THE BEST AND WORST OF STATE TAX ADMINISTRATION

COST SCORECARD ON STATE TAX APPEALS & PROCEDURAL REQUIREMENTS

DECEMBER 2019

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TABLE OF CONTENTS

Executive summary.................................................. 1
   Top-Ranked States ............................................. 2
   Bottom-Ranked States.......................................... 2
   Awards & Demerits ............................................. 2
About the Scorecard.............................................. 5
Grading the States ................................................ 5
Scoring System ..................................................... 6
Summary Results .................................................. 7
Barometers of State Tax Administration...................... 9
   Fair, Efficient, Independent Appeals ....................... 9
   Basic Procedural Provisions Reflecting Good Tax Administration ............................................. 10
   Other Significant Procedural Issues ...................... 14
Detailed Survey Data ............................................. 16
   Survey Questions for Practitioners and Administrators ....................................................... 16
Endnotes................................................................ 17

EXECUTIVE SUMMARY

The Council On State Taxation (COST) has long monitored and commented on state tax appeals processes and administrative practices. Part of that effort has resulted in the regular publication of a scorecard ranking the states. Our focus is on the states’ adoption of procedural practices that impact the fairness of states’ laws and regulations for state tax administration and appeal of state tax matters. Why are these issues so important? Although compliance with state tax statutes and regulations is subject to audit scrutiny, the percentage of taxpayers actually audited is small. As a result, our federal and state tax systems are premised, to a great degree, on voluntary compliance. It is a common truth that taxpayers will more fully and willingly comply with a tax system they perceive to be balanced, fair, and effective. Taxpayers operating in a system they perceive as oppressive, unfair, or otherwise biased are less likely to voluntarily comply. The clear message to state tax policymakers is that they must be sensitive to the compliance implications and competitiveness concerns created by poor tax administrative rules and ineffective tax appeal systems.

The COST Scorecard on State Tax Appeals & Procedural Requirements seeks to objectively evaluate state statutes and rules that govern the degree of taxpayer access to an independent appeals process and state treatment of selected procedural elements that impact taxpayers’ perceptions of fairness and efficiency. For these purposes, the essential elements of an effective and independent state tax appeals process are as follows:

Douglas L. Lindholm is President and Executive Director of the Council On State Taxation (COST). Fredrick J. Nicely is Senior Tax Counsel at COST. The authors would like to express their gratitude to Priya D. Nair, recipient of a 2019 COST Research Fellowship, for her dedicated efforts in researching and compiling the survey results used to develop this report. COST Vice President & General Counsel Karl Frieden, Senior Tax Counsel Nikki Dobay, Senior Tax Counsel Pat Reynolds, Policy Director Aziza Farooki, and Tax Counsels Stephanie Do and David Sawyer also contributed to and reviewed this report. Finally, our sincere thanks are extended to the numerous state tax practitioners and state revenue department employees who responded to our questionnaires and ably advised us on the finer points of their respective state laws.
• The appeals forum must be truly independent;
• Taxpayers must not be forced to pay or post a bond prior to an independent hearing and resolution of a dispute;
• The record for further appeals must be established before an independent body; and
• The arbiter at the hearing must be well-versed in the intricacies of state tax laws and concepts.

The procedural elements evaluated in this Scorecard consider whether the state has adopted:
• Even-handed statutes of limitations for refunds and assessments;
• Equalized interest rates on refunds and assessments;
• Due dates for corporate income tax returns at least one month beyond the federal due date, with an automatic extension of the state return due date based on the federal extension;
• Adequate time to file a protest before an independent dispute forum;
• Reasonable and clearly defined procedures for filing amended state income/franchise tax returns following an adjustment to a taxpayer’s federal corporate tax liability; and
• Transparency in the form of published letter rulings (redacted) and administrative/tax tribunal decisions.

Further, the Scorecard identifies certain ineffective, burdensome, or inequitable practices not otherwise reflected in the Scorecard categories. For 2019, the Scorecard includes in such “other issues” instances where states (or their localities): 1) impinge upon taxpayer due process rights by enacting unreasonable retroactive tax legislation; 2) participate in the fundamentally flawed State Reciprocal Program under the federal Bureau of the Fiscal Services’ Treasury Offset Program that satisfies taxpayer “debts” by seizing payments due from federal government agencies without adequate due process protections; 3) fail to provide an effective “safe harbor” (at least 30 days) before personal income tax liability and withholding requirements attach for nonresident employees temporarily traveling in a state for work purposes; 4) contract with third-party auditors, attorneys, or consultants on a contingent-fee basis; 5) apply qui tam (false claims act) actions to state tax disputes, effectively shifting the tax compliance and dispute process from the revenue department to the courts; and 6) impose any other burdensome, inequitable, or ineffective administrative practices or procedures, as noted.

TOP-RANKED STATES & BOTTOM-RANKED STATES

2019 Top-Ranked States

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AWARDS & DEMERITS

• This Scorecard continues a tradition of recognizing significant improvements in state tax administration. In 2016, the award for “most improved” went to Arkansas, which adopted significant reforms, most significantly eliminating “pay to play” in circuit court by providing taxpayers the option of filing suit for relief from a final assessment or determination without paying the proposed tax, penalties, or interest. Alabama and New Mexico received “Honorable Mentions” for their respective adoption of independent tax tribunals, as did Louisiana and Mississippi for procedural improvements. Several states were recognized for improving transparency surrounding administrative decisions, taxpayer guidance, and rulings. While many states have adopted notable improvements since the 2016 Scorecard, certain states deserve special recognition for adopting multiple changes in accordance with COST’s...
recommendations for fair and efficient tax administration. Unfortunately, a few states missed opportunities to make bold reforms or, worse, exacerbated already unfair and punitive practices. Below are COST’s 2019 awards and demerits, respectively, for some of these “notable” states.

**Most Improved**

- **California**—In 2017, the California legislature took a bold step toward improving the State’s tax administration by adopting and implementing an independent tax tribunal. The Taxpayer Transparency and Fairness Act of 2017 (AB 102) transferred many of the California State Board of Equalization’s duties to two new agencies: (1) the California Department of Tax and Fee Administration; and (2) the Office of Tax Appeals (OTA). The new OTA replaced the hearing function of the State Board of Equalization, whose elected Board had overlapping members who also sat on the three-member Board of the Franchise Tax Board (FTB), the State’s tax agency for personal and corporate income and franchise taxes. The State’s tax transparency has also improved: the new law requires the OTA to publish a written opinion for each case in which it makes a determination. Written opinions will be published on the OTA website and identified as either precedent or nonprecedent. With respect to corporate filing requirements, the FTB in December 2019 issued a notice allowing an automatic seven-month extension to taxpayers filing Forms 100 (Corporation Franchise or Income Tax Return) and 100W (Corporation Franchise or Income Tax Return—Water’s-Edge Filers), for taxable years beginning on or after January 1, 2019. As a result of these and other changes, California has improved from a mediocre ‘C’ in the 2016 Scorecard to a more respectable ‘B’ for 2019.

- **Kentucky**—Like California, Kentucky also made strong strides in improving both its transparency and tax administration system. Effective Oct. 1, 2016, the Kentucky Board of Tax Appeals was reorganized into the Kentucky Claims Commission, consisting of three members appointed by the Governor and approved by the Senate. At least one member must have a background in taxation, and hearings are held *de novo*. A final order of the commission may be appealed to the Franklin Circuit Court or to the Circuit Court of the county where the aggrieved party resides or conducts his place of business, and bond is not required for appeals from the Commission. The State also made progress in other areas of tax administration. The number of days provided to taxpayers for appealing an assessment was raised from 45 days to 60 days in 2018, and the extended due date for corporate returns was extended from 6 months to 7 months, giving taxpayers one month after the federal extended due date to file Kentucky corporate returns. Also in 2018, Kentucky enacted legislation prohibiting contingency fee contracts for the collection of tax from a taxpayer or examining a taxpayer’s books and records. In 2017, Kentucky issued a revenue procedure indicating it will begin to

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**Honorable Mention**

- **Texas**—Texas improved its overall score for 2019 from a C+ to a B by increasing the number of days to protest a notice of determination from 30 days to 60 days and through a concerted effort to improve transparency in its tax system over several years. In 2015, the Texas Comptroller of Public Accounts issued a letter stating that all Comptroller Decisions would be placed on the state’s STAR research system. Additionally, each Comptroller Decision would “attach and incorporate” the Proposal for Decision issued by the administrative law judge and clearly highlight any changes made to it by the Comptroller. The letter from the Comptroller highlighting the measures the State was taking to increase transparency followed closely on the heels of the promulgation of a rule governing the issuance of private letter rulings and general information letters.

