

# Tax Hot Topics

**Bergin Fisniku**

Shareholder

Elliott Davis

[bergin.fisniku@elliottdavis.com](mailto:bergin.fisniku@elliottdavis.com)

**Sarah Cahuantzi**

Senior Manager

Elliott Davis

[sarah.cahuantzi@elliottdavis.com](mailto:sarah.cahuantzi@elliottdavis.com)

# State Tax Implications for Financial Institutions

## Nexus and Beyond

Defining “**Financial Institutions**” for state tax purposes

- Definitions vary by state and may include banks, mortgage lenders, servicers, factoring companies, credit card processors, etc.
- State specific examples:

### CONNECTICUT

“Financial service company” includes any company deriving 50%+ of gross income from activities authorized for regulated banks

### CALIFORNIA

“Financial corporation” is a corporation predominately dealing in money or moneyed capital in substantial competition with nations banks, with further defined terms

### ILLINOIS

“Financial organization” includes small loan companies, sales finance companies, investment companies, each with narrow definitions

# State Tax Implications for Financial Institutions *Nexus and Beyond*

## Corporate Income Tax

## Special Financial Institution Taxes

- *Pennsylvania*: Bank and trust company shares tax
- *Ohio*: Financial institutions tax
- *South Carolina*: separate income tax for banks
- *Georgia*: Occupation tax on depository financial institutions, with a credit against corporate income/net worth tax

## Local Taxes

- Some localities impose business income and receipts taxes, with special rules for financial businesses (e.g., Philadelphia)

## Sales and Use Tax

- Taxable services- data processing, consulting
- Taxable purchases- SaaS and information services

# Nexus Standards for Financial Institutions

## Physical Presence vs. Economic Presence

- Traditional nexus required physical presence (offices, employees)
- Modern standards increasingly assert nexus based on economic presence (receipts, loans, deposits)

## Factor-Presence Nexus

### ALABAMA

- \$675,000 sales,
- \$68,000 property/payroll, or
- 25% of total factors

### CALIFORNIA

- \$735,019 sales,
- \$73,502 property/payroll, or
- 25% of total factors

### OHIO

- \$500,000 gross receipts,
- \$50,000 property/payroll, or
- 25% of total factors

### NEW YORK

- \$1,283,000 sales or
- 1,000 credit card accounts/merchant contracts

## Intangible Property and Nexus

- States may assert nexus based on the presence of intangible property such as loans or credit card receivables



polling question

# Apportionment Rules for Financial Institutions

## INDUSTRY-SPECIFIC APPORTIONMENT

- Many states have special formulas for financial institutions
- Some states may address sourcing of receipts from loans, interest, and financial services
- Some states distinguish between secured and unsecured loans for sourcing

## APPORTIONMENT METHODS

- Three-factor vs. single sales -special weighting for financial institutions (e.g., California)
- Cost-of Performance vs. Market-Based Sourcing

## COMBINED/UNITARY GROUP CONSIDERATIONS

- Special rules may apply when financial institutions are included in a group with non-financial entities (e.g., Massachusetts)

# Compliance and Practical Considerations

Annual Review of State Tax Profile	<ul style="list-style-type: none"><li>• Financial institutions should annually review their classification, nexus, and apportionment status in each state</li></ul>
Monitoring Changes	<ul style="list-style-type: none"><li>• Changes in business activities, expansion, or new products can alter tax obligations</li><li>• State tax rules are forever evolving- especially with increased focus on economic nexus and market-based sourcing</li></ul>
Mitigation Techniques	<ul style="list-style-type: none"><li>• Proactive Approach- Nexus Study</li><li>• Voluntary Disclosure Agreements</li><li>• Audit Support</li></ul>

# Recent State Tax Developments

## INDIANA

- DOR updated guidance for Financial Institution Tax (FIT) - April 2025
- Amnesty Program effective 7/1/2025-1/1/2027 - for unpaid liabilities due prior to January 1, 2023 (waiver of interest and penalties)

## MASSACHUSETTS

- Single sales factor apportionment for all corporations and financial institutions effective for tax years starting January 1, 2025
- New rules for financial institutions on how investment and trading income is included in the receipts factor. An "Assignment Fraction" replaced the "regular place of business" test for tax years starting January 1, 2025

## KANSAS

- Single sales factor apportionment for most corporations, including financial institutions for tax years starting January 1, 2027
- Market-based sourcing for receipts other than TPP for tax years starting January 1, 2027





polling question



## replay link:



A replay link will be emailed to you in the coming weeks.  
A copy of the slides presented today will also be made available at that time.

## feedback welcomed:



We welcome and appreciate your feedback  
with the goal of always getting better.

## upcoming events & insights:



Please visit [elliottdavis.com/insights](https://elliottdavis.com/insights) to view upcoming webinars, events, and additional insights.

# thank you

"Elliott Davis" is the brand name under which Elliott Davis, LLC (doing business in North Carolina and D.C. as Elliott Davis, PLLC) and Elliott Davis Advisory, LLC and its subsidiary entities provide professional services. Elliott Davis, LLC and Elliott Davis Advisory, LLC and its subsidiary entities practice as an alternative practice structure in accordance with the AICPA Code of Professional Conduct and applicable law, regulations and professional standards. Elliott Davis, LLC is a licensed independent CPA firm that provides attest services to its customers. Elliott Davis Advisory, LLC and its subsidiary entities provide tax and business consulting services to their customers. Elliott Davis Advisory, LLC and its subsidiary entities are not licensed CPA firms. The entities falling under the Elliott Davis brand are each individual firms that are separate legal and independently owned entities and are not responsible or liable for the services and/or products provided by any other entity providing services and/or products under the Elliott Davis brand. Our use of the terms "our firm" and "we" and "us" and terms of similar import, denote the alternative practice structure conducted by Elliott Davis, LLC and Elliott Davis Advisory, LLC.