



2023 STATE AND LOCAL TAX RECAP

Evolution of fiscal conditions and what's
coming next

Dec. 12, 2023

With you today



Brian Kirkell

Principal, Washington National Tax

Brian.Kirkell@rsmus.com



David Brunori

Senior Director, Washington National Tax

David.Brunori@rsmus.com



Mo Bell-Jacobs

Senior Manager, Washington National Tax

Mo.Bell-Jacobs@rsmus.com



Amy Letourneau

Senior Manager, Washington National Tax

Amy.Letourneau@rsmus.com

Agenda

- State of the states
- Election recap and preview
- Trends and developments

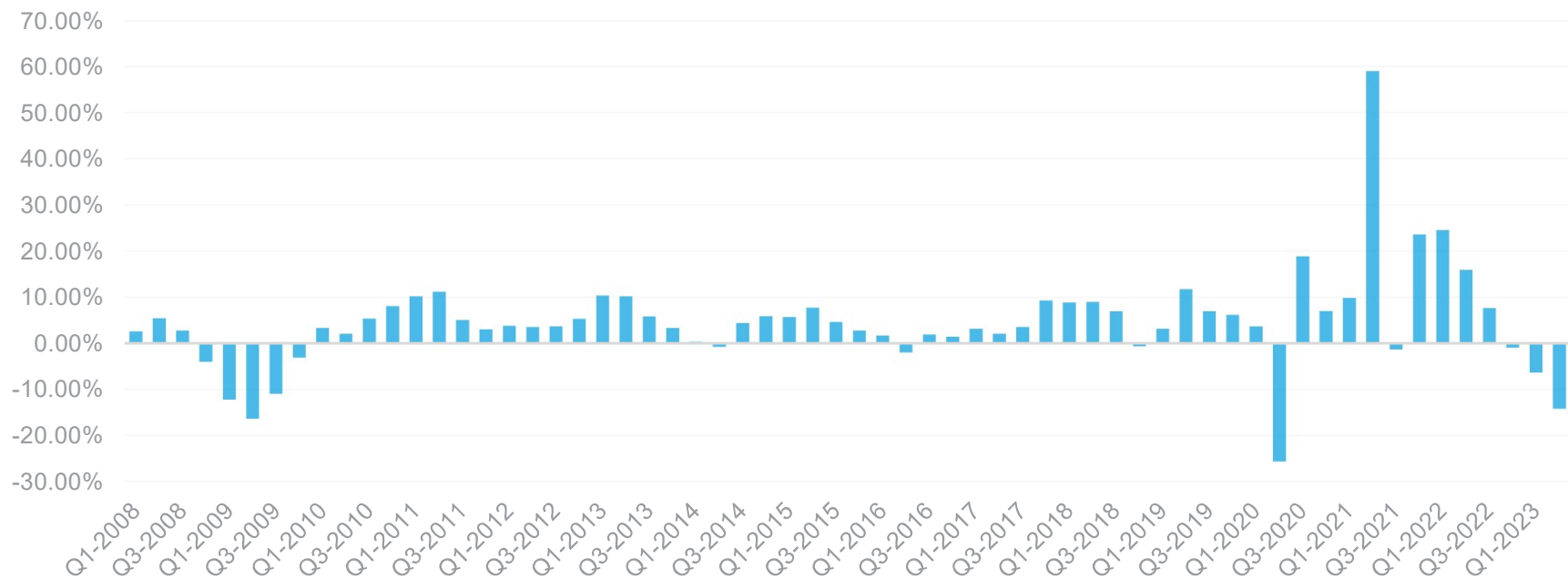
Objectives

- Recognize the key economic trends and developments from 2023 affecting state and local taxation
- Explain how a moderately active 2023 may impact 2024 state and local tax planning
- Identify risks and opportunities in the evolving state and local tax landscape