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*It is a common truth that taxpayers will more fully and willingly comply with a tax system they perceive to be balanced, fair, and effective.*
issue technical advice memoranda, revenue procedures, private letter rulings and general information letters. The State also went through a protracted court battle which ultimately required the Department of Revenue to publish its final rulings in tax administration cases. Opportunities for improvement remain, however. Kentucky fails to provide a reasonable time frame (30 days) before requiring withholding on non-resident employees traveling in the State on business. Its participation in the Treasury Offset Program’s State Reciprocal Program without effective safeguards is also problematic. Finally, although not an issue evaluated in the Scorecard, the State’s adoption of mandatory unitary combined reporting increased the likelihood of protracted litigation for the State and large taxpayers. Kentucky’s grade improved from a C- to a B-.

**Demerits**

- **Minnesota**—Tax professionals in Minnesota have raised concerns about a Department of Revenue practice of ignoring certain decisions issued by the Minnesota Tax Court. In 2006, the Minnesota Tax Court issued its decision in *Nadler v. Commissioner,* a case that dealt with Minnesota’s allocation and apportionment provisions and which ruled in favor of the taxpayer. Subsequently, in 2017, the Department issued a notice advising it would “not administer the income allocation provisions…using the Minnesota Tax Court’s reasoning in *Nadler.*” Although the Minnesota Tax Court ultimately rejected its reasoning in *Nadler* in 2019, the Department’s unilateral position in its notice refusing to follow *Nadler* has raised concerns among practitioners in Minnesota.

- **Arkansas**—A 2018 decision by the Arkansas Supreme Court raises concerns that the Department of Finance and Administration could raise sovereign immunity as an affirmative defense to taxpayer refund claims because the Arkansas Constitution prohibits the legislature from waiving sovereign immunity for specific purposes. While sovereign immunity has not been asserted as a standard policy position by the current Governor and his administration, it bears noting there is currently nothing to stop future administrations from effectively depriving taxpayers of access to State courts to secure a refund of overpaid taxes. An amendment to the State Constitution is required to remedy the issue.

- **Mississippi**—In the past several years, a movement emerged in Mississippi permitting the use of contingent fee contracts for tax audits and assessments. In 2017, Mississippi enacted legislation appropriating funds to the Department of Revenue “for the purpose of defraying the expenses of the department’s contingent fee contracts.” Similar language was included in 2018 legislation. COST has long advocated the position that contingent-fee arrangements encourage auditors to be overly aggressive; to interpret State laws to their own advantage rather than in society’s best interest; to “cherry pick” audit targets; and to ignore taxpayer errors that would result in lower assessments. It bears noting, however, that legislation introduced in 2019 contained a similar appropriation but was ultimately removed before the legislation was enacted.

- **Maryland**—On May 18, 2015, the U.S. Supreme Court issued its decision in *Comptroller of the Treasury of Maryland v. Wynne,* a case involving the dormant Commerce Clause. Prior to the issuance of the *Wynne* decision, Maryland enacted retroactive legislation on May 15, 2014, providing for a lower interest rate on “Wynne” refunds. A subsequent challenge to the legislation resulted in a Maryland Tax Court decision holding that the legislative provision violated the dormant Commerce Clause “by allowing interest at a lower rate for ‘Wynne’ refunds than other income tax refunds.” The Tax Court decision has been appealed and the issue is currently working its way through the court system. Maryland imposes/pays an inordinately high rate of

**The clear message to state tax policymakers is that they must be sensitive to the compliance implications and competitiveness concerns created by poor tax administrative rules and ineffective tax appeal systems.**
interest on assessments and refunds (11% for 2019). Interest is designed to account for the time value of money and thus should be levied at or near market rates. The State's consistent failure to do so is a direct cause of the current litigation over Wynne refunds.

INTRODUCTION:
ABOUT THE SCORECARD

This Scorecard is the seventh published effort by COST to objectively analyze state treatment of significant procedural and appeal issues that reflect whether states provide fair, efficient, and customer-focused tax administration. This Scorecard expands on and updates the 2001, 2004, 2007, 2010, 2013, and 2016 versions¹⁷ and serves as a tool for policymakers seeking to improve tax administration and the business climate in their states. As with previous versions, this Scorecard is designed to provide objective criteria and research by which to judge state tax administration.

The Scorecard's standards for the “best” in state tax administration remain fairly consistent, but in the 2019 edition we have expanded our inquiry into several troublesome trends in state taxation, including selective enforcement of withholding requirements and liability for personal income taxes of nonresident traveling employees, and state participation in the fundamentally flawed State Reciprocal Program that allows for seizure of taxpayer moneys to satisfy tax “debts” outside of the normal tax compliance process (discussed in more detail below). We take a more detailed examination of state rules imposed on taxpayers for reporting the impact of a federal audit change on state returns—an issue expected to gain more and more significance as corporate tax payers grapple with a lack of guidance and continuing uncertainty regarding compliance with the 2017 federal Tax Cuts and Jobs Act. We also take a closer look at some of the traditional Scorecard elements (e.g., tax expertise for independent tribunals, “pay to play” for subsequent appeals, and inequities in the computation of interest) to ensure states are achieving COST’s standards, as well as to better apply these standards consistently across the states. COST will continue to seek ways to expand the scope of the Scorecard to better reflect the breadth of state tax administrative practices.

Objectivity of Scorecard

A note on objectivity: this Scorecard is a counterpart to subjective views on state tax administration which can vary greatly from taxpayer to taxpayer. While the Scorecard evaluates each state’s statutory and regulatory scheme against objective criteria, a subjective approach reflects corporate tax executives’ views of state tax environments.

To properly gauge taxpayer responses to specific state administrative systems, the approach taken by COST (assessing objective criteria) and the subjective approach (based on taxpayers’ experiences) should be viewed in conjunction. Taken separately, each approach may be fairly criticized. Analyzing a set of objective criteria creates a useful benchmark for comparison of administrative practices from state to state but fails to recognize burdensome or unfair administrative practices applied within a sound statutory framework. Conversely, an evaluation of taxpayer responses to subjective questions might mask a deficient statutory framework by recognizing only the goodwill engendered by fair and competent tax administrators.

By focusing on objective criteria, the 2019 Scorecard gives states the opportunity to enact corrective legislation as a means of improving tax and business climates.

GRADING THE STATES

The first part of the Scorecard evaluates state tax appeals processes by asking two questions: 1) whether the appeals system is truly independent and 2) whether a taxpayer must prepay the disputed tax or assessment prior to an opportunity for an independent hearing. Two other considerations are also paramount, however, in evaluating appeals systems, and are addressed in these two columns of the Scorecard: 3) whether the tribunal’s judges have the requisite expertise in evaluating the complexities of
state tax law, and 4) whether the taxpayer has the opportunity for a “hearing of record” (i.e., trial de novo) at an independent tribunal that would form the basis of further appeals. Together, these requirements mirror the essential components of the Model State Administrative Tax Tribunal Act developed by the State and Local Tax Committee of the American Bar Association which has been proposed and adopted, with COST’s support, in a number of states. It is COST’s view that these elements, at a minimum, should be a part of any state’s tax appeals process to achieve fairness, efficiency and a customer-focused tax environment.

Other elements evaluated in this Scorecard consider whether the state has adopted:

- Even-handed statutes of limitations for refunds and assessments;
- Equalized interest rates on refunds and assessments;
- Adequate time to file a protest before an independent dispute forum;
- Due dates for corporate income tax returns at least one month beyond the federal due date with an automatic extension of the state return due date based on the federal extension;
- Reasonable and clearly defined procedures for filing amended state income/franchise tax returns following an adjustment to a taxpayer’s federal corporate tax liability; and
- Transparency in the form of published letter rulings (redacted) and administrative/tax tribunal decisions.

The Scorecard also identifies and evaluates any additional ineffective, burdensome, or inequitable practices not otherwise reflected in the Scorecard categories. For 2019, the Scorecard includes in such “other issues” instances where states (or their localities): 1) impinge upon taxpayer due process rights by enacting unreasonable retroactive tax legislation, interest, or penalties; 2) participate in the fundamentally flawed State Reciprocal Program under the federal Bureau of the Fiscal Services’ Treasury Offset Program that satisfies taxpayer “debts” by seizing payments due from federal government agencies without assuring adequate due process protections; 3) fail to provide an effective “safe harbor” (at least 30 days) before personal income tax liability and withholding requirements attach for nonresident employees temporarily working in the state; 4) contract with third-party auditors or consultants on a contingent-fee basis or use outside counsel to litigate tax cases; 5) apply qui tam (false claims act) actions to state tax disputes, effectively shifting the tax compliance and dispute process from the revenue department to the courts; and 6) impose any other burdensome, inequitable, or ineffective administrative practices or procedures, as noted.

