	0	13	1% to 5%
Illinois	Yes	No	0	**	Up to 5%
Maryland	Yes	No	24	2	3% to 9.5%
Minnesota	Yes	Yes	**	**	Up to 7%
New York	Yes	No	**	**	3% to 5.875%
North Carolina	Yes	No	80	79	Up to 6%, 8% in Mecklenburg County
Ohio	Yes	No	67	343	Up to 6%
Oklahoma	Yes	Yes	0	40	Up to 5.5%
Oregon	Yes	No	11	96	3% to 12%
Pennsylvania	Yes	No	60	0	Up to 7%
South Carolina	Yes	No	24	98	Up to 3%
Tennessee	Yes	No	73	60	Up to 5%
Vermont	Yes	Yes	0	2	1% to 2%
Virginia	Yes	No	75	109	Only counties limited up to 7%
West Virginia	Yes	No	55	75	Up to 6%
* Marked yes if state imposes sales tax on lodging or has state-level lodging tax.					
** Unable to locate a list of jurisdictions imposing and administering the tax.					
Source: KPMG compilation based on various sources. See Part I, Appendix A for detail.					

¹²⁵ There are certain states in which we were unable to identify the jurisdictions that impose the tax and the rate at which it is imposed.

Tax Base and Procedures – States vary, of course, in terms of the degree to which localities imposing a locally administered lodging tax have discretion to determine the tax base (i.e., allowing certain exemptions or including certain types of lodging) and the administrative provisions governing the tax (e.g., statutes of limitations, filing periods, due dates, and appeal procedures). The states break down generally into three models: (a) the tax base and administrative provisions are closely tied to state law or specified in the state legislation authorizing the local tax; (b) the local tax base or the administrative provisions are specified to some degree in state law; and (c) the tax base and administrative procedures are left largely to the discretion of local governments. The relationship between the locally administered lodging taxes and state law is displayed in Table 7. A more detailed discussion is presented in Part I, Appendix A.

Table 7							
Locally Administered Lodging and Accommodations Taxes: Conformity to State Law							
State	Tied by Law to State Tax		Specified to Some Degree in State Law		Left Substantially to Local Units		Updated Jurisdictions and Rates Available
	Base	Procedure	Base	Procedure	Base	Procedure	
Alabama	X	X					Y – DOR
Alaska					X	X	Y-DOCCED
California					X	X	N
Colorado					X	X	N
Florida	X	X					Y – DOR
Georgia			X	X			Y – Dept. of Community Affairs
Idaho			X			X	N
Illinois	X					X	N
Maryland		X	X				Y – Dept. of Legislative Services
Minnesota			X	X			N
North Carolina	X	X					N
Ohio			X			X	N
Oklahoma	X					X	N
Oregon			X			X	Y – DOR
Pennsylvania			X			X	Y – DCED
South Carolina	X					X	Y – Rev. & Fiscal Affairs
Tennessee			X	X			Y – Univ. of Tenn.
Vermont	X			X			Y – DOR
Virginia			X	X			Y – Univ. of Virginia
West Virginia			X			X	Y – Auditor Office

Source: KPMG compilation based on various sources. See Part I, Appendix A for detail.

As shown in Table 7, only Alabama, Florida and North Carolina specify both the tax base and administrative procedures of the local lodging tax in state law, while Illinois, Oklahoma, South Carolina, and Vermont specify the base of the tax, and Maryland defines the procedural rules that local governments must follow.¹²⁶ In states that do not fully specify the local tax regime, the tax base tends more often to be specified in part by state law (usually by defining the general subject of the tax such as accommodations or lodging), and the administrative procedures more often are left to the discretion of the locality. In Alaska, California and Colorado, local governments have substantial discretion over both the tax base and procedures.

