

Recording ([00:00](#)):

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Nikki Dobay ([00:15](#)):

Hello and welcome to GeTtin' SALTy, a state and local tax policy podcast hosted by Greenberg Traurig. My name is Nikki Dobay, shareholder in the Sacramento, California and Portland, Oregon offices. We have reached the end of 2024 and finished our 42nd episode of the podcast on Texas last week.

([00:49](#)):

I couldn't be more excited and proud about how everything we've accomplished this year with the podcast has gone, and I'm so excited, everybody knows that listens to the podcast I get excited about things, really excited about 2025 and what new things and new ideas will bring to the podcast.

([01:07](#)):

But before we get there, before we get to 2025, and as this year comes to an end, we decided to do a bit of reflecting on some of the most popular podcasts of the year. So for this episode, we'll be revisiting some of the top podcasts according to our listeners of the year. And this is the most exciting part. We will be awarding one of our guests the inaugural GeTtin' SALTy Listener Appreciation Award.

([01:34](#)):

So stay tuned. But before we get there, let's start by hearing a few clips from some of the podcasts that you, the listeners, couldn't get enough of. For the first clip, we're going to go all the way back to January of this year when Nancy Prosser gave us a history lesson about the MTC.

Nancy Prosser ([01:53](#)):

But the Multistate Tax Commission, one of the things that makes us unique is that we are an actual interstate governmental entity. And I know at times I have either seen in the press or been introduced as being with a quasi governmental entity, but truly we are government.

([02:15](#)):

And the reason that is is because we were established based on something called the Multistate Tax Compact, which currently 16 states have adopted into their state laws.

Nikki Dobay ([02:31](#)):

So it is the compact that actually sprung the commission to life as a governmental agency.

Nancy Prosser ([02:39](#)):

Exactly. And the reason the compact was established relates back to that 1959 court case from the United States Supreme Court that in turn created Public Law 86-272, which if you work in the state and local tax world, you may be familiar with that federal law, which established a certain nexus parameters for income tax.

([03:09](#)):

But when that Northwestern States Portland Cement case came out in 1959, it caused quite a brouhaha in the business community that there would be certain activities that businesses were engaging in the

state could require them to pay income tax. The business community turned to Congress and said, "Please do something to stop this."

[\(03:35\)](#):

And Congress at that time acted very quickly to put in place what was supposed to be this temporary law. Again, Public Law 86-272. At the same time, Congress asked that there be a study, the famous Willis Commission, which looked at potentially putting in place even further preemption over state and local tax authority. And the states decided, we need to act and do something.

[\(04:03\)](#):

The Federation of Tax Administrators was already a functioning entity, but the state started talking and said, "We need to demonstrate to Congress and the business community that we can work together to bring about greater uniformity and tackle some of the issues that the business community is concerned about in terms of double taxation and how is income going to be apportioned and these types of issues."

[\(04:31\)](#):

And so the idea of coming up with this compact that the states would join, and together by doing that pledge, we're going to work on issues of multistate business-related tax issues. And then in 1967, seven states, which was the requisite number, had adopted the compact into their state laws, and thus created the Multistate Tax Commission.

Nikki Dobay [\(05:03\)](#):

That piece was from episode 21 when Nancy Prosser, the former general counsel of the MTC, got everyone up to speed on the MTC's work and its role in the state and local tax world. Nancy is, of course, a powerhouse in the SALT world. And prior to joining the MTC, she was with the Texas Comptroller's Office for many years.

[\(05:24\)](#):

Nancy retired from the MTC earlier this year and is taking some much-deserved time off. We'll have to see if retirement sticks or if she can't stay away from the SALT fun. Thank you, Nancy, for your contribution to this space and for being one of our listener favorites on the podcast in 2024. And if you need a refresher on the MTC, please revisit that episode, which is episode 21.

[\(05:49\)](#):

Next, we're going to get into a couple podcasts from August. Listeners also seemed very interested in these topics. The first was with Alan Pasetky, who is a tax policy advisor with the Global Business Alliance. This next clip is from episode 34 during which Alan and I pushed back on an article that was published earlier this year advocating for the states to mandate worldwide combined reporting.