By focusing on objective criteria, the 2019 Scorecard gives states the opportunity to enact corrective legislation as a means of improving tax and business climates. Indeed, since the publication of the 2016 COST Scorecard, many states have taken steps to improve their administrative and appeals processes. Some of the more significant improvements are noted in our “awards” section of the Scorecard, above. It is our hope that publication of this Scorecard will continue to spur policymakers toward additional improvements in the rules and procedures for tax administration and the independent appeal of tax matters in all states.

SCORING SYSTEM

Point totals for the Scorecard are determined by assessing:

- One point each for failure to meet the following: 1) provide an independent tax tribunal; 2) the independent tribunal hears cases de novo and establishes the record for further appeal; and 3) the independent forum is dedicated to handling tax disputes, and its judges possess the requisite tax expertise.
- One point each for failure to meet the following: 1) no prepayment or bond required to obtain an independent appeals forum hearing and 2) no prepayment or bond required for any level of subsequent appeals.
- Two points if the state fails to apply a statute of limitations generally the same for refunds and assessments, or one point for states that generally apply the same statute of limitations but limit the statute against taxpayers in certain circumstances (e.g., for sales tax refunds or for refunds based on constitutional issues).
- Two points if the state fails to apply equal rates of interest for assessments and refunds, or one point for a) states that apply the same rates of
interest but do not calculate interest from comparable dates or b) unreasonable interest on certain types of overpayments (e.g., states that calculate interest on assessments from the date the tax was due should calculate interest on refunds from the date of the overpayment; states should not deny interest if an overpayment is deemed a taxpayer error).

- Two points if the state provides only 30 days or less to appeal an assessment, or one point if the state provides between 45 and 60 days.
- One point each for failure to meet the following: 1) provide an extended corporate return due date at least one month after the federal extended return due date and 2) provide an automatic extension of time to file if a federal extension is granted.

Although much progress has been made since the inaugural COST Scorecard, numerous states are significantly behind the curve in providing fair and efficient tax administration and appeals procedures.

- Up to three points cumulative for failure to meet certain elements for reporting changes resulting from a federal audit. These include whether the state has a definition of “final determination” based on exhaustion of all appeals for a tax year; provides at least 180 days to file a return or report after such final determination; allows prepayments during a pending audit to toll interest charges; and provides an equal time period for assessments and refunds resulting from a federal change. We also evaluate whether a federal change opens the state return for audit items not related to the federal change when the change is beyond the state’s normal statute of limitations. Finally, because many of these elements are addressed in the MTC model addressing partnership audit adjustments and reporting of federal changes, we assess a point for states that have not yet conformed to the MTC Model Language (see explanation below).
  - One point each for failure to meet the following: 1) provide and publish binding, written guidance to requesting taxpayers and 2) publicly release tax rulings and decisions of an administrative adjudicatory body (e.g., tax agency hearings division and/or independent tax appeal forum).
  - One point for either imposing taxes on a retroactive basis, enacting legislation that reverses a state appellate tax decision retroactively, or a court decision that upholds retroactive tax legislation.
  - One point for states that participate in the State Reciprocal Program of the Bureau of Fiscal Services’ Treasury Offset Program without ensuring adequate and effective safeguards are observed (see explanation below).

One point for states that fail to provide a safe harbor of at least 30 days before liability or withholding requirements for personal income taxes are imposed on nonresident employees who travel in the state for business purposes.

Scores are based on COST’s determination of the relative importance of specific issues to business taxpayers and the presence or absence of mitigating and/or aggravating circumstances. In general, one point is assigned to the “Other Issues” category for each issue found to impact a state’s fair and efficient tax administration.

The final grades are based on the following scale:

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**SUMMARY RESULTS**

The Summary Table on Page 8 ranks each state’s statutes and rules in the areas described above. Although much progress has been made since the inaugural COST Scorecard, numerous states are significantly behind the curve in providing fair and efficient tax administration and appeals procedures. Detailed survey data for each state is provided beginning on Page 18.
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<th>Independent tax dispute forum?</th>
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<th>Even-handed statutes of limitations?</th>
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BAROMETERS OF STATE TAX ADMINISTRATION

FAIR, EFFICIENT, INDEPENDENT APPEALS

Foremost in good tax administration is a fair and efficient tax appeal system. States with fair and efficient tax appeal systems share four essential elements:

- An independent tax tribunal;
- Tribunal judges with specific training and experience in tax law;
- No prepayment requirement (or bond posting) for taxpayers disputing a tax before receiving an independent, impartial hearing; and
- The record for further appeals is established before an independent body.

A state’s ability to recognize the potential for error or bias in its tax department determinations and provide taxpayers access to an independent appeals tribunal is the most important indicator of the state’s treatment of its tax customers.

Independent Tribunals: The tax court or tribunal must be truly independent. It must not be located within or report, directly or indirectly, to the department of revenue or to any subordinate executive agency. Without independence, the appearance of objectivity is simply not present. That perception, regardless of its accuracy, necessarily detracts from even exemplary personnel and work product of the adjudicative body. Independent tribunals are less likely to be perceived as driven by concerns over revenue collection, upholding departmental policies, or offending departmental decision makers.

Today well over half the states provide an independent appeals process specifically dedicated to hearing tax cases. Although the structure and rules may differ from state to state, taxpayers in these states are able to establish a record for appeal in an independent adjudicative body, before judges well versed in tax matters. The ability to reach an independent tribunal, non-judicial or judicial, without prepayment is another key factor of a fair and efficient appeals process. In addition, many tax dispute systems are designed to allow taxpayers and the state adequate opportunity to meet and discuss settlement opportunities before incurring the hazards and costs of litigation.

States without an independent tax tribunal or similar appeals system limit a taxpayer’s real ability to challenge a state tax assessment. States that do not offer an independent tribunal, and/or force taxpayers to appeal based on a record established at a non-independent proceeding, create a less attractive environment for businesses to operate and are more likely to encourage taxpayers to engage in structural tax planning to minimize potential exposure in the state.

Trained Judges: Most business tax disputes are complicated. Accordingly, tax tribunal judges must be specifically trained as tax attorneys and have significant state tax experience, and the tribunal should be dedicated solely to deciding tax issues. The tribunal (or court) should be structured to accommodate a range of disputes from less complex tax issues, such as those arising from personal income tax matters, to highly complex corporate tax disputes. The tremendous growth and complexity in the body of tax law and the nature of our multi-jurisdictional economy makes this consideration paramount. Judges not trained in tax law are less able to decide complex corporate tax cases on their merit and a perception exists (rightly or wrongly) that the revenue impact of these complex cases too often influences those decision makers as they navigate through the fog of complicated tax statutes, regulations, and precedent. That perception reflects poorly on a state’s business climate and reputation as a fair and competitive place to do business.

No Prepayment Required: Taxpayers should not be required to post bond or pay a disputed tax before an initial hearing. It is unfathomable that taxpayers may still be denied a fair hearing before being deprived of property (i.e., disputed taxes). It is inherently inequitable to force a corporate taxpayer to pay a tax assessment, often based on the untested assertions of a single auditor or audit team, without the benefit of a hearing and the ability to establish a record before an independent tribunal. Free access to an independent hearing without having one’s property confiscated by the law is especially important during difficult state economic climates—once tax money is paid into the system, it is often difficult or impossible to wrest a refund from the state, even after disputes are resolved in the taxpayer’s favor. There are three degrees of state prepayment requirements:
• **Full “Pay to Play”:** Since Massachusetts and Hawaii years ago eliminated their full “pay-to-play” requirements, we are unaware of any state that requires taxpayers to pay an assessed tax upon receipt of a notice of assessment without an opportunity to contest that assessment before even a non-independent tax forum such as the tax commissioner or an administrative hearing officer. Such systems were the scourge of fair tax administration; their elimination represents a significant step forward in fairness.

• **Partial “Pay to Play”:** While no state currently requires payment of a disputed tax prior to the administrative appeals process, some states still require payment of the tax or posting of a bond to obtain access to the circuit or district court level in the case of an adverse decision by an independent non-judicial body, or if the taxpayer elects to bypass the non-judicial forum and proceed directly to the circuit or district court level. In those states, taxpayers are at least granted a hearing before a non-judicial tax tribunal, an administrative hearing officer, or the state tax commissioner before such payment is extracted. The perception of unfairness is more acute, of course, in partial pay-to-play states where the initial hearing is before an adjudicatory body that is not independent of the state’s revenue department.

• **No “Pay to Play”:** In some states, taxpayers do not have to pay a disputed tax until all appeals are exhausted. These systems are perceived to be the fairest—in large part because taxpayers are not held hostage by the jurisdiction in possession of the taxpayers’ funds.

**Jeopardy Situations Justify Prepayment:** We do not question the necessity of state jeopardy assessment and collection authority. If a state revenue department legitimately feels that a particular tax assessment is in jeopardy based on the facts and circumstances before it, it should certainly be allowed to issue a jeopardy assessment. In those rare circumstances, states need the flexibility to move quickly and should do so as long as due process protections are afforded. Such assessments rightfully protect the state fisc. However, the burden of proving that the assessment is in jeopardy should fall on the state. It would be an extremely unusual circumstance for a state to find it necessary to impose a jeopardy assessment on a publicly traded company.