Local Food and Beverage Taxes

General Characteristics – As shown in Table 8, there are eight states that authorize one or more local governments to impose a locally administered tax on some subset of “food and beverage” usually defined as prepared food sold for consumption on the premises or prepared food sold at various types of eating establishments. These are Florida, Georgia, Idaho, Indiana, North Carolina, South Carolina, Vermont, and Virginia. There are over 325 jurisdictions in these states that impose such a tax; they cover a spectrum from South Carolina and Virginia in which large numbers of localities impose and administer such a tax to Indiana¹²⁷ and Florida in which a single jurisdiction in each state locally administers such a tax. Only Indiana, Idaho, and Vermont provide a state-administration option (not used in Idaho), even though all eight states impose the state sales tax on such food and beverages. Rates for the locally administered taxes generally range from 2 to 3 percent.

¹²⁶ Details for these characterizations are contained in Part I, Appendix A.

¹²⁷ In Indiana, other local governments are authorized to impose a local tax on food and beverage, but they must be administered by the Department of Revenue.

Table 8					
Locally Administered Food and Beverage Taxes: General Characteristics					
State	State-Level Taxation*	State Administered Option	Counties Imposing Tax	Municipalities Imposing Tax	Range of Rates
Florida	Yes	No	0	1	Up to 2%
Georgia	Yes	No	**	**	Up to 3%
Idaho	Yes	Yes	0	9	1% to 5%
Indiana	Yes	Yes	1	0	1%
North Carolina	Yes	No	4	1	1%
South Carolina	Yes	No	15	107	Up to 2%
Vermont	Yes	Yes	0	2	1% to 2%
Virginia	Yes	No	47	143	Up to 4%
* Marked yes if state imposes sales tax on transaction.					
**Unable to locate listing of jurisdictions imposing and administering this tax.					
Source: KPMG compilation based on various sources. See Part I, Appendix A for detail.					

Tax Base and Procedures – As shown in Table 9, North Carolina and Indiana tie both the tax base and administrative procedures of the local food and beverage tax to the state sales tax. Vermont specifies only the tax base in state law. In Georgia, Idaho, South Carolina and Virginia, the tax base shares some, but not all, characteristics with the state sales tax, leaving localities some latitude in determining the base. Local governments in these four states are generally granted substantial flexibility in determining the administrative procedures for the food and beverage taxes.

Table 9							
Locally Administered Food and Beverage Taxes: Conformity to State Law							
State	Tied by Law to State Tax		Specified to Some Degree in State Law		Left Substantially to Local Units		Updated Jurisdictions and Rates Available
	Base	Procedure	Base	Procedure	Base	Procedure	
Florida	X	X					Y – DR-15TDT
Georgia			X			X	N
Idaho			X			X	N
Indiana	X	X					Y – DOR
North Carolina	X	X					N
South Carolina			X			X	Y – Rev. & Fiscal Affairs Office
Vermont	X			X			Y – DOR
Virginia			X			X	Y – Univ. of Virginia

Source: KPMG compilation based on various sources. See Part I, Appendix A for detail.

Local Admissions and Amusement Taxes

General Characteristics – As shown in Table 10, there are seven states in which at least one local government imposes a locally administered tax on admissions and amusement, generally defined as a tax imposed on the price charged for admission to various types of events or venues for purposes of entertainment or recreation, such as live performances, sporting events as a spectator, participation in sporting events, movies and films, and museums.¹²⁸ These states are Illinois, Ohio, Pennsylvania, Tennessee, Vermont, Virginia, and Washington State, and there are nearly 500 local governments with a self-administered admissions tax in these states. No state offers an option for the state to administer the local tax. These states do not levy a separate tax on

¹²⁸ Further detail is provided in Part I, Appendix A. Note that Chicago has recently interpreted its Amusement Tax to apply to “electronically delivered” amusement, including streaming movies and music. (Chi., Ill. Dep’t of Fin., Amusement Tax Ruling No. 5, effective July 1, 2015.)

admissions and amusement activities, and the state sales tax also is not generally imposed on these charges, with the exception of Tennessee and Vermont.