[\(06:14\)](#):

In this podcast, Alan gets pretty fired up about one of his favorite topics. Let's take a listen. So Alan, we are going to talk about one of your favorite topics, a rebuttal to a really bad state tax policy. There was recently an article that was published in State Tax Notes by Michael Masarof about all the great things that states should know about mandatory worldwide combined reporting.

[\(06:44\)](#):

And as we usually do when these types of articles come out, we start emailing frantically back and forth. And so we thought, well, maybe we shouldn't just email. Maybe we should get together and chat about this on a podcast. So I think you have some thoughts about this article. So let's just walk through those.

[\(07:04\)](#):

So let's just start at the top. What's one of the most frustrating things about this article and how it's laid out?

Alan Pasetky [\(07:14\)](#):

Well, thanks, Nikki. And you're right. I'm very passionate about this topic because I've been dealing with it for over 30 years. And I think the author and others think that if we just wait long enough, people will forget about why worldwide is not mandatory anywhere. So the problem with this whole article to me is it's very misleading and disingenuous, and that's what drives me crazy.

[\(07:35\)](#):

And why do I say that? I say that because the arguments made don't point out the many counter arguments on the other side, which are much more persuasive as to why water's-edge reporting is really the best method.

Nikki Dobay [\(07:50\)](#):

And is there anything new in this article? I mean, it seems like there's a lot of the old fear tactics that have been regurgitated many times popping up throughout. Did you see anything new in there? Are there any new arguments we need to start thinking about?

Alan Pasetky [\(08:09\)](#):

Actually, that's an interesting question. The answer is no. I mean, even the context is talking about the Jeffrey Case and other transactions from the 1980s even. He mentioned something from the '60s. He mentioned constitutionality, which was addressed years ago, and no one is really challenging that.

[\(08:29\)](#):

I think the concern in that article, which is not legitimate to my knowledge, is that every transaction between related parties is nefarious and isn't a legitimate business deduction, and that's the premise that he starts with and that's just a false premise.

Nikki Dobay [\(08:45\)](#):

That was a fun podcast. Alan does a great job of explaining why mandating worldwide combined reporting isn't as easy as the proponents say it is. Considering attention this issue has been getting, I'm sure Alan will be joining us again for another robust conversation. Thanks again, Alan, for being on the podcast.

[\(09:05\)](#):

Marilyn Wethekam, who is now Of Counsel with the Council on State Taxation, also joined me for the podcast in August. In this episode, episode 35, Marilyn and I dove into a discussion of the Supreme Court's recent decision in Loper Bright. Another lively discussion, I asked Marilyn directly whether Loper Bright did in fact kill Chevron. Take a listen.

Marilyn Wethekam [\(09:29\)](#):

I think Chevron is dead, and I think Loper did do that. I think Loper by way of background was a case that dealt with a regulation for commercial fishermen. Very complicated. I thought tax was complicated. Commercial fishing apparently is as well.

Nikki Dobay ([09:51](#)):

I re-read it last night, and I will say, I re-read it with Marilyn gave some great visuals of her self-reading the case for the first time at this, and I'll let her share those if she'd like throughout this podcast. But I re-read it last night and I was also struck, one, by the places where you had extreme reactions, but two, that I skipped a lot of the commercial fishing parts because I was like, I don't need to learn something new.

([10:20](#)):

We deal with an area that's complicated enough. Having confirmed Chevron deference is dead, Marilyn goes on to explain what level of review or deference remains.

Marilyn Wethekam ([10:31](#)):

Justice Roberts cites Skidmore five or six times in his decision. So my takeaway is Skidmore seems to be the default. When we get into the state tax implications of it, Skidmore is not all that different than what I would say statutory construction rules are.

([10:50](#)):

I think where you were going with the Loper Bright decision is there are a number of statements by Justice Roberts that are a bit concerning, particularly if you've spent your entire career in an agency.

Nikki Dobay ([11:03](#)):

Right.

