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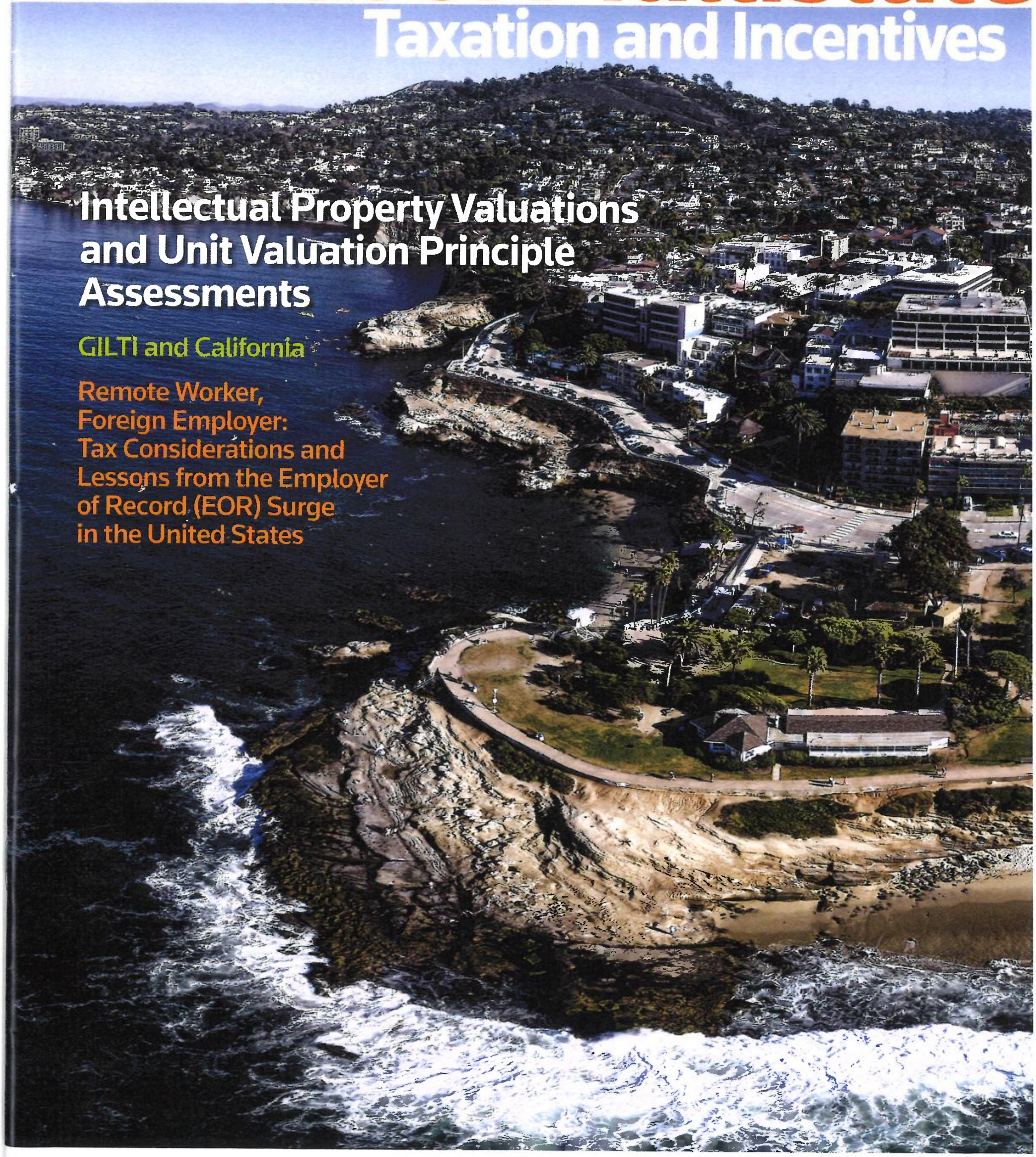