Table 10					
Locally Administered Admissions and Amusement Taxes: General Characteristics					
State	State-Level Taxation*	State Administered Option	Counties Imposing the Tax	Municipalities Imposing the Tax	Range of Rates
Illinois	No	No	0	**	Up to 9%
Ohio	No	No	0	63	0.5 to 8%
Pennsylvania	No	No	0	349	Up to 10%
Tennessee	No	No	0	3	Up to 3%
Vermont	Yes	No	0	2	1% to 2%
Virginia	Yes	No	3	19	Up to 10%
Washington	Partially	No	4	52	Up to 10%
* Marked yes if state imposes sales tax on the transaction.					
** Unable to locate listing of jurisdictions imposing the tax.					
Source: KPMG compilation from various sources. See Part I, Appendix A for detail.					

Tax Base and Procedures – As shown in Table 11, local governments in these states generally have substantial discretion in determining the base of the admissions and amusement tax with the exception that the Vermont taxes are tied to the state sales tax definition of taxable admissions. Tennessee and Washington State define some aspects of the local tax base. Administrative procedures in all states are left somewhat or substantially to the determination of the local governments.

Table 11							
Locally Administered Amusement and Admissions Taxes: Conformity to State Law							
State	Tied by Law to State Tax		Specified to Some Degree in State Law		Left Substantially to Local Units		Updated Jurisdictions and Rates Available
	Base	Procedure	Base	Procedure	Base	Procedure	
Illinois					X	X	N
Ohio					X	X	N
Pennsylvania					X	X	Y - DCED
Tennessee			X	X			N
Vermont	X			X			Y - DOR
Virginia					X	X	Y – Univ. of Virginia
Washington			X			X	Y - DOR

Source: KPMG compilation based on various sources. See Part I, Appendix A for detail.

Availability of Information

Our research did not identify any centralized, regularly updated source of information that provides, on a national basis, a listing of the jurisdictions imposing the various types of locally administered taxes and the rates at which they are imposed, much less any centralized information on details regarding the tax base or administrative procedures. Moreover, individual states vary widely as to the availability of comprehensive, updated information on locally administered taxes from a central source.

Generally, there is more information available regarding locally administered general sales taxes than there is for the specialty lodging, food and beverage, and admissions and amusement taxes; even for general sales taxes, however, the information in some cases is not complete or comprehensive. For example, in Alaska, the Department of Commerce, Community, and Economic Development publishes only an annual summary of the amount of tax collected by locally administered jurisdictions and the rate at which the tax is imposed. The Idaho Tax Commission only identifies those local governments imposing a general sales tax and provides no other information. Alabama, Arizona, Colorado and Louisiana each provide a comprehensive listing of the jurisdictions imposing a local sales tax (both state administered and locally

administered) and the rate at which it is imposed. As to states in which the locally administered sales tax base may differ from the state base, Arizona has a centralized source of information on the options within the MCTC that various program and non-program cities have chosen, but neither Colorado nor Louisiana provides much information regarding local sales tax bases – either in terms of the range of discretion allowed or the choices localities have made. In addition, there is little in the way of centralized information on the administrative procedures employed for the locally administered general sales taxes. None of these states has a central source from which all locally administered sales tax governing ordinances may be obtained.

As noted, the availability of information regarding the locally administered specialty lodging, food and beverage and admissions taxes is commonly less complete than for general sales taxes. If there is information available from a central source, it usually consists of a listing of jurisdictions imposing one of the specialty taxes and the rate at which it is imposed with no information on the tax base or administrative provisions. In some cases, this listing is not available through the state tax administration agency, but instead is available through a university, state financial report, or a private sector tourism organization. Where not maintained by the state tax administration agency, the information is often updated only annually or less frequently. Whether there is a centralized information source for locally administered lodging, food and beverage, and admissions and amusement taxes in each state is shown in Tables 7, 9, and 11, respectively. We identified a listing of jurisdictions imposing the tax for about one-half of the states authorizing a locally administered lodging or food and beverage tax, but only three of the states authorizing locally administered admissions and amusement taxes. In no instance did we locate a centralized source of the local tax ordinances or information on local administrative procedures.