Marilyn Wethekam ([11:04](#)):

And one of them is that agencies have no special competence in resolving statutory ambiguities. Only the courts do. And therefore, they exercise their independent legal judgment. To your point, what I said last week was as I was reading this, unfortunately, I was drinking coffee and I came very close to spitting it out.

([11:26](#)):

It's very difficult for someone who has been in an agency and devoted their entire life to a specialized field to all of a sudden be told, "I think you have no special competence in resolving these ambiguities." The court did recognize to give them some credit.

([11:42](#)):

The court did recognize that Congress could, in this case, have specifically delegated to the agency the ability to interpret the statute. And it was not in this particular, but there seems to be a little bit of a wiggle room, if you want to phrase it that way, should Congress want to go that way.

Nikki Dobay ([12:00](#)):

Yeah, I would agree. It seems like Skidmore becomes the new go-to test, and that very much does seem to say the court is going to weigh essentially all the facts and circumstances related to what the agency knows and the textual language and what it has before that.

([12:21](#)):

So it really pushes everything back to the court to make that ultimate decision. And there could be facts and circumstances that would allow a court to give the agency more deference, but that is no longer the default. And so I do think that's the post-Loper world we live in.

Marilyn Wethekam ([12:44](#)):

I agree. I think the post-Loper world we live in is going to be determined by how much weight a court wants to give to an agency's interpretation.

Nikki Dobay ([12:55](#)):

During the remainder of this episode, Marilyn and I discussed the impact of this decision on state tax matters and have some fun discussing some of the crazy quotes in the case. Please take a listen to this episode if you missed it. It's a great discussion of the Loper decision and its potential impact on state tax issues. Thank you, Marilyn, for breaking down a pretty meaty case for the listeners.

([13:17](#)):

The listeners definitely appreciated it too. We're now going to hear one last clip before getting to the big announcement regarding our award. This clip is from one of the episodes that Jared Walczak appeared on. Jared heads up the SALT work at Tax Foundation. Jared is, of course, a podcast regular and always provides so much information in such a useful way.

([13:40](#)):

This clip is from episode 32, which was super popular. Take a listen. I want to go back to that number you highlighted. I think I heard 77% can... Come on, that can't be right.

Jared Walczak ([13:54](#)):

Yes. It's amazingly correct. So you take what really would be the effective rate of this tax, and then we think about the other taxes that a C corporation in Oregon operating at least partly in say the Portland area would face and we're going to add a business license tax of 2.6%. There could be a business income tax of 2%, supportive housing service tax of 1%, clean energy surcharge of 1%.

Nikki Dobay ([14:19](#)):

And that's on gross.

Jared Walczak ([14:22](#)):

Yeah. So you've got one on gross, you have the others on net, all of these being imposed. Then again, this tax and the gross receipts tax that you already have, the CAT, and this, as you said, is a modified gross receipts tax. It has a 35% deduction for your choice of cost of goods sold or payroll or compensation.

([14:43](#)):

So that, again, because is a gross receipts tax also has a much higher effective rate on this business than just 0.57 would suggest, and then add in the federal 21%, and we are at 77.2% for a business with 7% returns.

Nikki Dobay ([15:00](#)):

So many questions, not sure where to start. This makes me angry, and I'm not an economist. How angry does this make you as an economist? I don't know if you've ever gotten that question before.

Jared Walczak ([15:14](#)):

I think I'm just concerned. I mean, if you're a Portland resident, if you're an Oregon resident, this is significant. I think you could go to the ballot and read some vague language about a corporate minimum

tax, a 3% tax, and a rebate and think, "Hey, maybe this is a reasonably good deal for me. Who wouldn't like a rebate? I like rebates," and not realize what the effects are.

[\(15:36\)](#):

So let's think of a couple of different effects here. One, because it's a 3% tax on gross, the final sale, when something is sold into Oregon to an Oregon consumer, there's a 3% tax on that. That's functioning pretty much like a sales tax in a state that doesn't have a sales tax and has made a priority not imposing a sales tax, because there's very little way to avoid that.