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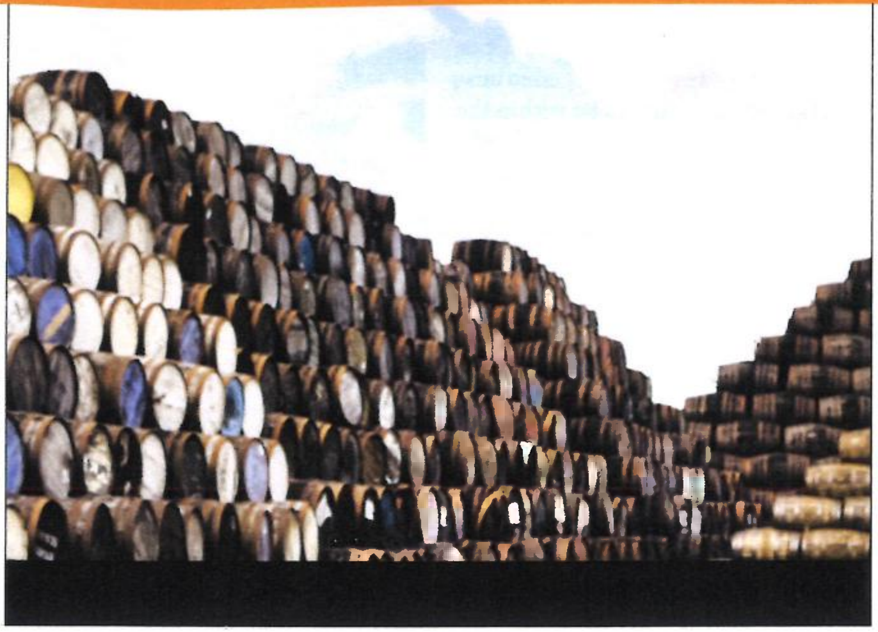

Barrel of SALT Benefits & Incentives for the Bourbon and Other Alcoholic Beverage Industry

Being from Kentucky, there are few things we know (or do) better than bourbon. Virtually from birth, you are ingrained with the most important facts of life, such as knowing the difference between bourbon and whiskey, that bourbon originates from Bourbon County, Kentucky, and that Kentucky bourbon is world renowned due to its abundance of iron-free limestone water used to filter and distill the bourbon. Bourbon is big business in the Bluegrass State, representing a $8.6 billion industry which generates over 21,000 local jobs, and produces ninety-five percent (95%) of the world's bourbon.[1]

On a national scale, the production, distribution and sale of all types of alcohol has always been big business. According to one 2018 study, the direct economic impact of America's beer, wine and spirits retail industry is more than $122.63 billion annually, with the total economic impact of the alcohol industry being $363.33 billion annually[2] – and these numbers have only continued to grow. Over the past few years, not just bourbon, but several other distilled and craft spirits have reached unprecedented heights of popularity and demand, resulting in hundreds of new production, warehousing, distribution and bottling facilities popping up all over the country. States have definitely taken notice as the tax dollars and local jobs continue to pour in and have become increasingly active in finding new ways to incentivize these industries to stay, locate or expand in a respective jurisdiction. Which states serve up the most state and local tax (SALT) benefits and incentives to entice this booming industry to their jurisdictions?

This article will provide an overview of how states are finding ways to "tap into" the bourbon and craft alcohol boom through targeted statutory SALT exemptions, credits and other relief, and the application of broad manufacturing and production-related benefits that most states already have on the books to encompass these operations.

Straight Up – Sales/Use Tax Often Provides the Most Substantial SALT Savings

Most states have broad statutory exemptions, credits and other forms of relief enacted decades ago for traditional manufacturers and industrial processors for sales/use tax, income tax and property tax purposes – the three main ingredients for substantial tax savings for these operations. Those engaged in the manufacture, storage, bottling and distribution of alcohol products can often qualify for these same manufacturing-based benefits – with many states making that abundantly clear to the industry through legislation or administrative guidance.

First, we start with available sales/use tax benefits. Given the significant cost to build the necessary facilities and purchase the machinery, equipment and infrastructure for the production of alcohol products, and a combined state and local sales tax rate of over 9% in some places[3], the sales tax bill on many of these purchases can be substantial. Remember, just because you purchase certain items sales tax free from overseas or states in which there is no sales tax obligation, does not mean use tax (the back stop for sales tax) would not apply instead in the state in which you operate.

Many states have some form of a sales/use tax exemption for tangible property purchased and used, stored or consumed in a "manufacturing" or production process. Some states like Kentucky and Indiana explicitly recognize that the production of distilled spirits and other alcohol products is considered manufacturing for sales/use tax (and other tax purposes) given the importance of these operations to their state and local economies.

North Carolina is the most recent example of a state specifically enacting a sales/use tax exemption for the alcohol industry. Effective Oct. 1, 2021, sales of machinery, equipment, parts and accessories for brewers, distilleries and wineries used in the manufacture of their products, and supplies and ingredients used or consumed in the process will be exempt.[4] Although another state may not specifically tailor its tax code to the alcohol industry, most states statutorily recognize that "manufacturing" includes any process through which material having little or no commercial value before processing has appreciable commercial value after processing – i.e., the production of alcohol from raw materials. Moreover, many state taxing agencies generally agree through administrative guidance, practice or policy that the distilling, brewing and production of alcoholic bev-

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