**BASIC PROCEDURAL PROVISIONS REFLECTING GOOD TAX ADMINISTRATION**

In addition to an independent tax tribunal accessible without prepayment, state tax administration should include certain fundamental components necessary to a fair, efficient, and customer-focused state tax system. The following are basic procedural elements that COST has determined should be included in every state’s law:

**Even-Handed Statutes of Limitations:** Statutes of limitation should apply even-handedly to both assessments and refund claims. Forcing taxpayers to meet a shorter statute of limitations to apply for a refund while granting the tax administrator additional time to issue an assessment is unfair and should not be tolerated in a voluntary tax system. A three-year statute of limitations for assessments should be accompanied by a three-year statute of limitations for refund claims. States with unusual (biased) rules or with unequal statutes of limitations to report federal adjustments are also noted. In addition, claims for refund based on constitutional challenges should not be singled out for discriminatory treatment by shortening the statute of limitations.

**Equalized Interest Rates:** Interest rates should apply equally to both assessments and refund claims. Failure to equalize interest rates diminishes the value of the taxpayer’s remedy of recovering tax monies to which it is legally entitled. Interest rates are meant to compensate for the lost time-value of
money and should apply equally to both parties. The date from which interest begins to run is also important. Because states levy interest from the due date of the return, taxpayers should receive interest from the date of the overpayment of the tax on an original return, although no interest is acceptable if paid within a reasonable time period, say 60 days from the filing of a tax return, to allow state processing of the return and payment. For separate refund claims, interest should be paid from the date of overpayment of the tax—typically the due date of the original return—and not the date of the filing of the refund claim. Interest should also not be denied for refunds based on a taxpayer error, unless the state can prove it was an intentional overpayment. Refunds and liabilities for the same taxpayer should also offset each other in calculating the amount of interest and penalty due.

Protest Periods: The first step in the administrative process in most states is the issuance of an assessment with notification of a right to protest. That protest period should be at least 60 days and preferably 90 days. The American Bar Association’s Model State Administrative Tax Tribunal Act recommends a 90-day protest period. Any protest period shorter than 60 days is unreasonable and could jeopardize a taxpayer’s ability to fully respond to a proposed assessment. A notice period of 60 days or longer is of increasing importance in a global economy where taxpayers must comply with the laws of numerous jurisdictions.

Fortunately, many states have increased the number of days to submit a protest as compared to earlier versions of this Scorecards. Even so, numerous states still offer less than 60 days to file protests. While all of the states now generally offer at least 30 days to protest a tax assessment, COST hopes to see all states grant at least 60 days and preferably 90 days.

Return Due Date and Automatic Extensions: The state’s corporate income tax return due date should be at least one month after the federal tax return due date, or the state’s extended due date should be at least one month after the federal extended due date. Further, the state’s corporate income tax return due date should be automatically extended simply by obtaining a federal extension. By extending state due dates to this point, state tax administrators allow taxpayers to file correct returns based on complete federal return information. Although corporate taxpayers often file a single consolidated federal return, the adjustments necessary to generate the multitude of state tax returns are complex and time-consuming. A minimum of one month beyond the extended federal due date is needed to complete these adjustments. In 2015, the federal government revised the due dates of the original and extended federal return for tax years starting after December 15, 2015 (2016 returns prepared during the 2017 filing season). C Corporation returns are now due on the 15th day of the 4th month after year-end (April 15 for calendar-year taxpayers) instead of the 15th day of the 3rd month after year end (March 15 for calendar-year taxpayers). Correspondingly, extended federal returns are now due one month later—October 15 for calendar-year taxpayers—which is also the date when most state corporate calendar year tax returns, based on federal numbers, are due. In 2017 Congress enacted substantial federal tax reform through the Tax Cuts and Jobs Act, which greatly complicated state returns that conform, either fully, partially or sporadically, to federal law as a starting point for the state return. As a result, the need to extend state return due dates at least one month beyond the federal due date gained new urgency. As an interim step, COST and the American Institute of Certified Public Accountants (AICPA) requested states, absent corrective legislation, to waive penalties for late filing of state returns. Although several states indicated they would consider such a request on case-by-case basis, we offer kudos to the four states who instituted a specific waiver: Kansas, Kentucky, New Jersey and Delaware.

State Reporting Requirements for Federal Tax Changes: Large multistate businesses are often required to file hundreds, if not thousands, of amended returns/reports at the state and local level when a federal tax change is made by the taxpayer and/or the Internal Revenue Service (IRS). Compliance with these reporting requirements is best...
achieved by state and local governments adopting uniform and even-handed rules for reporting federal tax changes that are consistent regardless of whether a refund or payment results from the change. Filing interim reports of changes (e.g., serial reporting for the same tax year) is not an efficient use of resources for either the state or taxpayers. The following are key elements of a fair and efficient state reporting procedure for federal tax changes:

- **Final Determination:** All states that require a taxpayer to report federal tax changes, including any applicable local taxes, should link the filing requirement to a “final determination” regarding a taxpayer’s federal income tax liability. The absence of clear, consistent rules creates compliance problems and wrongfully subjects taxpayers to penalties and interest for noncompliance. Moreover, some states require “interim” notification of certain IRS-agreed-to adjustments for a given tax year (including any adjustments pending for a related member that is part of a state filing group). This practice needlessly creates additional confusion regarding a taxpayer’s compliance responsibilities and sets up potential traps for the unwary. In defining what constitutes a “final determination,” COST recommends the following definition, endorsed by the MTC and AICPA, as a best practice:

A “final determination” is deemed to occur when any of the following circumstances exist with respect to a federal taxable year:

(a) Except as provided in (b) and (c), if the federal adjustment arises from an IRS audit or other action by the IRS, the final determination date is the first day on which no federal adjustments arising from that audit or other action remain to be finally determined, whether by IRS decision with respect to which all rights of appeal have been waived or exhausted, by agreement, or, if appealed or contested, by a final decision with respect to which all rights of appeal have been waived or exhausted. For agreements required to be signed by the IRS and the taxpayer, the final determination date is the date on which the last party signed the agreement.

(b) For federal adjustments arising from an IRS audit or other action by the IRS, if the taxpayer filed as a member of a [combined/consolidated return/report under State law], the final determination date means the first day on which no related federal adjustments arising from that audit remain to be finally determined, as described in Section (a), for the entire group.

(c) If the federal adjustment results from filing an amended federal return, a federal refund claim, or an administrative adjustment request, or if it is a federal adjustment reported on an amended federal return or other similar report filed pursuant to IRC section 6225 (c), the final determination date means the day on which the amended return, refund claim, administrative adjustment request, or other similar report was filed.19

- **Time Period for Reporting and Auditing:** Taxpayers need adequate time to report federal tax changes to the states. The necessary adjustments relating to federal tax changes, especially when taking into consideration the states’ decoupling from certain Internal Revenue Code provisions (such as bonus/accelerated depreciation and provisions of the 2017 federal Tax Cuts and Jobs Act), require sufficient time for analysis and accurate reporting. COST recommends a state’s law provide at least 180 days (or six months) to report IRS adjustments to states. States must also be flexible regarding the method of reporting the changes to avoid overly restrictive and inefficient filing requirements. For instance, a federal tax change that does not affect the taxable income reported to the state should have a simplified method to report the close of the federal audit. In addition, the time provided for a state to audit a taxpayer’s adjusted liability (relating to a federal change) should not be greater than a taxpayer’s right to claim a refund (related to the federal change).

- **Prepayment Process:** Taxpayers should be allowed to submit advanced estimated payments relating to potential federal tax changes without the filing of an amended return. This would permit taxpayers, if they so choose, to make tax payments to a state before the completion of a federal audit and allow the state to receive a tax payment prior to issuance of the final federal
determination date. This change would allow taxpayers to reduce interest costs associated with reporting the federal tax change while the rest of the IRS audit process is completed. Currently, many states have statutes or processes that prohibit (either intentionally or unintentionally) these types of estimated payments or do not have a clear refund process if a payment is made in excess of the liability ultimately determined to be owed from a federal adjustment.

- **State Statutes of Limitation Waived Only for Federal Tax Changes:** When the normal time period for the state to assess additional tax and for a taxpayer to claim a refund has passed, a state should provide that only those items that are the subject of the federal tax change should be open for adjustment (tax due and refund). Absent a mutually agreed to waiver, the statute of limitations should not remain open for any other issues, including items that are related to amended returns or audits in other states.

