NHSCA Tax Tips

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This TAX TIP sheet is based upon member input with limited review. It is a guide only. Legal and tax counsel should always be consulted.

This TAX TIP sheet will be updated as further information, research and clarification is obtained. Ongoing member input is encouraged.

Note: On sales taxes, All states appear in agreement tax is either assess upfront on contract sale OR at time services eprformed, but not both.

States that collect sales tax upfront on the sale of service contracts are: AR, HI, NE, NY, NJ, SD, WV (and 2016 NC?) and on some personal property options in FL, PA, TN, TX and UT

Some state are reviewing their interpretation with NHSCA such as Texas and North Carolina. This is a guide only. NHSCA staff can offer some insight but do not provide tax advice.

If not taxed up front, assumption is sales tax assessed by local contractor only on property or service as law requires when services performed.

Some states have special opinions on Sales Tax or postiion is heavily nuanced. Review carefully.

Most sales tax letters or opinions are on file with NHSCA.

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State	State Income Tax	%	Cite	Franchise Tax	%	Cite	Prem. Tax	%	Cite	Excise Tax	%	Cite	SALES TAX UPFRONT ON SALE	%	Citation	Other Taxes Paid	Notes/Comments
													Could be local/other				
Alabama	YES	**6.50**	AL S 40-18-31	YES	0.1500	AL 40-14A-22(a)											
Alaska																	
Arizona	YES	**6.97**	AZ 43-1111														Filed as part of a Unitary Tax Return.
Arkansas	YES	**1.00 - 6.50**	AR S 26-51-205	*YES	Flat Fee $300-400	26-54-104							YES upfront on contract sale *	Varies	Ark Code Ann 26-52-301(7); See also GR-99D(2)	State plus local %	*Franchise tax applies to all companies. <$100M in assets is $300 > $100M I assets is $ 400. * In 2013 Resolved AR DFA that TRADE SERVICE FEE ALSO subject to sales tax. Remind local contractors to collect and remit.
California	YES	**8.84**	CA 23151		MIN $ 800	CA 23001	YES	2.35									Filed as part of a Unitary Tax Return. *CA charges a minimum franchise tax amount of $800. If pay Franchise tax and Prem. Tax, it is unclear whether you are exempt from Income Tax but members report practice and state forms indicate this. NHSCA is researching.
Colorado	YES	**4.63**	CO S 39-22-301(1)(d)(I)														
Connecticut	YES	**7.50**	CT S 12-214(a)(1)										YES, but still under DOR review			FIXED DOLLAR MINIMUM TAX	Fixed Dollar Minimum tax is $250. * New SALES TAX letter May, 2013 ruled must separate personal from REAL and charge sales tax upfront.
Delaware	YES	**8.70**	DE S 30 1902(a)													Flat fee minimum if no income tax owed: Cite pending	* Called a Franchise tax but actually an "income tax". Min $ 250
District of Columbia	*YES **	**9.9750**	DC S 47-1807.02	*YES**									UNCLEAR: Possible resolution -m 2-13-14				* Called a Franchise tax but actually a calculation based upon "income tax". Minimum is $ 100
Florida	YES	**5.50**	FL S 220.11(2)				YES	2.00	FL St. 634.313							Premium tax offset only applies to "Insurance Companies" MAY REQUIRE LEGISLATIVE CHANGE TO FIX See 624.509. Corp Income Tax Return Required	2% Prem. Tax on 634.3 Home Warranty license (real estate related) 6% Sales tax for direct/retail sales under a 634.4 Service Warranty license. **As of Jan 1 2011 only need 634.3 license for Home warranty**
Georgia	YES	**6.00**	GA S 48-7-21	YES	TABLE	GA 48-6-95											
Hawaii	YES	**4.40 - 6.40**	HI 235-71				NO		HRS 481X-9				YES				Filed as part of a Unitary Tax Return. Rate varies in and outside Honolulu 4.5%
Idaho	YES	**7.60**	ID 63-3025														Filed as part of a Unitary Tax Return.
Illinois	YES	**4.80**	IL 35 5/201(b)(8)														Filed as part of a Unitary Tax Return.
Indiana	YES	**8.50**	IN S 6-3-2-1										NO				Info Bulletin No. 2, Jan 1, 2013, pay only sales tax when work is performed.
Iowa	YES	**6.00 - 12.00**	IA S 422.33(1)				YES *	3.00									IA has a graduated Income tax rate of 6% to 12% Filing fee based upon written premium. * Authority for Premium tax is yet unclear? No citation to law.
Kansas	YES	**4.00**	KS 79-32,110 (c)(1)	YES	2008 - 0.09375; 2009 - .0625%; 2010 -	KSA 79-5401							UNCLEAR NHSCA TAX Op. Req.				Filed as part of a Unitary Tax Return. Income tax is 4% plus 3.1 % surtax over 50,000.
Kentucky	YES	**4.00-6.00**	KY 141.040(5)													LIMITED LIABILITY ENTITY TAX	Filed as part of a Unitary Tax Return. Graduated rate of 4% to 6%.
Louisiana	YES	**4.00 - 8.00**	LA S 47:287.12	YES	See Note	LA 47:601											LA has a graduated rate of 4% to 8%. Franchise Tax is 1.50 for every $1000 of taxable capital.
Maine	YES	**3.50 - 8.93**	ME 36 5200														Filed as part of a Unitary Tax Return. Graduated rate of 3.5% to 8.93%
Maryland	YES	**8.25**	MD S 10-105(b)														