[\(15:56\)](#):

Most of it will be passed along to the consumer, maybe pretty much all of it. Because no matter who you are, if you're a large C corporation, obviously small ones are outside of this, but a lot of things we buy come through large C corporations. If you're selling into Oregon, that's being imposed.

[\(16:11\)](#):

So most of the incidents of that, because all the competition is facing the same thing, is going to be born by the consumer. So get used to having a 3% sales tax on [crosstalk 00:16:20] But it's a 3% sales tax on everything, like you said. So sales taxes in other states have substantial exemptions.

[\(16:27\)](#):

They may be exempt groceries. They exempt fuel. They might exempt clothing. They might exempt all kinds of categories of consumer goods.

Nikki Dobay [\(16:35\)](#):

Insurance. Financial products,

Jared Walczak [\(16:37\)](#):

All of it.

Nikki Dobay [\(16:38\)](#):

All of it.

Jared Walczak [\(16:39\)](#):

Yeah, professional services, things like this. This is all being taxed now. Much broader than that, it's taxing all of the intermediate transaction. So it's not just the consumer element. When a business goes out and purchases any services, maybe you are a small business, you think, "Oh, I'm not part of this, right? I'm not being taxed."

[\(16:58\)](#):

But you focus on what you're good at and that's not doing your own accounting and payroll and it's not doing your own marketing or maybe some of your production is outsourced. All of those are points of contact with an outside system. There's a transaction going on that is subject to this.

Nikki Dobay [\(17:18\)](#):

Happily, that crazy Oregon ballot initiative was defeated, but Jared does a great job of breaking down all the reasons why it was such a bad idea. This wasn't Jared's only podcast for the year. Again, he's a regular and I can't thank him enough for all of his contributions. And the listeners love you too, Jared.

[\(17:35\)](#):

And now the moment you've all been waiting for, the winner of the inaugural GeTtin' SALTy Listener Appreciation Award goes to Morgan Scarborough, can't even say her name, I'm so excited, who is I think she's now the CEO and President of MultiState Associates. Morgan, thank you so much for being here to receive this award.

[\(18:01\)](#):

I'm so happy to be giving it to you, and obviously the listeners love you because based on our rankings, you are the best. So thank you.

Morgan Scarborough [\(18:13\)](#):

Thank you so much, Nikki. Before I thank the academy, one quick correction is that I am just our vice president there at MultiState, but thank you for the title bump, which I look forward to every time I join this podcast.

Nikki Dobay [\(18:24\)](#):

I know. We also thought your boss Joe would appreciate that as well. So Joe, I haven't dethroned you. I don't think I actually have that power, but we do love Morgan. And as listeners know from the last podcast, she's going to be out for a little bit early next year, so I may have to dig deep and go to Joe for some of your meaty insights.

[\(18:44\)](#):

But today we're not talking about substantive state and local tax policy. Today this is all about you, Morgan, because you are the GeTtin' SALTy Listener Appreciation Award winner. So want to just talk about your role in this crazy state and local tax community. So I think we've done this once before on the podcast, but how did you get into SALT?

Morgan Scarborough [\(19:09\)](#):

Well, from a very young age, I grew up saying I want to be a state tax policy professional. That was my first sentence actually. No, I have always loved politics and policy. Was desperate to end up in DC in some capacity when I was in college and was looking for internships. I was an economics major and a political science minor.

[\(19:32\)](#):

So I was looking for something that would align there, and actually just ended up interning at the Tax Foundation somewhat randomly. I was interested in the work they were doing obviously, wanted to learn more, but my primary goal when I was first starting to apply was to be in DC. And I just really enjoyed it. I thought the work was really interesting.

[\(19:51\)](#):

It was the perfect level of interesting, but not consuming in the way that some other policy issues could be that could really I think get you really worked up all day, but still really impactful and went along well with my econ background there too. So interned at the Tax Foundation, came back after I graduated college and was hired there as a policy analyst.

[\(20:17\)](#):

Worked at the Tax Foundation for a couple years, and then went over to MultiState, so sort of fell into state tax in the way that I think most people do. It's something that people's eyes glaze over if they're not familiar with what it's really like. But once you get to know the policy area, it is really interesting.