THE STATE OF THE STATES

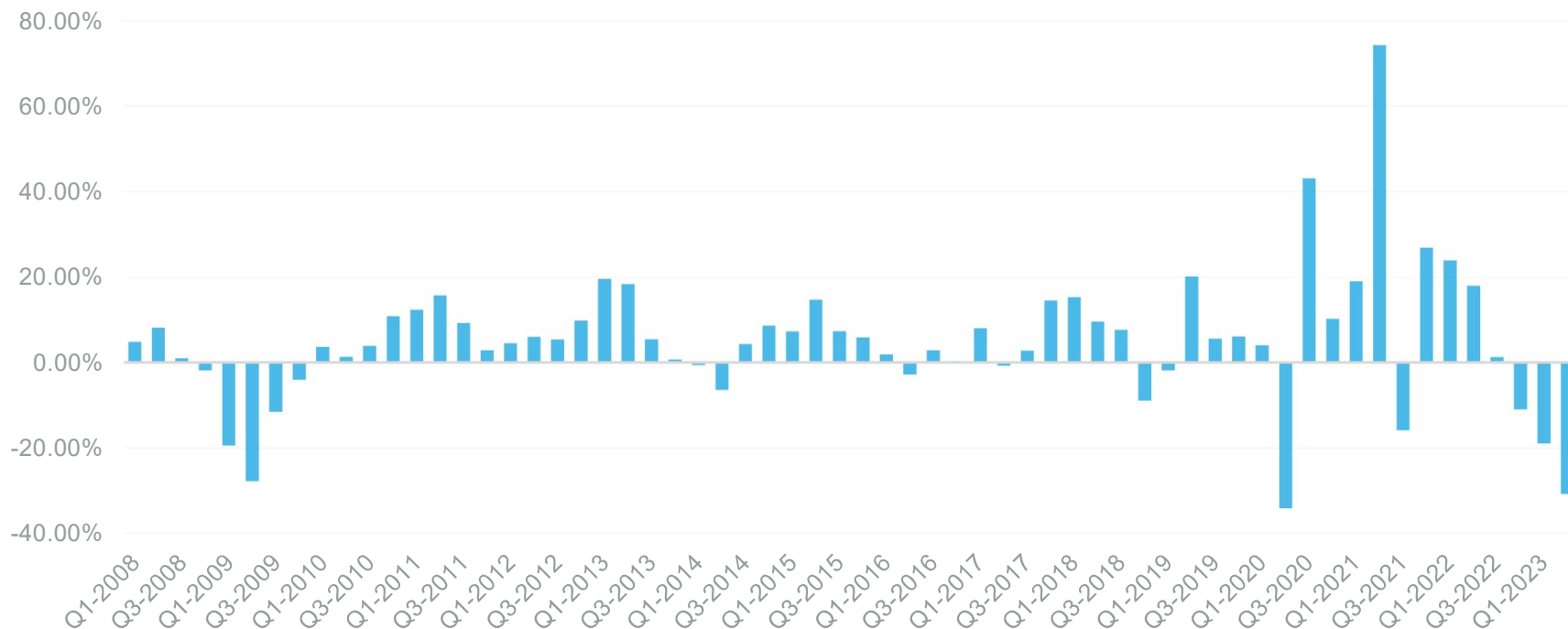
State tax collections through Q2 2023

Year-over-year quarterly percentage change in total state tax collections – Q1 2008 through Q2 2023



State individual income tax collections through Q2 2023

Year-over-year quarterly percentage change of state individual income tax collections - Q1 2008 through Q2 2023