Massachusetts										YES	0.0026	MA 63 32(a)					Minimum excise tax amount is $456.
Michigan	YES	**4.95**	MI 208.1201(1)													GROSS RECEIPTS; ANNUAL SURCHARGE	Filed as part of a Unitary Tax Return. 4.95% On Business income and 0.80% on Gross Receipts. Annual Surcharge of 21.99%
Minnesota	YES	**9.80**	MN 290.06 (1)													AMT TAX	Filed as part of a Unitary Tax Return. AMT tax rate 5.8%
Mississippi	YES	**3.00 - 5.00**	MS S 27-7-5(1)	YES	See Note	MS 27-13-5(1)											MS has a graduated rate of 3% to 5%. Franchise Tax is $2.50 per $1,000.
Missouri	YES	**6.25**	MO S 143.071	YES		MO S 147.010											Income tax and Franchise tax is on same form. Franchise tax only applicable if over 10M in Missouri Assets. Changed Jan 1, 2010 from $ 1M
Montana	YES	**6.75**	MT 15-31-121														Filed as part of a Unitary Tax Return.
Nebraska	YES	**5.58-7.81**	NE 77-2734.02(1)										YES See REG 1-074.03				Filed as part of a Unitary Tax Return. Graduated tax rate of 5.58% to 7.81%. Sales tax rate varies state plus local tax
New Hampshire	YES	**8.50**	NH 77-A:2													BUSINESS ENTERPRISE TAX	Filed as part of a Unitary Tax Return. Business Enterprise Tax Rate is 0.75%.
New Jersey	YES	**9.00**	NJ S 54:10A-5©(1)										YES Statewide	7		FIXED DOLLAR MINIMUM TAX; SURTAX	Fixed Dollar Minimum Tax is $2000. Surtax is 4% of tax dur.
New Mexico	YES	**4.80 - 7.60**	NM S 7-2A-5	YES	See Note	NM 7-2A-3(B)							YES			Unclear issues on sales tax	NM has a graduated rate of 4.8% to 7.6%. Franchise tax is $50 per corporation
State	**State Income Tax**	**%**	**Cite**	**Franchise Tax**	**%**	**Cite**	**Prem. Tax**	**%**	**Cite**	**Excise Tax**	**%**	**Cite**				**Other Taxes Paid**	**Notes/Comments**
New York	YES	**7.10**	NY S 210(1)(a)										YES	Varies		METROPOLITAN TRANSPORTATION BUSINESS TAX SURCHARGE	Rate is for entire net income base.
Nevada																	
North Carolina	YES	**6.90**	NC 105-130.3	YES	0.1500	NC 105-114(a1)							YES				New Jan 1 2014 HB 998 Interpretation being reviwed if can do up frint mixed % New March 1, 2016 HB 97 Due all upfront--Call NHSCA Staff
North Dakota	YES	**2.60-6.50**	ND 57-38-30														
Ohio	NO	**Phased out in 2009**	Formerly OH 5733.06	YES	0.4000	OH 5733.06							YES Mixed % Test			A Comm. Activity Tax similar to a sales tax. Cite pending	5.1% UP TO 50,000.8.5% thereafter. Sales Tax letter Feb 26, 2013 states charge sales tax upfront based upon predetermined % of real to personal property.