[\(20:35\)](#):

The people who are in this policy area I think are really great. So I just ended up here that way.

Nikki Dobay [\(20:42\)](#):

One thing I really do love about being in this space is just how diverse it is when it comes to the issues. Like, yes, we think we have our one tax issue, but they can touch so many different things. And I like the fact that... Well, I don't love the fact that the states do all different things. I'm more of an efficiency uniform person, but that's my deal.

[\(21:04\)](#):

I work through it on a daily basis. But if you don't want to be bored, this is definitely a place to participate. And this brings me to my next question, which I'm not going to choke up, I promise, but I do think that you give so much to this space. And I really want to say thank you for not only being on this podcast, but I know with the clients that I work with in the state and local space, anytime your name is brought up, it's just like, Morgan's the best.

[\(21:31\)](#):

Morgan knows what's going on. She knows everything. So just know that you are not only being appreciated for being on this podcast and providing the insights and being amazing and fun when we do the podcast, but people in this community truly think that you're amazing and appreciate the work you do.

Morgan Scarborough [\(21:49\)](#):

So nice and so dangerous to say to a woman who's 38 weeks pregnant. I mean, Nikki, I could cry at the drop of a hat.

Nikki Dobay [\(21:57\)](#):

This is going to be a tear fest by the time we're done, but just I really do want you to know you are so well-loved and so appreciated. So what does that mean to you, the fact that you're part of the fabric of this community?

Morgan Scarborough [\(22:13\)](#):

Really great because like I was talking about, one reason I like working in this area so much is that the people are so wonderful. I really don't interact with anybody who's not thoughtful and smart and kind and really good at their job, which is just an inspiring place to be. So I feel super fortunate that I'm able to be part of this policy world.

[\(22:40\)](#):

And also I feel like I was embraced pretty early on in my career by people, and I'm so grateful for that, that I was supported and accepted when I was just starting out and trying to figure out what was going on. And people have just been so generous with their time and their knowledge the whole time that I've been working in state tax, and that has been hugely beneficial to me and I'm super grateful.

Nikki Dobay [\(23:06\)](#):

Thinking about that, what advice would you give to a new professional that's either wanted to do this since they uttered their first words, like Cat Baron on our team who's been dreaming about going to a Texas Comptroller's meeting since she was a young girl, apparently.



[\(23:24\)](#):

We love you, Cat. So either those folks or the folks that just ended up interning at a cost or a Tax Foundation or at a firm that has a state and local group and they're like, "What is this crazy world?"

Morgan Scarborough [\(23:37\)](#):

The most important and biggest thing for me has been asking questions. For me, there was this fear when I was getting started because I was working with who had been doing state tax for as long as I've been alive, and so there was this hesitance to ask questions and feel not as smart as everybody else in the room, but understanding and accepting that these people have so much experience and they're so willing to share that.

[\(24:02\)](#):

Asking questions at any time that somebody will give you their time has been so, so illuminating for me. And also, I think we're in a spot where we have really great tax press in this area. There are not a lot of policy areas that I know of where they have such robust coverage of what's going on at the state level in those policy areas.

[\(24:21\)](#):

And so reading those publications all the time is so, so, so helpful and important when you're getting started in terms of just getting an idea of both the political part of it, but also the technical stuff, which is a little bit can be more difficult to pick up if you don't have a law school background or you're not a CPA. Reading the technical experts and what they write is so, so helpful.

Nikki Dobay [\(24:46\)](#):

Yeah, I always tell younger associates or people starting out, just read the tax press every day. When you start reading it, you might only understand 25% of the words that you're reading. But the longer you do it, the more you see patterns and things. And again, once you ask questions and connect those dots, by the time you get...

[\(25:07\)](#):

So many years in, you can skim it in just a couple minutes and you've got a good understanding of what's going on. But it does just take that slogging through at the beginning, but it's very well worth it. All right, Morgan, any final words of wisdom, SALT or otherwise, if you want to give anybody a shout-out?