Streamlined Sales and Use Tax Agreement and Locally Administered Sales and Use Taxes

In 2000, state and local governments and the business community undertook a collaborative effort, called the Streamlined Sales Tax Project, to simplify and bring greater consistency and uniformity to state and local sales taxes across all states.¹²⁹ The purpose of the effort is two-fold: (a) simplify

¹²⁹ See www.streamlinedsalestax.org for details on the actual components of the Streamlined Sales and Use Tax Agreement (SSUTA) as well as its governance.

state and local sales taxes as a means of reducing the costs of complying with those taxes, particularly for those businesses operating in multiple states; and (b) demonstrate to Congress that it should overturn the physical presence requirement of the *Quill* decision¹³⁰ and thus allow states to require sellers without a physical presence in a state to collect state and local sales and use taxes on sales made into a state under certain conditions. The effort resulted in the Streamlined Sales and Use Tax Agreement (SSUTA), which contains a series of principles and recommendations for simplifying state and local sales and use taxes.¹³¹ To date, 23 states have incorporated the provisions of the SSUTA into their state and local sales tax laws and become members of the SSUTA Governing Board.¹³²

With its focus on simplification and compliance, the SSUTA necessarily addresses local sales taxes – both those that are locally administered and those that are administered by the state tax administration agency. The principal requirements imposed on SSUTA member states with respect to local sales taxes include:

- All state and local sales taxes must be collected and administered by a single state-level entity within each participating state. A taxpayer may be required to register with, file returns with, and remit funds to only the state-level entity, and may be subject to audit for all state and local sales taxes by only one entity.¹³³
- The tax base for local jurisdictions must be identical to the state tax base, except where prohibited by federal law; exceptions are allowed for certain motor fuels, residential fuels, automobiles, and other vehicles.¹³⁴

¹³⁰ In *Quill Corp. v. North Dakota*, 504 U.S. 298 (1992), the U.S. Supreme Court held that a seller must have a physical presence in a state before it may be required to collect use tax on sales into the state. The Court also held that Congress has the power under the Commerce Clause of the U.S. Constitution to change this requirement.

¹³¹ For a comprehensive review of the SSUTA, its background, governance and requirements, see Arthur R. Rosen & Susan Haffield, Bloomberg BNA, *Sales and Use Taxes: Streamlined Sales Tax System*, Tax Management Portfolio No. 1270.

¹³² See www.streamlinedsalestax.org for the list of members. None of the states with locally administered general sales taxes is a member of SSUTA. The SSUTA recommendations are applicable to both sales and use taxes and the use of “sales tax” in this discussion is intended to cover both taxes.

¹³³ Streamlined Sales and Use Tax Agreement, § 301, available at <http://www.streamlinedsalestax.org/uploads/downloads/Archive/SSUTA/SSUTA%20As%20Amended%20through%2009-17-15.pdf>.

¹³⁴ *Id.* § 302.

- States are required to make available a database of all sales and use tax rates for all taxing jurisdictions in the state that will enable a seller to identify the tax rate applicable to any transaction. States must also provide a database that assigns each five-digit and nine-digit zip code within the state to the proper tax rates and jurisdictions, subject to a requirement that the state must apply the lowest combined tax rate imposed in the zip code area if the area includes more than one tax rate in any level of taxing jurisdictions.¹³⁵
- No local government tax rate or boundary change is to be effective for local sales and use tax purposes except on the first day of a calendar quarter and after a minimum of 60 days' notice to sellers (120 days' notice in the case of catalog sellers).¹³⁶
- States must provide a database that describes boundary changes for all local taxing jurisdictions.¹³⁷
- States may have only one local sales tax rate and one local use tax rate per local jurisdiction applicable to sales of property and services in the jurisdiction (meaning that the rate may not vary by product or service). If a local government imposes both a sales and use tax, the two rates must be the same.¹³⁸
- States may require only one tax return and one tax remittance to be filed by a taxpayer for all state and local sales tax obligations within a state in any reporting period.¹³⁹