- **Conformity to MTC Model for Reporting Federal Changes, Including Partnerships:** The MTC recently issued a revised federal reporting model developed in conjunction with COST, the AICPA, and other groups which addresses changes to how the IRS will audit partnerships. Only a limited number of states have attempted to address this new federal partnership audit regime. For partnerships, the model allows a state partnership representative different from the federal representative, addresses tiered partnerships (those owning an interest in another partnership), and allows an election for the partnership to push federal tax adjustments out to its partners that is different from the election a partnership takes at the federal level. COST encourages states to adopt (or improve) the entirety of the crucial improvements made in the MTC model for all taxpayers, which includes the new federal partnership audit procedures.

**Transparency in Tax Guidance and Administrative Rulings:** As illustrated by the AICPA’s 2003 publication, “Guiding Principles for Tax Law Transparency,” and the recent efforts of the American Bar Association’s Section of Taxation, transparency through publication of tax guidance and rulings is widely recognized as a hallmark of fair and efficient tax administration. Simply put, “secret tax laws” benefit neither the state in its administration of the statutes nor the public in complying with them. While individual taxpayers may perceive advantages in obtaining what they believe is a beneficial ruling, ultimately the broader taxpaying public pays the price for inconsistency in the application of the tax laws. Tax Analysts’ editors have noted that “it is difficult to measure the transparency of a state’s tax system...but to be most effective for purposes of ranking, measures of transparency must be objective. That is, the measures must be easily identified through research and they must be attainable by all states.” In addition to independent tax tribunals, Tax Analysts identifies publication of letter rulings and administrative-level opinions as areas in which states can be ranked (indeed, Tax Analysts performed preliminary research that they kindly shared and we incorporated into our Scorecard).

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**Retroactive tax legislation is one of the most corrosive elements undermining our voluntary state tax compliance system today and encourages taxpayers to withhold payment in fear that the law will not be fairly applied.**

COST recognizes there are practical limitations on publication of tax guidance. Clearly, for letter rulings and informal administrative hearings to be effective (and utilized), taxpayers’ identities must be redacted. In some cases, not publishing, or providing generalized guidance, for redundant ruling requests or requests for interpretation of unambiguous law may be justified. Further, some states may have a dearth of controversy in certain areas of tax, explaining a lack of published rulings on, for example, corporate income tax issues. Regarding administrative proceedings, a state may choose not to publish informal administrative hearings, but then publish a tax tribunal decision where the record is established. The fundamental question we seek to answer is this: Does the state provide a meaningful and reasonably complete library of letter rulings and administrative decisions, so that the broader taxpaying community may ascertain how the tax law has been applied and
thus may be applied under similar facts. This may be one of the more difficult areas to measure, but, as Tax Analysts suggests, is essential nonetheless for a measurement of fairness in tax administration.

**OTHER SIGNIFICANT PROCEDURAL ISSUES**

Like the 2016 Scorecard, the 2019 Scorecard includes an “Other Issues” column. In preparing the Scorecard, we surveyed tax practitioners, asking them to identify additional issues that impact fair and efficient tax administration in the state. This Scorecard assigns points (generally one point per issue) to those states identified as having negative practices; the adjustments are identified in the chart following this discussion. Adjustments were made based on, but not limited to, the following practices: independent local revenue departments which create disconformity and complexity; use of contingent-fee auditors or outside paid counsel to litigate tax matters; the application of statutes on a retroactive basis; and the imposition of retroactive penalties and interest. Further, we continue to note whether a state has utilized *qui tam* (False Claims Act) actions for state tax disputes. Finally, we address two new unsettling trends in state tax administration: 1) selective enforcement and uncertainty surrounding state imposition statutes for liability and withholding requirements for personal income taxes of nonresident employees; and 2) State participation in the fundamentally flawed State Reciprocal Program administered by the federal Bureau of the Fiscal Service under their broader Treasury Offset Program. States should guard against utilizing these and similar unfair and burdensome practices.

**Qui Tam (False Claims) Actions in the State Tax Arena**: *Qui tam* or false claims actions are often useful societal tools for ferreting out fraud in complex government/private sector transactions where there is little or no government oversight and where transgressions are clearly and easily delineated. However, applying such “whistleblower” statutes in the state tax arena, where significant “grey” areas exist, undermines the role of the tax administrator in impartially applying state tax laws. *Qui tam* statutes essentially create a private cause of action that can result in treble damages and award of attorneys’ fees against the transgressor, a cause of action that is typically entirely removed from the normal tax compliance and appeal process. State tax laws, particularly those imposed against large multijurisdictional corporate filing groups, are tremendously complex and often imprecise and uncertain. State revenue departments are specifically equipped to deal with the nuances and complexities of state tax laws. Taking the department out of the process creates uncertainty, often conflicting interpretations of complex tax issues, onerous penalties for non-fraudulent behavior, and perverse incentives to increase the costs of litigation to force settlement. Indeed, the federal government has realized the significant drawbacks to whistleblower actions in the tax arena and forbids their use for income taxes. Instead, the Internal Revenue Service has created a separate whistleblower process within the agency itself. States under pressure to extend their *qui tam* statutes to state taxes should consider a similar state-level alternative located within the department of revenue.

**Retroactive Tax Changes**: COST has undertaken to identify recent instances in which state legislatures have enacted retroactive tax legislation, violating taxpayer due process. COST leveraged its research developed in filing amicus briefs on behalf of several taxpayers challenging such retroactive enactments. In all instances cited, it is COST’s opinion that the period of retroactivity far exceeds the “modest” period cited by the U.S. Supreme Court in *U.S. v. Carlton*, 512 U.S. 26 (1994). While *Carlton* requires a legislature to have acted with a “legitimate legislative purpose” and to have “acted promptly and established only a modest period of retroactivity,” states have increasingly swept these requirements aside, even waiting until after appellate courts have finally decided a tax dispute before reversing the court’s decision. Such legislation turns the judicial process into results-oriented decision making, undermining taxpayers’ perception of fair and impartial tax appeals in the states. Retroactive tax legislation is one of the most corrosive elements undermining our voluntary state tax compliance system today and encourages taxpayers to withhold payment in fear that the law will not be fairly applied. COST hopes this Scorecard will discourage states from enacting such legislation, or even to consider constitutional prohibitions or other restrictions on such measures.

**Tax Liability and Withholding Requirements for Nonresident Employees**: States currently impose inconsistent, varying standards and requirements for employees to file personal income tax
returns when traveling for business purposes to a nonresident state for temporary periods, and for employers to withhold income tax on employees who travel for business purposes outside of their state of residence for temporary periods. Employees who travel outside of their state of residence for business purposes are subject to onerous administrative burdens because they may be legally required to file an income tax return in every other state into which they travel for work, in half the states even if for only one day. Employers incur extraordinary expenses in their efforts to comply with the states’ widely divergent withholding requirements for employees’ travel to nonresident states for temporary work periods. And in some cases, requirements for employees and employers differ. Because of the difficulty in tracking and complying with these laws, few statutes are enforced, and if so, only on a selective basis against specific taxpayers and their employees. The patchwork of complexity can be significantly reduced, however, if states each adopt a minimum 30-day safe harbor for nonresident employees traveling for business in their state before personal income tax liability and withholding rules attach. Congress has considered such a solution for the last four sessions, but without enactment. COST is encouraging states to enact their own 30-day safe harbor (or more) for nonresident employees and recognizes the states that have done so in this Scorecard.

Once a tax debt is seized, it can take years before the issue is fully resolved and taxpayer’s books and records—both at the revenue department and at taxpayer HQ—are finally corrected.

Due Process Concerns with the State Reciprocal (Offset) Program: While COST supports the ability of taxing jurisdictions to collect delinquent tax amounts, such collections should not occur at the expense of fundamental due process. The Treasury Offset Program’s (TOP) State Reciprocal Program (SRP) allows states to seize federal payments to vendors in satisfaction of state tax “debts” identified solely by a participating state revenue department. Although the program contains several safeguards to ensure that due process protections of taxpayers are not violated, there is no remedy or recourse for taxpayers against states that fail to recognize these safeguards, either through mistake, neglect, or misunderstanding. Once a tax debt is seized, it can take years before the issue is fully resolved and taxpayer’s books and records—both at the revenue department and at taxpayer HQ—are finally corrected. Twelve states currently participate in the SRP, one of five programs administered through the TOP. Unfortunately, the procedural requirements of the SRP are not as robust as other TOP programs, and thus create several fundamental flaws when program safeguards are either inadequate or not observed. Pursuant to the SRP, a state may submit a debt to the TOP, identifying only the amount of the debt and the taxpayer’s EIN. Then, when vendor payments from federal agencies are made to an entity with the same EIN, those payments are intercepted (offset). Prior to submitting an SRP debt to TOP, a state is required to make only a “reasonable attempt” to provide a taxpayer with sixty days written notice of the pending offset and offer an opportunity to inspect and copy records of the agency, dispute the debt, and negotiate repayment terms. In addition, the State must only make a “reasonable effort” to obtain payment of the debt. Neither “reasonable” standard is defined. Contrast that with the TOP’s Income Tax Refund program, which requires sixty days’ notice to be sent certified mail, return receipt requested. As a result of these inadequate safeguards, taxpayers are often not aware of an offset until after it occurs: the notice that an offset has occurred may be sent to the improper address (often a branch location of the entity); and the notice of offset contains no information identifying tax type, tax year, or other reconciling information. Taxpayers (and revenue departments) are then forced to use significant resources to reconcile incorrect payments. We therefore asked states that participate in the SRP several questions regarding their treatment of debts submitted to TOP and whether the state has implemented certain procedural safeguards, including a designated contact person dedicated to resolving SRP issues. Only three states (New Jersey, Virginia and Wisconsin) offered written assurance that they have implemented those safeguards and have appointed a point of contact for addressing and resolving SRP issues.
DETAILED SURVEY DATA