Morgan Scarborough [\(25:25\)](#):

I think just going back to what I said earlier, I'm just so grateful. I've had so many folks along the way who have really helped me. Folks that come to mind, Nikki's not paying me to say this, but Nikki has been really a wonderful friend and resource to me ever since I met her and we started doing some tax policy work together.

[\(25:43\)](#):

My first boss at the Tax Foundation, Scott Drinkard, was really wonderful to me and pushed me and helped me learn in so many different ways and taught me a skill set about how to write and think persuasively about policy, which is sometimes a really hard thing to pick up on.

[\(26:00\)](#):

Obviously my boss now, Joe Crosby, who leads our tax team, everybody on the MultiState tax team and the multi-state team in general are just really, really wonderful people. And it's easy to like your job

when you work with wonderful people. I'm sure I'm forgetting somebody. I feel like I'm a celebrity giving an acceptance speech.

Nikki Dobay ([26:18](#)):

You are. You are.

Morgan Scarborough ([26:19](#)):

I'll do some addendum later that's like, oh my gosh, I'm so sorry.

Nikki Dobay ([26:23](#)):

Just know Morgan is thinking about all of you as she makes these thank yous.

Morgan Scarborough ([26:29](#)):

Good or bad. No, just kidding. Good or bad, everybody.

Nikki Dobay ([26:33](#)):

She only thinks good thoughts. All right, well, thank you so much, Morgan. Before we go, need to do a quick surprise non-tax question, and this is one I think it's fitting for this podcast. So if you couldn't do SALT, let's say somebody... You were trying to beat down the doors of the SALT world, but they were shut and you had to do something else, what would you do?

([26:56](#)):

My husband asked me this the other day and it really took me a long time to think of anything that I would really do. But I've kind of decided, I watch a lot of murder shows, so I'm pretty sure I should have been a detective or like an FBI agent. But I like to watch all the shows about true crime. So I think that's where I'd be if I weren't in the SALT world. How about you?

Morgan Scarborough ([27:21](#)):

First, Per needs to sleep with one eye open when you're being a [inaudible 00:27:25] I don't know. I don't know if this is the most realistic answer, but in this world that I'm imagining, it would be doing something with animals, like working at some weird animal rehabilitation. That's what I would...

Nikki Dobay ([27:46](#)):

Well, this tracks with Mr. Biscuits.

Morgan Scarborough ([27:49](#)):

Yes. And we've talked about forest animals on here before. I'm just kind of a weird animal girl.

Nikki Dobay ([27:55](#)):

All right, all right. Yeah, woodland creatures.

Morgan Scarborough ([27:57](#)):

Yes, yes.

Nikki Dobay ([27:58](#)):

Yes, yes. And didn't you come up with a bug for your woodland creature?

Morgan Scarborough ([28:02](#)):

It was the stick bug, which is a real bug, Nikki. I would like to clarify. I did not come up with that. It's real.

Nikki Dobay ([28:10](#)):

All right. Okay. Clearly I am not a biologist, so I will stick to my lane. And I just watched the murder shows. I don't do anything with them, just so you know.

Morgan Scarborough ([28:23](#)):

She has to say that because she's on the record. I know how the lawyers work.

Nikki Dobay ([28:24](#)):

That's right. Well, thank you again, Morgan. Be on the lookout for some really cool swag. And I'm going to miss you while you're out and I can't wait for you to come back for our next podcast. But thank you so much for a great year and for all you've contributed to GeTtin' SALTy.

Morgan Scarborough ([28:40](#)):

Thank you so much for always inviting me. I always have a great time.

Nikki Dobay ([28:44](#)):

So there you have the listeners' favorites from 2024. I want to sincerely thank all of my guests and all of the listeners for making this such a fun project to do and for how you all support it. Please reach out with topics, ideas, and thoughts for 2025.

([29:00](#)):

We're going to take a few weeks off for the holidays, but we'll be back the second week of January. Have a wonderful holiday and happy new year, and I'll be with you in 2025 on the next, GeTtin' SALTy.