

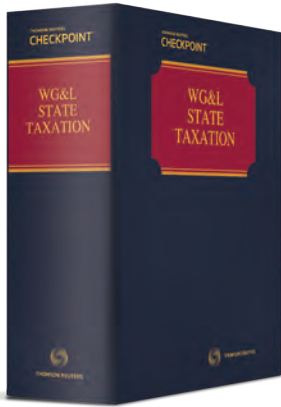
# STATE TAXATION

BY THE LATE JEROME HELLERSTEIN, WALTER HELLERSTEIN, AND JOHN SWAIN



**WALTER HELLERSTEIN**

- Distinguished Research Professor and Shackelford Professor of Taxation, University of Georgia Law School
- Represented clients in numerous cases before the U.S. Supreme Court, including successful arguments on behalf of taxpayers
- Currently an academic consultant to OECD in development of international VAT/GST guidelines on taxation of cross-border trade
- Served as counsel to leading law and accounting firms



*State Taxation* is the only place where you can find a comprehensive and objective analysis of state tax issues. The treatise is widely regarded as the leading authority on the law of state taxation and the federal limitations on state taxing power.

- *State Taxation* is frequently cited by the U.S. Supreme Court and by state courts and administrative tribunals
- *State Taxation* is fully integrated within Thomson Reuters Checkpoint with links to cases and other references
- *State Taxation* is on top of all the cutting edge issues including nexus, apportionment, discrimination, and cloud computing

*“Professor Hellerstein’s treatise is a must-read for any serious state and local tax practitioner. Its analysis of cutting-edge issues is unsurpassed.”*

-Peter L. Faber, Partner, *McDermott Will & Emery LLP*

The screenshot shows the Thomson Reuters Checkpoint interface. The top navigation bar includes 'HOME', 'SEARCH', 'TABLE OF CONTENTS', 'NEWS', 'TOOLS', and 'LEARNING'. The main content area displays a legal article titled '16.12. Taxation of Foreign Corporation as Member of Partnership Doing Business in State' by Hellerstein, State Taxation (WG&L). The article text discusses the New Jersey Tax Court's approach to jurisdiction over a foreign corporate limited partner. A grey callout box at the bottom of the screenshot contains the text: 'Often researched topics such as nexus are analyzed in detail.'

*“It’s the first resource I turn to for balanced, thoughtful elegant commentary.*

*For our field, it’s the Bible.”*  
- Thomas Steele, Partner, *Morrison & Foerster LLP*



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*Includes a new chapter on cloud computing and a revised chapter on apportionment of corporate net income*

The screenshot shows the Thomson Reuters Checkpoint interface. The top navigation bar includes 'HOME', 'SEARCH', 'TABLE OF CONTENTS', 'NEWS', 'TOOLS', 'LEARNING', and 'Site Navigator'. The main content area is titled 'WG&L ¶13.06A. Cloud Computing [New]' and is attributed to 'Hellerstein, State Taxation (WG&L)'. The left sidebar shows a tree view of the table of contents, with '13.06A. Cloud Computing [New]' selected. The main text area contains the following content:

**¶ 13.06A Cloud Computing**

The advent of cloud computing and its profound reshaping of the architecture of computer networks and their applications raise a broad array of troublesome issues relating to security, technical standards, intellectual property, and federal income taxation.<sup>421.7</sup> Cloud computing raises troublesome state tax issues as well.<sup>421.8</sup> To be sure, many cloud computing issues essentially involve the application of familiar principles to unfamiliar transactions—or, perhaps more accurately, the effort to force these unfamiliar transactions into familiar categories. Yet these issues in this treatise where those “familiar principles” are discussed.<sup>421.9</sup> Nevertheless, because cloud computing transactions are unfamiliar to many readers and because of some novel questions, it is appropriate to provide an overview of cloud computing issues in a separate section of the treatise and to treat in this section the most important subset of issues cloud computing raises—namely, their classification and consequent treatment for sales and use tax purposes.

**¶ 13.06A[1] What Is Cloud Computing?**

According to the National Institute of Standards and Technology (NIST), cloud computing

is a model for enabling ubiquitous, convenient, on-demand network access to a shared pool of configurable computing resources (e.g., networks, servers, storage, applications and services) that can be rapidly provisioned and released with minimal management effort or service provider interaction.<sup>421.10</sup>

The five “essential characteristics” of cloud computing are:

