



2023 STATE AND LOCAL TAX RECAP

Evolution of fiscal conditions and what's
coming next

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With you today



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Agenda

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

Objectives

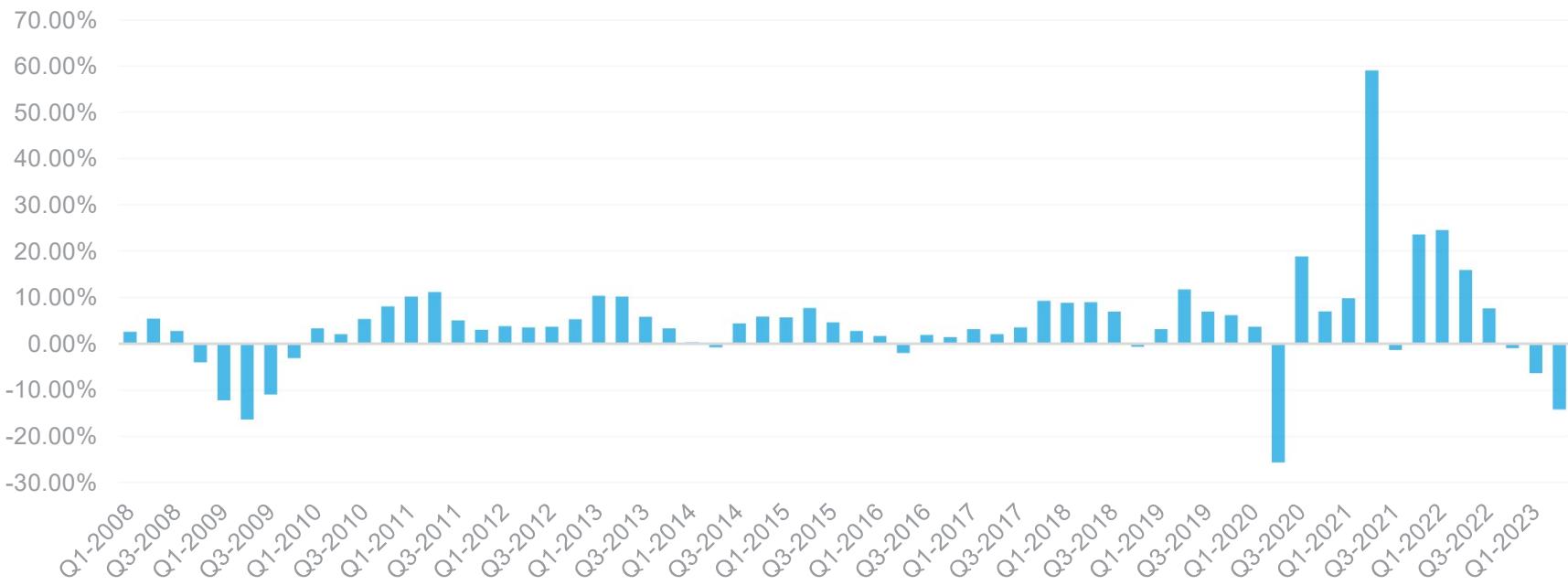
- Recognize the key economic trends and developments from 2023 affecting state and local taxation
- Explain how a moderately active 2023 may impact 2024 state and local tax planning
- Identify risks and opportunities in the evolving state and local tax landscape

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THE STATE OF THE STATES

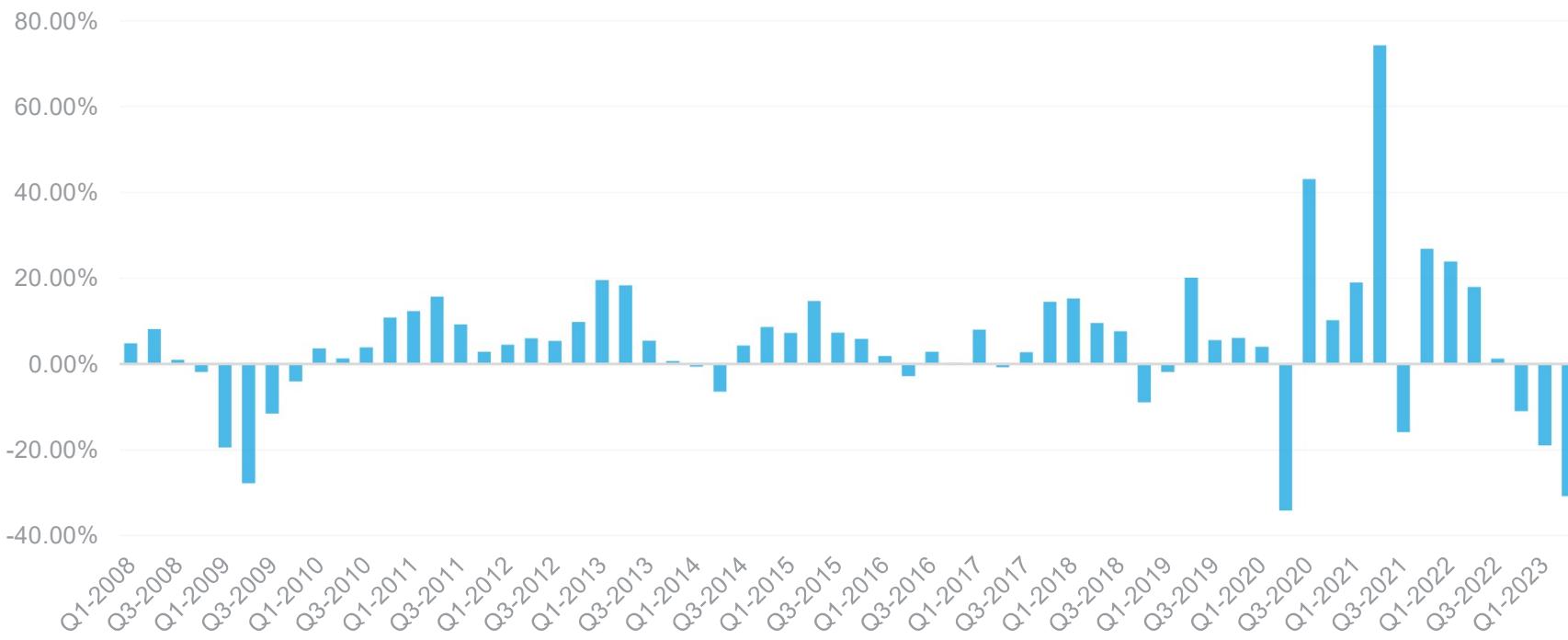
State tax collections through Q2 2023

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

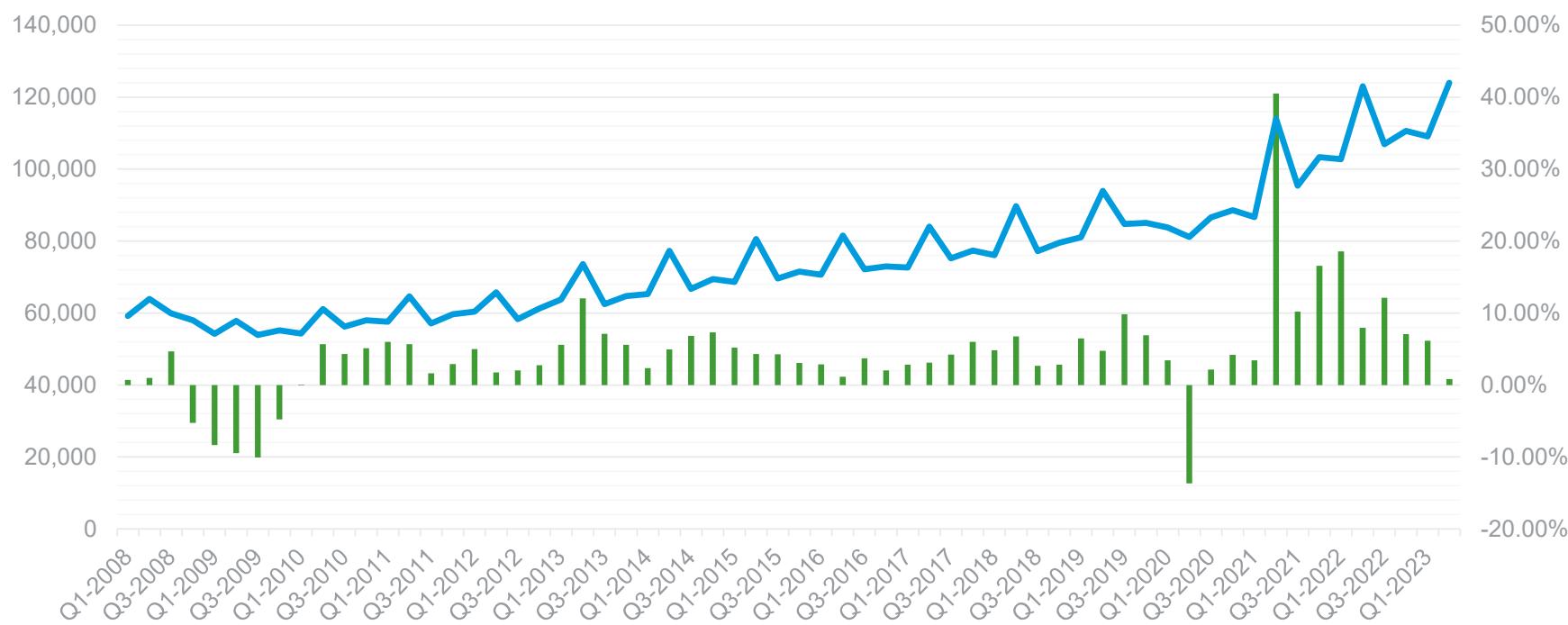


Individual income taxes on shaky ground

- 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?