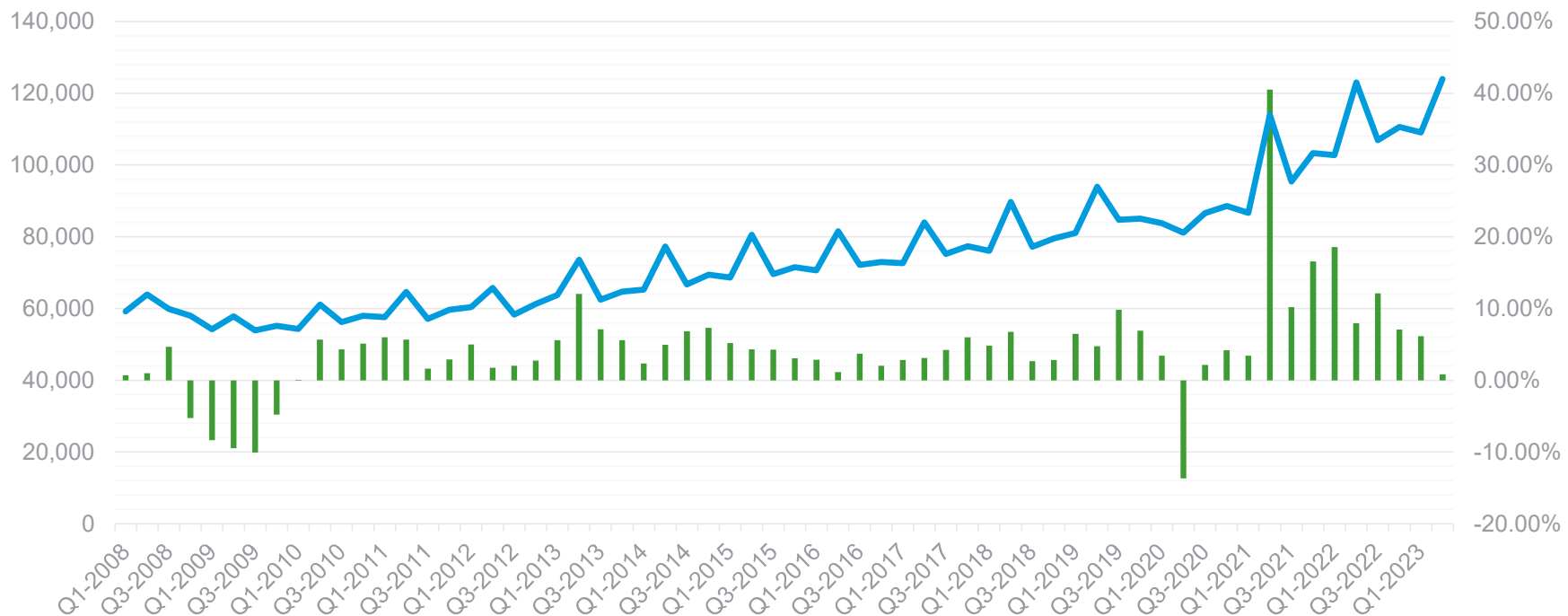


Individual income taxes on shaky ground

- Four quarters of zero to negative growth among state individual income tax collections
 - Three years of state individual income tax rate cuts nationally
 - Refunds and rebates
 - Market performance in 2022 and 2023 (pending) negative influence on capital gains
 - 12 months of declining wage growth per ADP
 - 12-18 months of declining hiring rates; labor market still in flux
 - PTE election income re-classification

State sales and use tax collections through Q2 2023

Year-over-year quarterly percentage change in total state sales tax collections – Q1 2008 through Q2 2023



Sales taxes: Steady as they go

- Through Q2
 - Full implementation of Wayfair in all 46 jurisdictions
 - Post-pandemic consumer expenditures
 - Inflation initial impact to increase prices
 - Higher-earners insulated from inflation continue to drive spending
 - Labor market remains tight
- Headwinds
 - Federal student loan payments beginning in October
 - Housing costs
 - Personal savings rates dropping
 - Long-term inflation
 - Recession?

What a difference 5 years makes

- After three years of strong state tax collection growth, cracks are forming, but use caution when treating the nation as one economy
- The current state fiscal environment is much different than five years ago and indicates a better chance to weather a short downturn
 - Full implementation of Wayfair (6/2018) and nexus expansion
 - Marijuana sales taxes and excise taxes in two dozen states
 - Gambling revenues, some as high as 50 percent (Murphy 5/18)
 - Expanded taxes to vaping and other sin taxes
 - NASBO: Rainy day balances at \$155 billion in FY23 compared to \$68 billion in FY17

What are we watching for 2024?