The table beginning on Page 18 provides detailed survey data for each state. At least one practitioner from each state and the tax agency of each state were asked to review and offer corrections to the data and/or related survey questions (below). Where received, responses were integrated into the chart as appropriate to reflect the current status of the law in each state. COST extends its gratitude to those practitioners and tax agency employees who assisted in compiling the data necessary for this study. Note that certain exceptions to the general rules may exist but were not included. Further, we were not always able to reconcile our research and the responses by in-state practitioners with the responses by the tax agency; this demonstrates the lack of clarity surrounding some of the issues. Accordingly, this document is not intended to be used as a comprehensive listing of legal authority for the issues identified, and taxpayers are cautioned to research individual state laws.

SURVEY QUESTIONS FOR PRACTITIONERS AND ADMINISTRATORS

1. Does the state have an independent tax appeal forum possessing the following elements: the forum is truly independent; the forum is dedicated to handling tax disputes; the forum’s judges possess requisite tax expertise; and the forum establishes the record for further appeal?

2. Is prepayment or posting of a bond required to obtain an independent appeal forum hearing or to take an appeal (with the exception of reasonable application of jeopardy assessments)?

3. Is the statute of limitations the same for refunds and assessments, regardless of the nature of the issue (e.g., constitutional grounds)?

4. Does the state impose equal rates of interest on assessments (tax due) and refunds (tax overpayments), and does interest run from comparable dates (e.g., date the tax was due for assessments, and date the tax was overpaid for refunds)?

5. Does a taxpayer have at least 60 days to appeal an assessment, and does this period begin from a point approximating notice to the taxpayer (e.g., mailing or delivery, rather than issuance date)?

6. For state tax returns requiring information derived from the taxpayer’s federal corporate income tax return, is the state return due at least 30 days (or one month) after the federal tax return is due (for both the original and extended due dates), and does a federal extension result in an automatic extension of time to file the state return?

7. Does the state define “final determination date” for purposes of reporting a change to federal taxable income (aka RAR adjustments) that occurs after all state and federal appeal rights are exhausted and does not require reporting on an interim basis?

8. Do all taxpayers (including corporations and partnerships) have at least 180 days to report a federal change?

9. Is the scope of review (items that can be adjusted) when reporting federal changes and the time frame (statute of limitations) equal for the taxpayer and the state?

10. Does the state allow taxpayers to make estimated payments (to stop the running of interest) prior to the final determination date with the ability to obtain a refund if the estimated payment exceeded the amount of the federal change ultimately determined?

11. Has the state conformed to the new federal partnership audit rules, e.g. using the MTC partnership model?

12. Does the state issue binding, written guidance to requesting taxpayers (e.g., letter rulings), and does the state publish such (redacted) guidance with appropriate protections for taxpayer confidentiality?

13. Does an administrative adjudicatory body (e.g., tax agency hearings division and/or independent tax appeal forum) that regularly hears tax cases or appeals publicly release its rulings?

14. Has the tax code been changed retroactively to remove a taxpayer right or remedy for years open under the statute of limitations or subject to litigation?

15. Does the state provide a reasonable time frame (30 days) before requiring withholding on non-resident employees traveling in the state on business?
16. Does [your state] participate in the Treasury Offset Program's State Reciprocal Program? If yes, does your tax agency document and ensure that the following Program procedures are adhered to?

- The “debt” submitted to the TOP must be delinquent, past-due, legally enforceable and final; a deemed underpayment or assessment which is still contestable, under protest, or in litigation with pending appeals, is not a “valid” debt.
- The state revenue agency must make “reasonable efforts” to collect the debt prior to offset, including making a demand for payment, providing the taxpayer/debtor opportunity to dispute the debt, and appropriate notice of intent to offset the debt.
- Notice of intent to offset the debt must be sent to the taxpayer (debtor) 60 days prior to submission of the debt to the Treasury Offset Program.

- Notice of intent to offset the debt should be sent to the taxpayer/debtor's most current address known to the state tax agency through the taxpayer/debtor's tax records, not the address of the vendor.
- The individual at the state taxing agency who submits the debt for offset must have delegated certification authority to do so.

Does [your state] specifically identify a person who will serve as the point of contact for addressing and resolving any and all issues related to debts submitted to the State Reciprocal Program? If so, please provide the name and contact information of the contact person:

Name: ______________________________________
Title: _______________________________________
Email Address: _______________________________