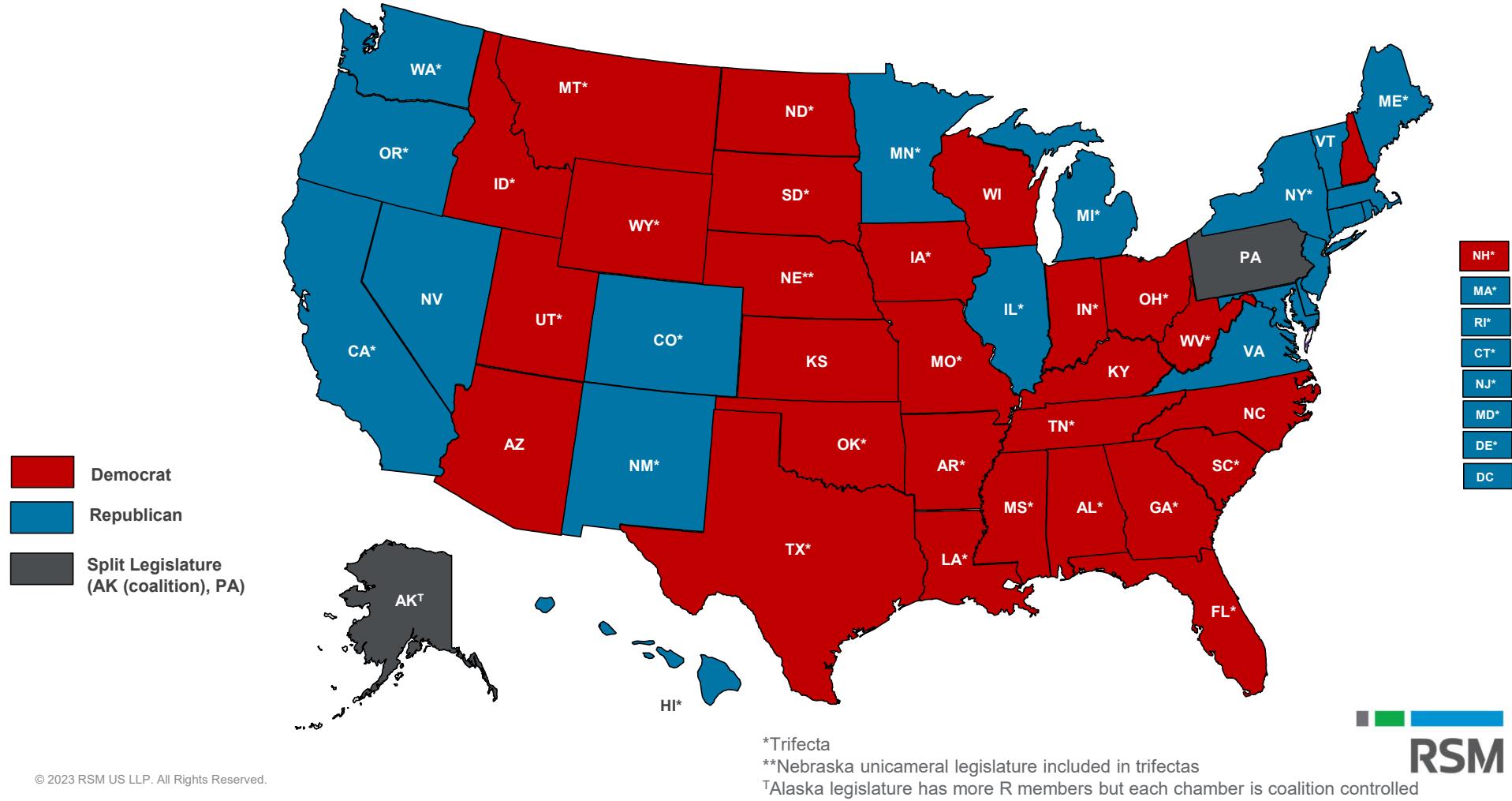
Maintaining revenue in 2024

- 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