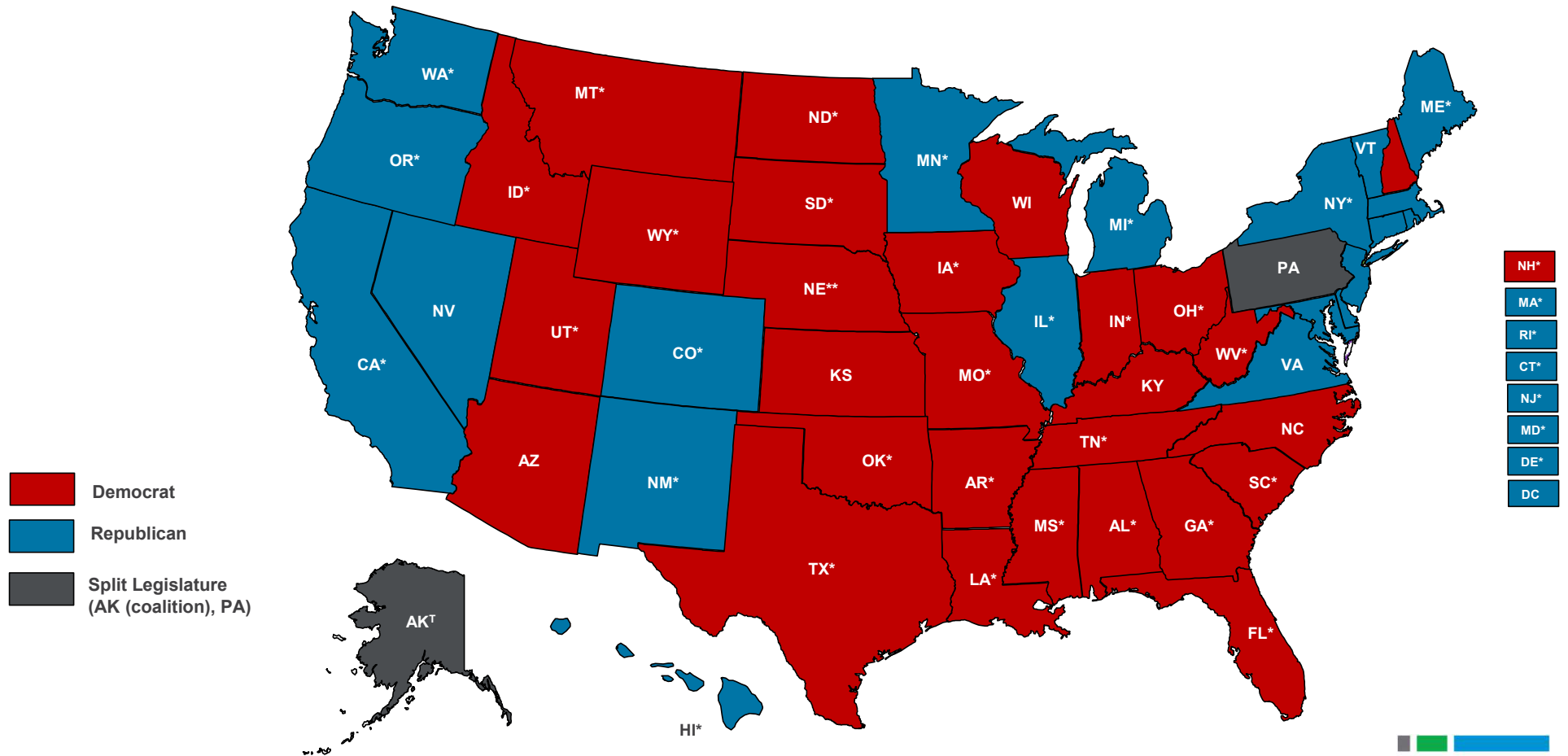
Maintaining revenue in 2024

- Audits (SUT, TP)
- Rainy day fund transfers
- Unique revenue proposals and mechanisms
- Increase sin taxes bases and rates
- Increase tax rates
- Sales tax base expansion