17. What additional issues are impacting fair and efficient tax administration?

ENDNOTES

1 California Franchise Tax Board, FTB Notice 2019-07—Automatic Seven-Month Extension—Forms 100 and 100W (Dec. 2, 2019).
7 Nadler v. Commissioner, No. 7736 R (Minn. T.C. Apr. 21, 2006).
9 YAM Special Holdings, Inc. v. Comm’r of Rev., No. 9122-R (Minn. T.C. Nov. 12, 2019).
11 S.B. 2973 (Laws 2017).
12 S.B. 2963 (Laws 2018).
13 S.B 3024 (Laws 2019).
19 This language is in the MTC Model adopted by the MTC Executive Committee in January, 2019; available at: http://www.mtc.gov/getattachment/Uniformity/Adopted-Uniformity-Recommendations/Model-RAR-Statute.pdf.aspx?lang=en-US.
<table>
<thead>
<tr>
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</tr>
</thead>
<tbody>
<tr>
<td>AL</td>
<td>Yes, Act 2014-146 established the Alabama Tax Tribunal (ATT), an independent agency within the executive branch. At time of appointment, tribunal judges must possess substantial tax knowledge. The Tribunal’s jurisdiction includes most state taxes and certain county and municipal tax disputes. However, for the 2019 calendar year, sixteen (16) counties and municipalities “opted out” of the Tribunal’s jurisdiction. Ala. Code 1975 § 40-28-2.</td>
<td>No prepayment or bond is required for appeals to the Alabama Tax Tribunal. Prepayment (or a bond) is required for subsequent or direct appeals to circuit court (this requirement does not apply to taxpayers with a net worth of $250,000 or less). Ala. Code 1975 §§ 40-28-2 and 40-2A-7(b)(5).</td>
<td>Equal. 3 years for both. Assessment – Ala. Code § 40-2A-7(b)(2). Refund – Ala. Code § 40-2A-7(c)(2) .</td>
<td>Equal. Federal underpayment. Underpayment = – Ala. Code § 40-1-44(a). Overpayment = – Ala. Code § 40-1-44(b).</td>
<td>30 days for final assessment from date of mailing or personal service, whichever occurs first. Ala. Code § 40-2A-7(b)(5).</td>
<td>Original: No. Return is due on the corresponding federal due date. Ala. Code § 40-18-39(a) (same with partnerships/LLCs). Extended: Up to 6 months. A corporation or an Alabama affiliated group will be granted an automatic extension to file its Alabama corporate income tax return consistent with the extension allowed for the taxpayer’s corresponding federal income tax return. Ala. Admin. Code r. 810-3-39-.02. Automatic Extension. Id.</td>
<td>Final determination is due on the corresponding federal due date. Ala. Code § 40-2A-7(b)(2)(g). Allows estimated payments; however, refund request if no IRS adjustment is limited to 2 years from payment. Ala. Code § 40-2A-7(c)(2) (a).</td>
<td>Revenue rulings issued to taxpayers are available with taxpayers’ identifying information redacted, however only a relatively small number are issued each year. Rulings are published on the AL DOR’s website, and when a ruling is revoked by the Commissioner of Revenue, only a summary of the ruling is provided, without access to the original ruling itself. The Alabama Tax Tribunal publishes its decisions online in a keyword searchable database.</td>
<td>Many local AL jurisdictions hire private auditing firms rather than using the ADO to administer local sales, use, rental and lodging taxes. 2014 legislation allows taxpayers to appeal local assessments to the ATT. If the local government opts out of ATT jurisdiction it must engage an experienced non-employee to serve as a hearing officer. Nonresident employees subject to withholding on first day of travel within State. Ala. Admin. Code 810-3-2-.01(3) and 810-3-71-.01(7).</td>
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<tr>
<td>AK</td>
<td>Yes, The Office of Administrative Hearings resides within the Department of Administration, Alaska Stat. § 43.05.405. The forum is not dedicated to handling tax disputes, but tax expertise is required for ALJs conducting tax proceedings. Alaska Stat. § 44.640.10; § 43.05.420.</td>
<td>Partic. Payment of tax is not required to appeal to the Office of Administrative Hearings. However, tax must be paid, or a bond posted, to appeal to Superior Court. Alaska Stat. § 43.05.480(b).</td>
<td>Equal. Assessment – 3 years. Alaska Stat. § 43.05.230(a). Refund - Later of 3 years from filing or 2 years from date taxes paid. Alaska Stat. § 43.05.275 (a)(1).</td>
<td>Equal. 5.23% above the annual rate charged member banks by the Federal Reserve as of the first day of that calendar quarter, compounded quarterly as of the last day of that quarter. Underpayment – Alaska Stat. § 43.05.225(1)(c). Overpayment – Alaska Stat. § 43.05.230(a). § 43.05.225(1)(c).</td>
<td>60 days after date of mailing of notice to request an informal conference. Alaska Stat. § 43.05.240(a).</td>
<td>30 days after service to appeal the result of the informal conference to the Office of Administrative Hearings, Alaska Stat. § 43.05.241.</td>
<td>Original return: Due 30 days after federal return due, Alaska Stat. § 43.20.030(a). Extended: Extension of 30 days after the federal extended due date. A federal extension automatically extends the Alaska filing due date to 30 days after the federal extended due date Alaska Stat. § 43.20.030(a). Attach a copy of the federal extension to the Alaska return. Instructions to Form 0405-611 pg. 3. Automatic Extension. id.</td>
<td>Find determination is defined and based on exhaustion of all appeals for a tax year. Ak. Stat. § 43.20.030(d). 60 days to report IRS changes. Alaska Stat. § 43.20.030(c). Unclear if scope limited to IRS changes; however, assessment/refund period is equal. ACK Stat. § 43.20.030. No specific authority for estimated payment. AK has not conformed to the new MTC model for reporting federal partnership adjustments.</td>
<td>The Department may issue advisory bulletins stating the Department’s interpretation of provisions of Alaska Stat. § 43.55 (Oil and Gas Production Tax Laws), but these are not binding on the Department. Office of Administrative Hearings decisions are posted to its website. Decisions may be searched and browsed by category.</td>
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<td>CA</td>
<td>Yes. The State’s new Office of Tax Appeals (OTA) is an independent and impartial appeals body whose sole purpose is to adjudicate state tax appeals. Tax disputes involving personal income, corporate franchise and income, sales and use, excise and other taxes and fees are decided by a three-member panel of Administrative Law Judges. As required by law, each ALJ is an expert in state tax law. The OTA establishes a record in every case through the briefing process and intake of exhibits. Additionally, in every oral hearing a transcription is taken and published on OTA’s website. Written opinions are posted online for appeals.</td>
<td>Partial. Under 2016 Colo. Sess. Laws Ch. 292 (§ 16-036), prepayment or bond is no longer required for appeal of the Executive Director’s final determination to the district court. However, taxpayers still must deposit the disputed amount or past bond for two times the disputed taxes with interest and other charges to appeal a district court ruling. Colo. Rev. Stat. § 39-21-105.</td>
<td>Partial. Under 2016 Colo. Sess. Laws Ch. 292 (§ 39-21-108), for corporate tax; 3 years for all other taxes. Assessment – Colo. Rev. Stat. §§ 39-21-108(1) (corporations), 39-21-108(1) (other). Refund – Colo. Rev. Stat. §§ 39-21-108(1) (corporations), 39-21-108(1) (other).</td>
<td>Partially. Underpayment – Prime rate plus 3% or equal to or greater than 5% of the disputed tax liability and 10% of net tax liability. All others, prime rate plus 3%. Colo. Rev. Stat. § 39-21-109.</td>
<td>60 days after mailing of each notice for income/ franchise tax. Cal. Rev. &amp; Tax. Code §§ 19041(a), 19042. 30 days after service to appeal sales/use tax assessment. Cal. Rev. &amp; Tax. Code § 6561.</td>
<td>Original Same as federal — 15th day of the 4th month following the close of the taxable year for calendar filers. Colo. Rev. Stat. § 39-22-608. CO Form 112 Instructions. Extended: 6-month extension. CO Form 112 Instructions p. 3.</td>
<td>Automatic Extension: CO Form 112 Instructions p. 3.</td>
<td>Final determination is defined but it is not based on exhaustion of all appeals for a tax year. 18 Cal. Code Regs. §§ 19039(e); Cal. Rev. &amp; Tax. Code § 18622(d). - 6 months to report IRS changes. Cal. Rev. &amp; Tax. Code § 19299(a). - Scope not limited to IRS changes if IRS audit under way. Cal. Rev. &amp; Tax. Code §§ 19109 &amp; 19308. Assessment/refund period generally two years (4 years to assess if return filed late). FTB indicates it follows IRC §§ 6603 and would allow estimated payments and refund. See FTB Notice 2015-04. - California has adopted legislation that generally comports with the MTC model. See CRTC § 18622.5.</td>
<td>FTB issues Chief Counsel Rulings. Selected Rulings are available on the FTB website with taxpayer information redacted. Other written guidance is also available on the website, such as Legal Rulings, Notices, and Technical Advice Memorandums. Under 2017 legislation, the duty of hearing and deciding administrative appeals for corporate franchise and income taxes transferred from the State Board of Equalization (SBE) to the new OTA. The law requires the OTA to publish a written opinion for each case in which it makes a final determination. The written opinion will be published on the OTA website and identified as either precedential or nonprecedential.</td>
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<td>CO</td>
<td>No. Protests of state tax assessments and refund claim denials (not including property taxes or local taxes) are first heard by a Hearing Officer from the Hearings Division of the Department of Revenue. Taxpayers may appeal a final determination to district court, without prepayment, which tries cases de novo. Colo. Rev. Stat. §§ 39-21-103 and 39-21-105.</td>
<td>Partial. Under 2016 Colo. Sess. Laws Ch. 292 (§ 16-036), prepayment or bond is no longer required for appeal of the Executive Director’s final determination to the district court. However, taxpayers still must deposit the disputed amount or past bond for two times the disputed taxes with interest and other charges to appeal a district court ruling. Colo. Rev. Stat. § 39-21-105.</td>
<td>Equal. For income taxes, 4 years Assessment – Cal. Rev. &amp; Tax. Code §§ 19015(a), 19016(a), 19017(a), 19018(a). Refund–Cal. Rev. &amp; Tax. Code §§ 19306(a), 19308. For sales and use taxes, 3 years (Assessment–Cal. Rev. &amp; Tax. Code § 6487; Refund-Cal. Rev. &amp; Tax. Code § 6920).</td>
<td>Equal. For income taxes, 4 years Assessment – Cal. Rev. &amp; Tax. Code §§ 19015(a), 19016(a), 19017(a), 19018(a). Refund–Cal. Rev. &amp; Tax. Code §§ 19306(a), 19308. For sales and use taxes, 3 years (Assessment–Cal. Rev. &amp; Tax. Code § 6487; Refund-Cal. Rev. &amp; Tax. Code § 6920).</td>
<td>60 days after mailing of each notice for income/ franchise tax. Cal. Rev. &amp; Tax. Code §§ 19041(a), 19042. 30 days after service to appeal sales/use tax assessment. Cal. Rev. &amp; Tax. Code § 6561.</td>
<td>Original Same as federal — 15th day of the 4th month following the close of the taxable year for calendar filers. Colo. Rev. Stat. § 39-22-608. CO Form 112 Instructions. Extended: 6-month extension. CO Form 112 Instructions p. 3.</td>
<td>Automatic Extension: CO Form 112 Instructions p. 3.</td>
<td>Final determination is defined but it is not based on exhaustion of all appeals for a tax year. 18 Cal. Code Regs. §§ 19039(e); Cal. Rev. &amp; Tax. Code § 18622(d). - 6 months to report IRS changes. Cal. Rev. &amp; Tax. Code § 19299(a). - Scope not limited to IRS changes if IRS audit under way. Cal. Rev. &amp; Tax. Code §§ 19109 &amp; 19308. Assessment/refund period generally two years (4 years to assess if return filed late). FTB indicates it follows IRC §§ 6603 and would allow estimated payments and refund. See FTB Notice 2015-04. - California has adopted legislation that generally comports with the MTC model. See CRTC § 18622.5.</td>
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<td>CT</td>
<td>No. Protests of assessments or the denial of refunds initially must be brought to the Department of Revenue Services’ Appellate Division, [Conn. Gen. Stat. §§ 12-336, 12-421]. Appellates go to the superior court for the judicial district of New Britain (Tax and Administrative Appeals Session), which will hear the case de novo [Conn. Gen. Stat. §§ 12-237, 12-422]. Tax expertise is not required for Tax and Administrative Appeals Session judges.</td>
<td>No. While taxpayers have the option of posting a cash bond to stop the running of interest when contesting an assessment, a bond is not required for appeals, either to the Department’s Appellate Division or to the superior court. Conn. Gen. Stat. §§ 12-39m, 12-237, 12-422.</td>
<td>Unequal. Underpayment — 1% per month (Conn. Gen. Stat. §§ 12-235, 12-415); Overpayment — (Business) 0.669% per month (§ 12-227). No interest is paid on sales/use tax refunds. Interest on assessments runs from due date of the tax, while interest on refunds runs from 91st day after refund request received (§12-227).</td>
<td>60 days after assessment is mailed or delivered Conn. Gen. Stat. §§ 12-236, 12-421 (sales tax).</td>
<td>Original: Due fifteenth day of the month after the due date of the corresponding federal income tax return. (Conn. Gen. Stat. § 12-222(b)). Extended: 6 months Conn. Gen. Stat. § 12-222(c).</td>
<td>Automatic Extension: No Taxpayer must file Form CT-1120 EXT. Connecticut Corporation Business Tax Instructions and Rulings (2018).</td>
<td>Find determination not defined for the CBT and does not clearly limit reporting based on exhaustion of all appeals. Conn. Agencies Regs. § 12-727(b)-4. 90 days to report IRS changes. Conn. Gen. Stat. § 12-266(b)(1).</td>
<td>The Department issues rulings and declaratory rulings upon request and publishes them with identifying information redacted. However, the Department issues rulings and declaratory rulings on an infrequent basis. A very limited number are available for tax years after 1988. [21 rulings are available from 2013 to 2019 and 10 declaratory rulings are available from 1998 to 2016]. All actions taken at the administrative level are considered confidential tax return information. Conn. Gen. Stat. § 12-15. CT has not conformed to the new MTC model for reporting federal partnership adjustments.</td>
<td>Nonresident employees performing personal services for employment purposes in CT for more than 15 days in a calendar year are subject to liability and withholding. Conn. Gen. Stat. § 12-711(b)(2) [A]: Connecticut Circular CT-Employee’s Tax Guide (effective Jan. 1, 2019); Connecticut Policy Statement 2015(6), “15-Day” Rule for Nonresident Employees (effective Jan. 1, 2016).</td>
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<tr>
<td>Even-handedness</td>
<td>Number of days to protest assessment</td>
<td>Correlate return due to protest assessment</td>
<td>Pay-to-Play statutes of limitations?</td>
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<td>State</td>
<td>30 days</td>
<td>60 days</td>
<td>Yes. Taxpayers may</td>
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<td>DC</td>
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<td>Yes. Taxpayers may</td>
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<td>Other</td>
<td>60 days</td>
<td>60 days</td>
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<td>No. Taxpayers may</td>
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</tbody>
</table>