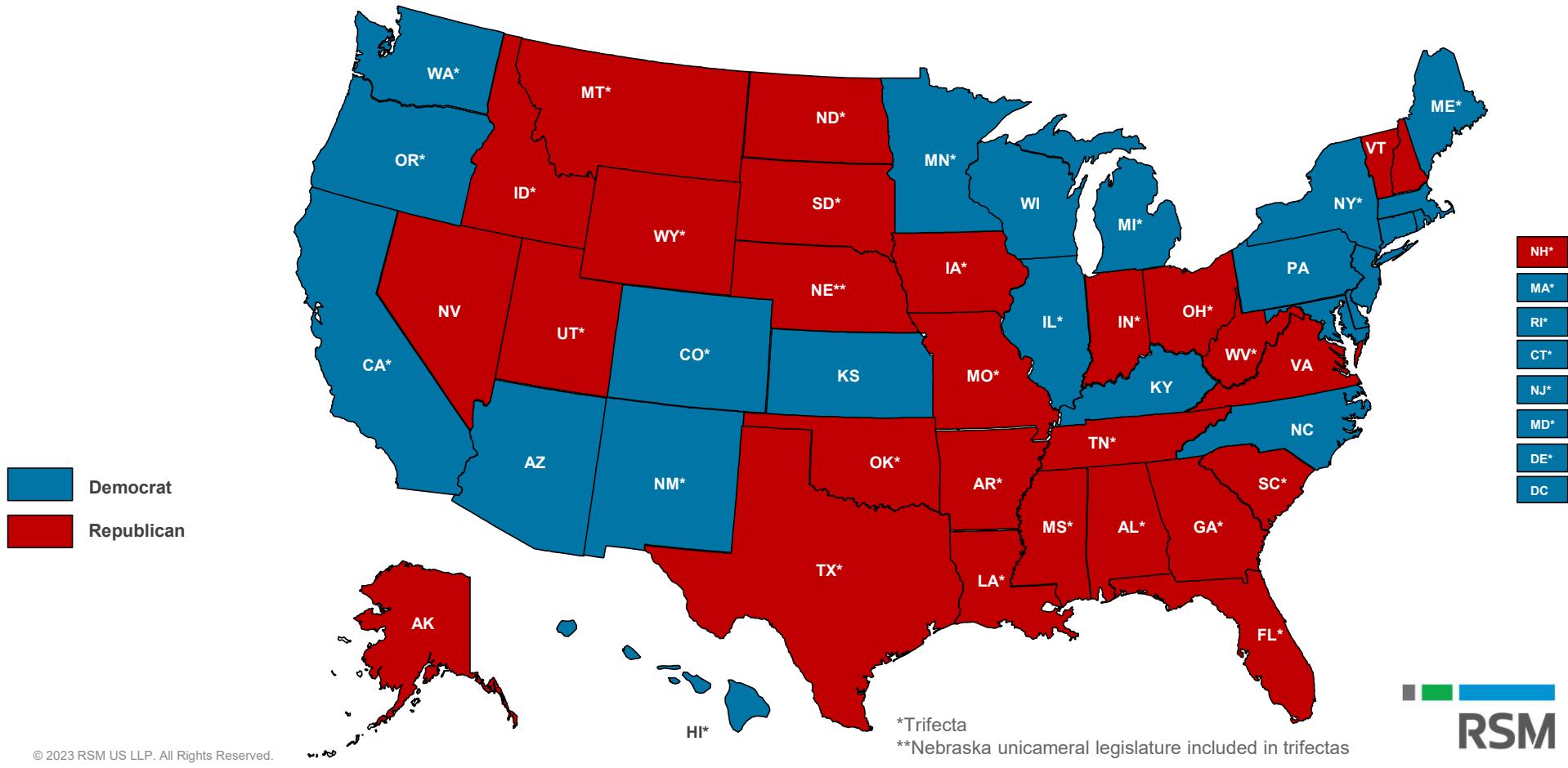
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ELECTION RECAP AND PREVIEW