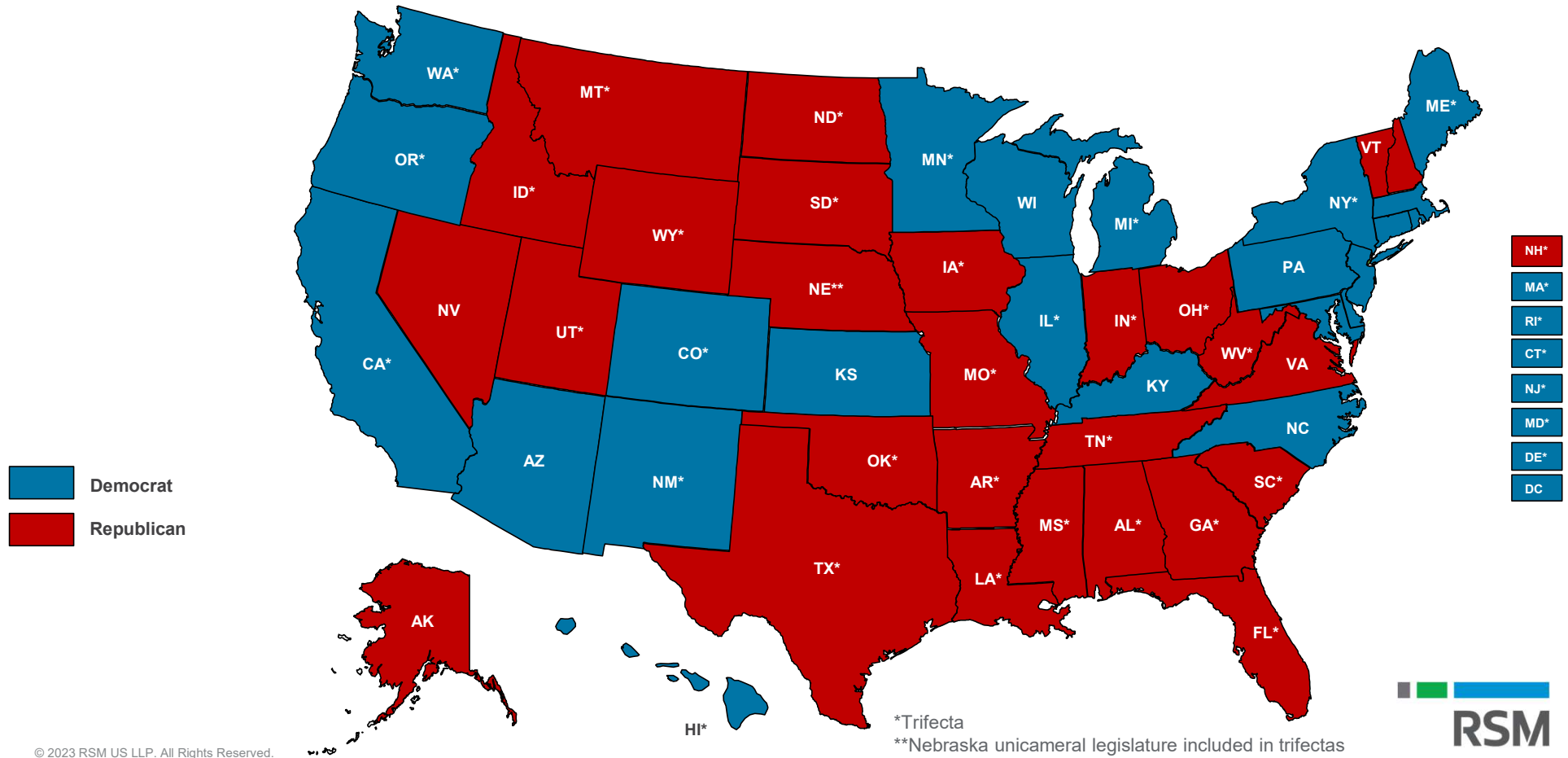


ELECTION RECAP AND PREVIEW

State legislative status for 2024



State gubernatorial status for 2024



Ballot measures

2023 general election ballots

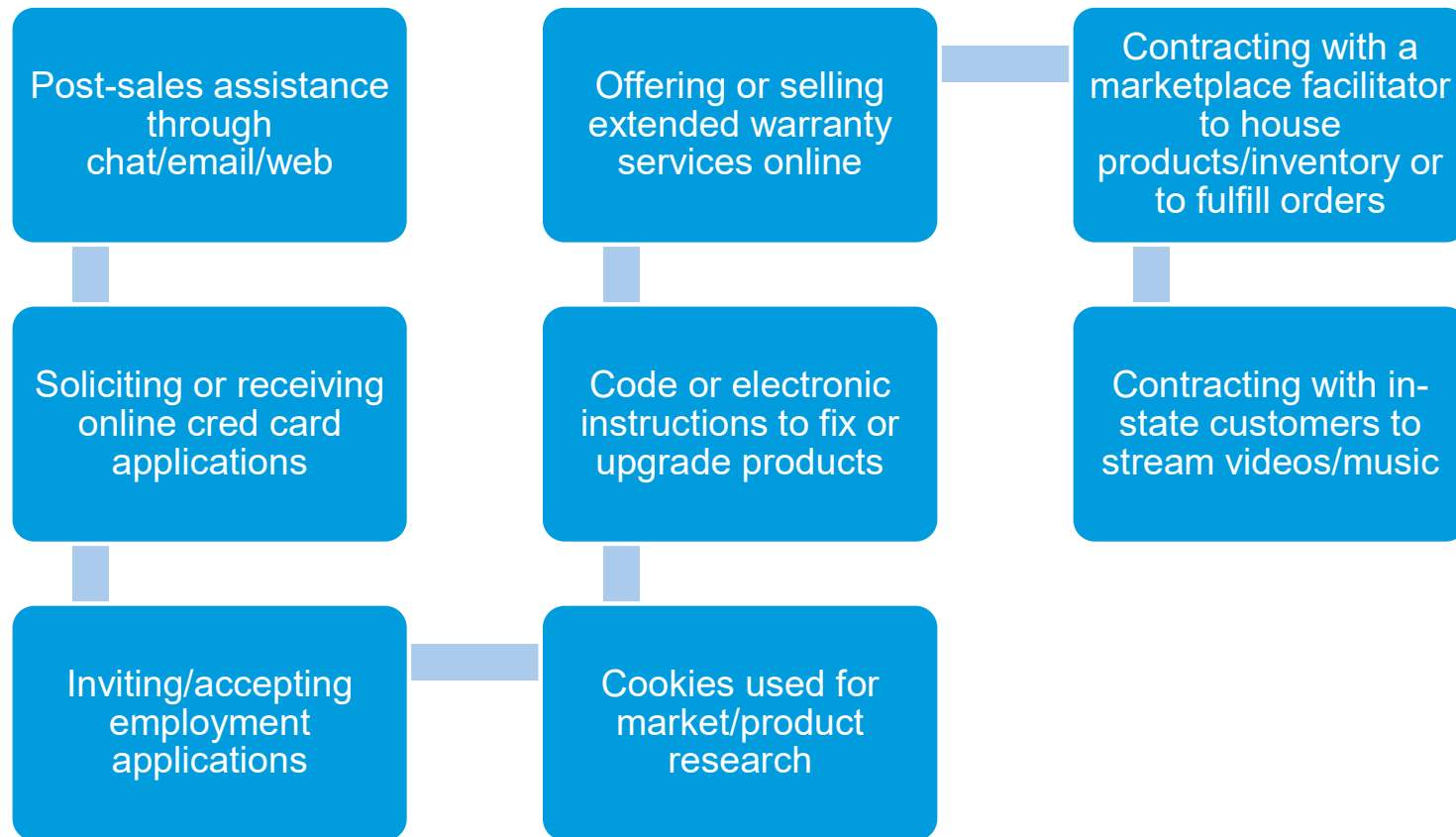
- ✗ • Colorado Proposition HH would have reduced property taxes
- ✓ • Ohio Issue 2 legalizes marijuana and imposes a 10 percent sales tax on marijuana sales
- ✗ • Salem, OR would have imposed a tax on workers within city limits
- ✓ • Texas Proposition 3 prohibits a tax based on wealth or net wealth