Oklahoma	YES	**6.00**	OK 68 2355(D)	YES	0.1250	OK S 68 2370(A)										ADM Fee on contracts gross premium	See 36 OS 2001, Section 6615 2% Qtrly Adm fee of gross premium unless CLIP policy then many elect flat $3000
Oregon	YES	**6.60**	OR 317.061														Filed as part of a Unitary Tax Return. Or call their tax an excise tax but it's really based on income.
Pennsylvania	YES	**9.99**	PA 72 7402(b)	YES	0.2890	PA 72 7601(a)							YES - Pers Prop only				
Rhode Island	YES	**9.00**	RI 44-11-2(a)													FIXED DOLLAR MINIMUM TAX	Fixed Dollar Minimum Tax is $500.
South Carolina	YES	**5.00**	SC 12-6-530														
South Dakota													YES			Rate varies state plus local	
Tennessee	NO *			YES	See Note	TN 67-4-2007(a)				YES	6.50	TN 67-4-2007(a)	YES - Pers Prop only				Franchise and Excise tax is calculated based upon * Income on same form
Texas	Yes/No*			YES	1.00	TX 171.002							YES - IF TPP only or Sep Chrge			8.25-6.25 % sales tax on certain warranty options: personal property: Cite 34 TAC 3.292(e)	Filed as part of a Unitary Tax Return. The franchise tax, now called a margins tax, but is based upon * income. New TX Compt ruling July 2016--ask NHSCA staff
Utah	Yes/No*	5% of special calculation		YES		59-7-104							YES - Pers Prop only but WHAT IS under review				Filed as part of a Unitary Tax Return. Franchise tax based upon income but if no presence in Utah, called an * Income tax. Min tax of $100
Vermont	YES	**6.00 - 8.50**	VT 32 5832(1)													FIXED DOLLAR MINIMUM TAX	Filed as part of a Unitary Tax Return. Graduated Tax Return of 6% to 8.5%.Fixed Dollar Minimum Tax is $250.
Virginia	YES	**6.00**	VA 58.1-400				YES	2.25	38.2-2619(H).								Exemption form Inc Tax if Prem tax paid 58.1-401
Washington													IN DISPUTE			Business and occupation tax: RCW 82.04.220	NHSCA defeated case to extend sales tax on "extended warranties" to HSK in 2009 SALES TAX in dispute. Legislation pending 2013 to tax sale up front but exclude trade service fee.
West Virginia	YES	**8.75**	WV 11-24-4	YES	0.5500	WV 11-23-6							YES	6			Filed as part of a Unitary Tax Return.
Wisconsin	YES*	**7.90**	71.23										MIXED			A franchise or Income tax based upon calculation	Recycling Surcharge tax rate is 0.03 or min $ 25. WI DOR SALES Tax Bulletin No. 181 Aug. 2013 Caution: Tax on trade fee unless on real estate.
Wyoming																	