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

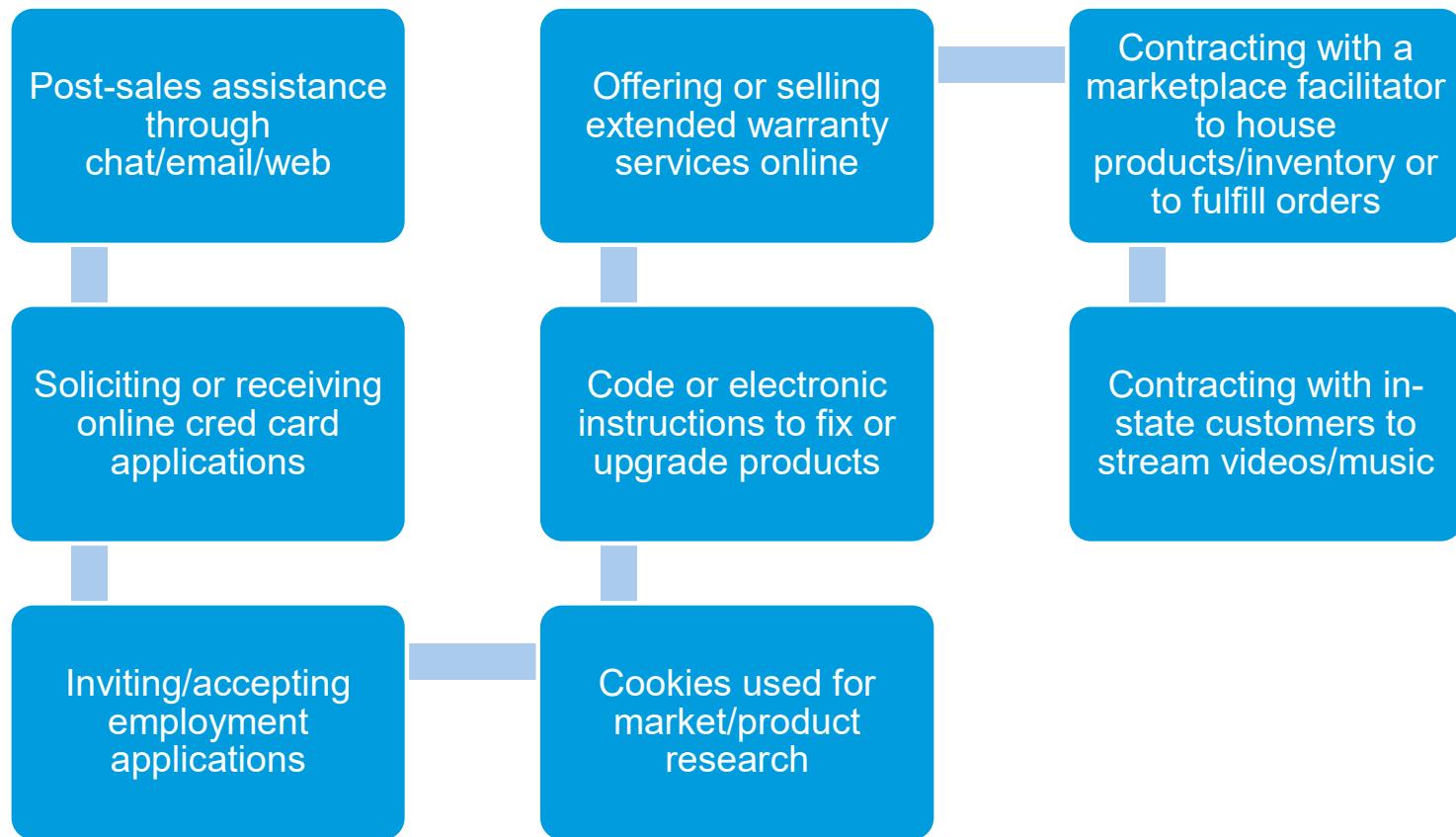
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TRENDS AND DEVELOPMENTS