TRENDS AND DEVELOPMENTS

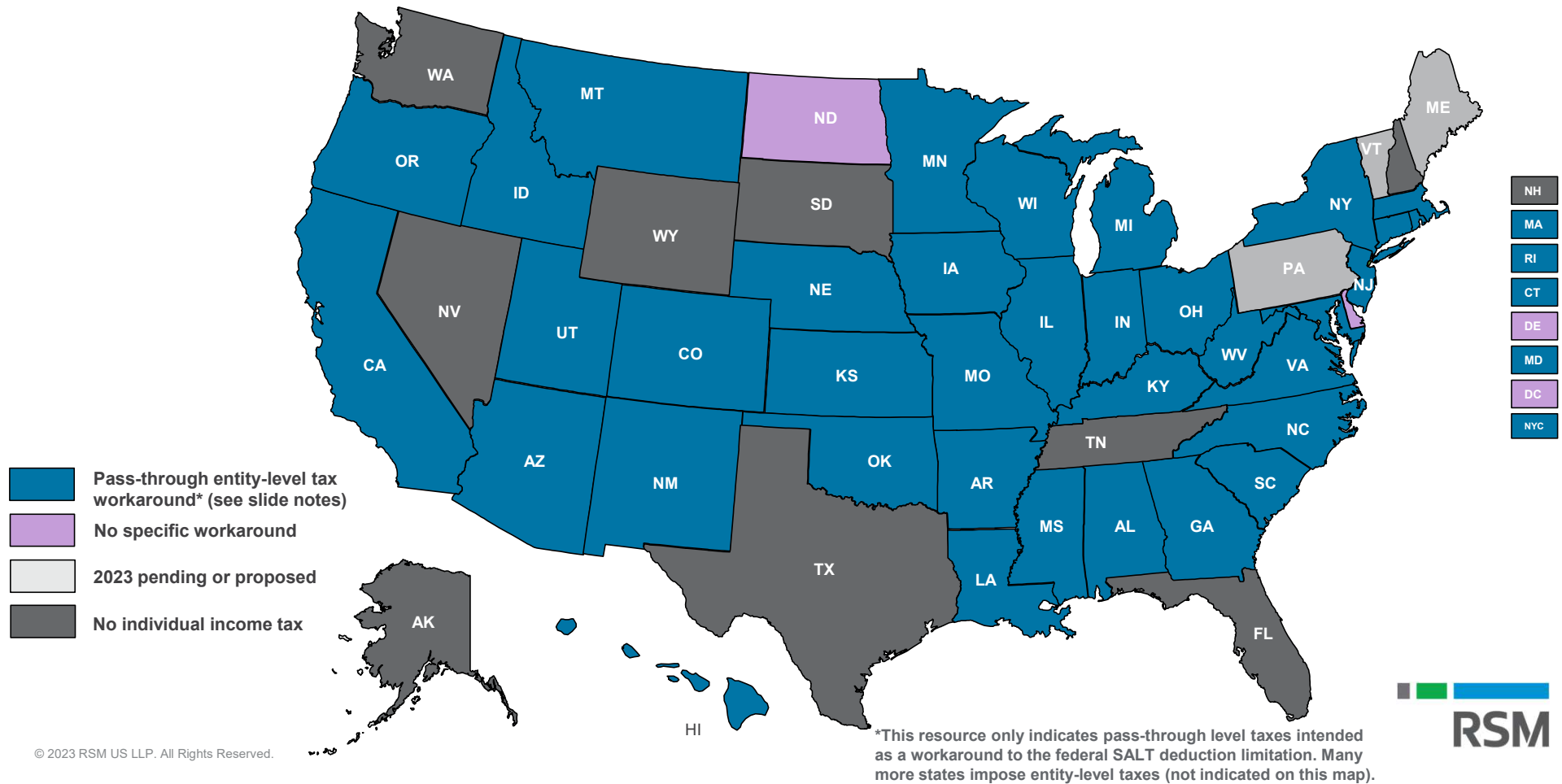
Renewed focus on apportionment and sourcing