In other words, the SSUTA approaches the simplification of local sales tax compliance among member states by prohibiting locally administered sales and use taxes, prohibiting differences between state and local sales and use tax bases, and requiring states to provide certain information on local tax jurisdiction boundaries and rates to aid in tax compliance. The SSUTA requirements are important in the context of proposed federal legislation that would authorize states to require remote sellers without physical presence in a state to collect state and local sales and use taxes on

¹³⁵ *Id.* § 305.

¹³⁶ *Id.*

¹³⁷ *Id.*

¹³⁸ *Id.* § 308.

¹³⁹ *Id.* §§ 318; 319.

sales into a state, provided the states and localities undertake certain simplifications of their tax system. Recent versions of such legislation generally provide that a state meets the simplification requirements if it is a member of the SSUTA (as long as SSUTA continues to incorporate certain minimum simplifications) or if it has independently undertaken certain simplifications, to include requiring all local taxes to be administered by a single entity at the state level, a common tax base between the state and all local governments in the state, and a single return, remittance and audit to cover all local sales and use taxes in the state.¹⁴⁰

The proposed federal remote seller legislation is likely a significant impetus behind certain simplification efforts in the states examined here, including the intention to have the state administer all local TPTs in Arizona, the creation of the Louisiana local sales tax streamlining commission, and the efforts in Colorado to examine a common state and local sales tax base. Without substantial changes in the sales tax structure in the states with locally administered sales taxes, they would not be able to require remote sellers without a physical presence in the state to collect tax on sales into the state as provided in the proposed federal legislation.

Tax Automation and Local Sales Tax Compliance

One question that commonly arises in discussing sales tax complexity and compliance is the degree to which the use of computer technology and software reduces the costs associated with state and local sales tax compliance. While using technology can reduce compliance costs, it is simply not able to eliminate entirely the complexity associated with varying state and local sales taxes or locally administered sales taxes. Listed below are the types of tasks that are required to deploy automated compliance technology effectively, with a focus on locally administered taxes.

- Ensuring proper sales tax registrations are filed, updated and maintained in each jurisdiction in which filings are required;

¹⁴⁰ Marketplace Fairness Act of 2015, S. 698, 114th Cong. (2015); Remote Transactions Parity Act of 2015, H.R. 2775, 114 Cong. (2015).

- Determining the correct taxability of each product or service sold for each jurisdiction and developing the appropriate business rules to incorporate into any automated “tax engine” or other software used in processing sales transactions;
- Ensuring that the data necessary to source each transaction to the appropriate taxing jurisdiction and to enable the determination of the correct tax rate to be applied is available at the time the transaction is processed and that the software used for rate determination is accurate;
- Developing business rules, software or other techniques to gather, store and retrieve documentation when necessary to support exempt transactions in each jurisdiction;
- Developing and deploying software or other tools for taxability determination, rate determination and exemption documentation to each point of sale system or process used by the taxpayer;
- Once all information is available, tax determinations are made, and tax is collected and accounted for, ensuring that the relevant information from all sales channels can be integrated and brought together to provide the input for tax return and remittance filing;
- Preparing and filing the necessary returns and remittances with each jurisdiction on the forms or in the electronic format required by the jurisdiction;
- Providing assistance to customers in responding the questions regarding the application of sales tax to a transaction; and
- Managing audits, notices and other enforcement and compliance actions for each jurisdiction in which the taxpayer has a filing obligation.