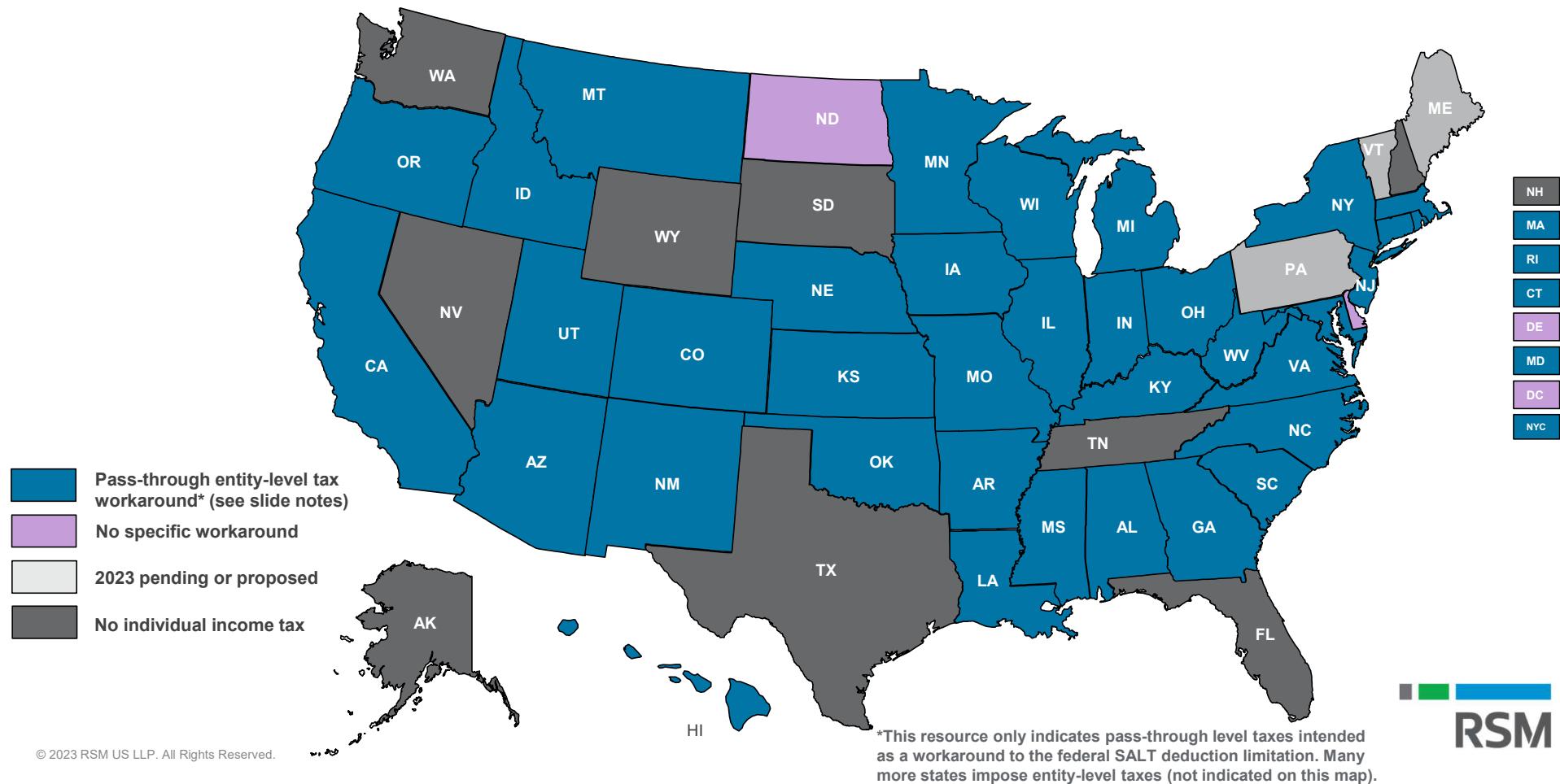
Renewed focus on apportionment and sourcing

- 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



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THANK YOU
FOR YOUR TIME
AND ATTENTION



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