- Post-nexus conversation transitions from avoiding nexus to embracing nexus
- Opportunities
 - Alternative apportionment requests
 - Industry-specific apportionment
 - Single-sales factor
 - Sales of services and intangibles
 - State interpretation of cost-of-performance and market-based sourcing

P.L. 86-272 advances slowly in 2023



State pass-through entity tax “workarounds” (36 states and NYC)



Sales tax base expansion and the digital economy

- Novel digital tax expansion continues
 - Digital advertising
 - Social media
 - Data mining taxes
- Digital goods, products and services still a target
- Digital assets flummox the states
- MTC/SSUTA/COST efforts to recognize ongoing complexities

Locals need revenue too

- Local tax policy earns a bigger stake in the discussion
 - Migration from city centers, inflationary pressure, local pensions, pandemic aid
- Must straddle raising revenue with attracting businesses and population
- Local revenue raisers earn controversial reputations
 - Salem payroll tax
 - San Francisco gross receipts tax
 - Portland CEO tax
 - Seattle payroll expense tax

Controversy in 2024

- Increase in audit activity
- Reduced audit and taxing authority staff impacting timelines and responsiveness
- Trends
 - Sales tax audits
 - Alternative apportionment requests and mandates from taxing authorities
 - Transfer pricing audits with third-party expertise
 - Digital assets (NFTs and crypto gain reporting)
 - Questionnaires
- “Audit ready” must include SALT

Section 174 – Research and Expenditures R&E

- Taxpayers required to capitalize and amortize research and experimental expenditures under section 174 for tax years beginning after Dec. 31, 2021
- Some states decouple (or never conformed to this TCJA change)
 - CA (never conformed), TN (decoupled), TX, WI (decoupled)
- State conformity changes through 2023 sessions
 - Georgia and Indiana decouple for 2022
 - Mississippi election to decouple for 2023

Federal changes to impact SALT

- Section 174
- SALT deduction limitation extension/modification
- Section 163(j)
- Bonus depreciation
- TCJA extenders
- Mobile workforce legislation



THANK YOU
FOR YOUR TIME
AND ATTENTION



RSM US LLP

30 South Wacker Dr
STE 3300
Chicago, IL 60606

T 312.634.3400
rsmus.com

This document contains general information, may be based on authorities that are subject to change, and is not a substitute for professional advice or services. This document does not constitute audit, tax, consulting, business, financial, investment, legal or other professional advice, and you should consult a qualified professional advisor before taking any action based on the information herein. RSM US LLP, its affiliates and related entities are not responsible for any loss resulting from or relating to reliance on this document by any person. Internal Revenue Service rules require us to inform you that this communication may be deemed a solicitation to provide tax services. This communication is being sent to individuals who have subscribed to receive it or who we believe would have an interest in the topics discussed.

RSM US LLP is a limited liability partnership and the U.S. member firm of RSM International, a global network of independent audit, tax and consulting firms. The member firms of RSM International collaborate to provide services to global clients, but are separate and distinct legal entities that cannot obligate each other. Each member firm is responsible only for its own acts and omissions, and not those of any other party. Visit rsmus.com/aboutus for more information regarding RSM US LLP and RSM International.

RSM, the RSM logo and The power of being understood are registered trademarks of RSM International Association, used under license.

© 2023 RSM US LLP. All Rights Reserved.