

As Certain as Death: A Fifty-State Survey of State and Local Tax Laws

reviewed by Bruce P. Ely and James E. Long Jr.

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As Certain as Death: A Fifty-State Survey of State and Local Tax Laws,¹ by Prof. Susan Pace Hamill of the University of Alabama School of Law, provides an informative “helicopter view” (in her words) of each state’s fiscal policy, with particular emphasis on the revenue raised by each state and local tax system. We found this new book to be a valuable and unique resource. The book’s analysis is organized into the following five categories for each state: general information; public elementary and secondary school system; sources of revenue; legal structure of major tax sources; and analysis of the tax burden. The uniform categories were used to facilitate a meaningful comparison of the state and local tax laws, sources of revenue, and other relevant characteristics among the 50 states.

The general information category for each state provides population, major industries, poverty levels,

¹Susan Pace Hamill, *As Certain as Death: A Fifty-State Survey of State and Local Tax Laws*, Carolina Academic Press, December 2007 (\$60), available at local book stores as well as on several bookseller Web sites. Prof. Hamill has taught courses on personal income tax, taxation of business entities, business organizations, and other tax and business law topics at the University of Alabama School of Law. Before joining the law faculty, she was an attorney-adviser for the U.S. Treasury Department and was one of their experts on the taxation of limited liability companies and a principal author of the section 704(b) regulations regarding partnership allocations attributable to nonrecourse liabilities. She has been recognized as an expert in Alabama state and local tax policy as well as a religious scholar.

and economic statistics, such as gross product and median household income. The education category highlights the amount spent per pupil on elementary and secondary public education, and the relative contributions by the state, local, and federal governments, and information regarding any legal challenges to the state’s educational funding system. The revenue category provides the total revenue and the percentage of each state’s revenue that is derived from state and local taxes. As illustrated by the table (next page), the third category also provides the relative percentage contribution of individual income, property, sales and use, corporate income, and other taxes to the states’ total state and local tax revenue.

Expounding on the amount of revenue raised by various state and local taxes, the fourth category surveys significant features of individual income, property, sales and use, corporate income, and other taxes levied by each state (and local jurisdictions). For each type of tax, the amount collected by each state (and local jurisdiction, if applicable) per capita is provided, along with each state’s rank among the 50 states. The individual income tax section calculates the threshold of exempt income for a typical family of four and the minimum amount of income subject to the highest marginal rate in each state. The property tax section discusses whether real, personal, and intangible property is subject to tax; defines the tax base; lists specific exemptions; and provides the various tax rates that can be imposed by the state and local jurisdictions.

The sales and use tax section is further divided into general and selective sales subsections. The general sales tax discussion illustrates transactions subject to each state’s sales and use tax, including taxability of services and any exemptions for food or prescription drugs. The selective sales tax covers motor fuels, alcohol, tobacco, utilities, and other commodities or businesses not covered under the general sales tax umbrella. The corporate income tax section provides the applicable tax base and rates, while also describing a state’s level of conformity to federal law regarding S corporations and other passthrough entities. The section on other taxes varies considerably from state to state, but typically



Gary Tramontina Photography Inc.

Susan Hamill, conducting a weekly meeting with her 2007-2008 academic year research team (clockwise around the table from left to right): Braxton Comer, Matt Mantle, Marcia St. Louis, Sunday Vanderver, Henry Long, Neah Mitchell, Freddie Effinger, and Cassie Fleming. Other team members not pictured: Shirley Glaze, Tasha McCary, and Will Walsh.

includes a brief discussion of any state- or locally imposed estate and gift, licensing, transfer, or severance taxes.

The fifth category analyzes the overall state and local tax burden for individual residents of each state. The overall distribution of the tax burden is compared among groups of individuals as a percentage of their income. The tax burdens arising independently from income, sales and excise, and property taxes are also each compared among various income groups.

One of the driving forces behind *As Certain as Death* was, according to Hamill, the February 2003 issue of *Governing* magazine, which provided a one-page summary of each state's tax and revenue picture. While impressed by the snapshot of each state provided by the magazine, Hamill decided that

a more detailed survey of each state's tax system, including other related areas such as sources of funding, distribution of the tax burden, and educational funding, would be beneficial to many readers. The overall perspective achieved by this book provides substantially more comparable information and analysis of each state's tax structure than did *Governing*, while stopping short of the minutiae of detail contained in a typical state and local tax treatise or tax handbook.

A distinctive aspect of this new book is the contribution of two law student research teams, beginning in summer 2005. Each team consisted of nine law students who served during their third year of law school. The team held, at a minimum, weekly meetings with Hamill to develop and debate organizational strategies; analyze, compare, and select

| State | Individual Income Taxes | Property Taxes | Sales and Use Taxes | Corporate Income and Other Taxes |
|---------------|-------------------------|----------------|---------------------|----------------------------------|
| Alabama | 14.1% | 29.5% | 48.5% | 7.9% |
| California | 27.2% | 25.8% | 33.8% | 13.2% |
| New Hampshire | 1.3% | 61.9% | 16.6% | 20.2% |

sources of information for each of the five major categories; and draft and review the text for each state that was prepared by various team members. Notably, on graduation from Hamill's team and the University of Alabama School of Law, 8 of the 18 team members went on to pursue an LLM in taxation from New York University, the University of Florida, or Georgetown University School of Law.

The book's fourth category, traversing the legal landscape of each significant tax levied by the 50 states, provides the most relevant information to the state and local tax practitioner. However, we would have liked to see a brief discussion of available tax incentives offered by each state and a few corporate

income tax issues, such as apportionment methods and whether combined reporting was permitted, mandated, or prohibited. Although the book is not a substitute for more in-depth sources, it does provide detailed footnotes for those seeking more technical information. The book's utility stretches far beyond what the day-to-day tax practitioner may seek. The picture of each state's revenue and tax sources, public education statistics, and tax burden analysis provides a useful compilation of readily comparable information that many government officials, educators, policy wonks, students, and industrial recruiters may find particularly useful in their areas of interest. ☆