# NHSCA Tax Tips

*Confidential and Proprietary NHSCA*

**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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Ver 06/01/16

| 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 | | | | NO TAX Upfront NHSCA ruling | | | 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 | | | | | | | NO TAX UPFRINT NHSCA ruling | | | | 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) | | | | | | | | | | | | | | |

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| 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 pending | | | 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 | | | | | | | | | | | | | | | | | |