While automation can be used to ensure that repetitive actions are performed in an accurate manner, the technology needs to be programmed to correctly apply the appropriate rules to each step in each different jurisdiction in which the taxpayer has tax collection responsibilities. Additionally, the information necessary to make an accurate tax determination needs to be available at the time of the transaction. Thus, to the extent that a jurisdiction with a locally administered general or specialty sales tax differs from the counterpart state tax in a manner that is important to the tax compliance process, that jurisdiction needs to be handled separately in the

automation system, which necessarily creates complexity and opportunities for error. These issues are particularly acute for sellers that have collection responsibilities in a large number of jurisdictions and that operate through multiple sales channels, including web-based, catalog and similar remote means.

Some might suggest that compliance issues presented by locally administered lodging, food and beverage, and admission and amusement taxes are not as significant as those for general sales taxes because the entities subject to such taxes are likely to have a fixed place of business in the jurisdiction imposing the tax. If, however, an entity subject to locally administered taxes is part of an enterprise that has establishments in multiple jurisdictions and that enterprise manages its sales tax compliance centrally, each locally administered tax presents many of the same issues as a locally administered general sales tax. Given their number, locally administered lodging taxes are of particular importance in this regard.

Use Taxes and Local Tax Compliance

As noted earlier, each state that levies a retail sales tax also levies a complementary use tax on transactions involving the “use, storage or other consumption” of taxable property and services in the state where the retail sales tax was not collected by the seller at the time of the transaction – usually because the sale is considered not to have occurred “in the state” under state law.¹⁴¹ The use tax is intended to avoid any disincentive to purchase from local sellers required to collect sales tax by imposing an identical tax on purchases where the sale is outside the state, but use occurs in the state. Sellers with a physical presence in the state of use are required to collect the use tax on such transactions.

At the state level, the use tax is commonly levied on the same transactions and at the same rate as the retail sales tax. As discussed above, however, that is not necessarily the case for the states with self-administered local sales taxes reviewed here. In Alabama and Louisiana, local government use taxes are imposed much the same as in most states, i.e., on the same base and at the same rate

¹⁴¹ For a discussion, see Walter Hellerstein & Jerome Hellerstein, *State Taxation*, para. 19.01, 19.02. See also Arthur R. Rosen & Walter Nagel, Bloomberg BNA, *Sales and Use Taxes: General Principles*, Tax Management Portfolio No. 1300, 2nd Edition.

as the retail sales tax. In Arizona and Colorado, however, a significant number of local jurisdictions choose not to impose a use tax. In Colorado, some jurisdictions impose the use tax on a base that is different from the sales tax base or at a rate that is lower than the sales tax.

From a tax compliance standpoint, the primary challenge use taxes pose for a seller is commonly considered to be whether the seller has substantial nexus with the taxing jurisdiction such that it can be required to collect tax on goods and services sold into the jurisdiction.¹⁴² If the use tax base and rate is the same as the sales tax rate and base, the seller can simply collect the same rate on all taxable transactions in the jurisdiction, regardless of whether they are over-the-counter sales or some form of remote sale. While the categorization of the tax may differ (i.e., sales tax vs. use tax), the same rate is collected on all taxable transactions.

If the use tax rate or the use tax base differs from the sales tax base or rate in a particular jurisdiction, however, that jurisdiction effectively needs to be treated as an additional taxing jurisdiction for compliance purposes. That is, the seller will have to establish a compliance process that differentiates between sales tax transactions and use tax transactions for that jurisdiction so that the appropriate tax rate can be applied to the appropriate transactions, in addition to reporting those different results to the state tax administration agency or the self-administering local jurisdiction as the case may be. In short, in cases where the use tax rate or base differs from the sales tax rate or base, it is much the same as having a separate “state” for purposes of sales tax compliance, particularly in automated tax compliance systems.

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¹⁴² *Id.*

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