**Even-handedness**

- Even-handed.
- Unequal.

**Number of days to protest assessment**

- 30 days (State, DC, Other).
- 30 days (State, DC).
- 60 days (Other).

**Correlate return due to protest assessment**

- Yes.
- Yes.
- Yes.

**Pay-to-Play statutes of limitations?**

- Yes. Taxpayers may.
- Yes. Taxpayers may.
- Yes.

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**State**

- Florida
- District of Columbia
- Other

**Amount of bond requirement**

- Florida: $10,000.
- District of Columbia: $10,000.
- Other: $10,000.

**Triplicate copies of bond required**

- Florida: Yes.
- District of Columbia: Yes.
- Other: Yes.

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**State**

- Florida
- District of Columbia
- Other

**Appeals**

- Florida: To circuit court.
- District of Columbia: To Administrative Hearings (OAH).
- Other: To Superior Court.

**State**

- Florida
- District of Columbia
- Other

**Interest rates**

- Florida: 10% per year, compounded daily.
- District of Columbia: 1% per annum, compounded daily.
- Other: 1% per annum, compounded daily.

**State**

- Florida
- District of Columbia
- Other

**Patch**

- Florida: Cumulative.
- District of Columbia: Cumulative.
- Other: Cumulative.

**State**

- Florida
- District of Columbia
- Other

**Final determination**

- Florida: Final determination is not defined in state law and is generally the same 180 days. DC Code §§ 47-4301. Final determination is not clear as too many factors apply.
- District of Columbia: Final determination is not defined in state law and is generally the same 180 days. DC Code §§ 47-4301. Final determination is not clear as too many factors apply.
- Other: Final determination is not defined in state law and is generally the same 180 days. Final determination is not clear as too many factors apply.

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**State**

- Florida
- District of Columbia
- Other

**Dispute forum**

- Florida: The Florida Division of Administrative Hearings.
- District of Columbia: The Office of Administrative Hearings.
- Other: The Division of Administrative Hearings.

**State**

- Florida
- District of Columbia
- Other

**Other fairness issues**

- Florida: Other taxpayers. Rulings are not published.
- District of Columbia: Other taxpayers. Rulings do not apply to other taxpayers. Rulings are not published.
- Other: Other taxpayers. Rulings are not published.

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**State**

- Florida
- District of Columbia
- Other

**Taxpayer may only file claim in non-tax court**

- Florida: No. Rulings only parties to decision have access to decision.
- District of Columbia: No. The Office of Administrative Hearings (OAH) only has access to decisions.
- Other: Yes.

**State**

- Florida
- District of Columbia
- Other

**Automatic Extension**

- Florida: 6 months.
- District of Columbia: 6 months.
- Other: 6 months.

**State**

- Florida
- District of Columbia
- Other

**Request for Refund**

- Florida: To the Florida Division of Administrative Hearings.
- District of Columbia: To the Office of Administrative Hearings.
- Other: To the Office of Administrative Hearings (OAH).

**State**

- Florida
- District of Columbia
- Other

**Refund**


---

**State**

- Florida
- District of Columbia
- Other

**Other taxpayers**

- Florida: Greece: Request for refund is defined in state law and is generally the same 180 days. See MDHM 12.003. Florida has not conformed to the new MTC model.
- District of Columbia: Greece: Request for refund is defined in state law and is generally the same 180 days. See MDHM 12.003. Florida has not conformed to the new MTC model.
- Other: Greece: Request for refund is defined in state law and is generally the same 180 days. See MDHM 12.003. Florida has not conformed to the new MTC model.

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**State**

- Florida
- District of Columbia
- Other

**State**

- Florida
- District of Columbia
- Other

**Assessment**

- Florida: Florida assessment is not the same as Florida assessment. Florida assessment is generally the same 180 days. Florida has not conformed to the new MTC model.
- District of Columbia: District of Columbia assessment is not the same as Florida assessment. District of Columbia assessment is generally the same 180 days. District of Columbia has not conformed to the new MTC model.
- Other: District of Columbia assessment is not the same as Florida assessment. District of Columbia assessment is generally the same 180 days. District of Columbia has not conformed to the new MTC model.

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**State**

- Florida
- District of Columbia
- Other

**Uniformity**

- Florida: Uniformity.
- District of Columbia: Uniformity.
- Other: Uniformity.

**State**

- Florida
- District of Columbia
- Other

**Even-handedness**

- Florida: Even-handed.
- District of Columbia: Even-handed.
- Other: Even-handed.

---

**State**

- Florida
- District of Columbia
- Other

**Number of days to report IRS changes**

- Florida: 90 days to report IRS changes, D.C. Code § 47-3303.
- District of Columbia: 90 days to report IRS changes, D.C. Code § 47-3303.
- Other: 90 days to report IRS changes, D.C. Code § 47-3303.

**State**

- Florida
- District of Columbia
- Other

**Overpayment**


---

**State**

- Florida
- District of Columbia
- Other

**Corporate tax changes**

- Florida: Corporate tax changes are not required. Florida Code § 47-4304(a).
- District of Columbia: Corporate tax changes are not required. Florida Code § 47-4304(a).
- Other: Corporate tax changes are not required. Florida Code § 47-4304(a).

**State**

- Florida
- District of Columbia
- Other

**Statute of Limitations**

- Florida: The Florida Division of Administrative Hearings (OAH) only has access to decisions. No statements are available through the Florida Division of Administrative Hearings (OAH).
- District of Columbia: The Office of Administrative Hearings (OAH) only has access to decisions. No statements are available through the Office of Administrative Hearings (OAH).
- Other: The Division of Administrative Hearings (OAH) only has access to decisions. No statements are available through the Division of Administrative Hearings (OAH).

**State**

- Florida
- District of Columbia
- Other

**Refund instruction**


---

**State**

- Florida
- District of Columbia
- Other

**Other taxpayers**

- Florida: Other taxpayers. Rulings are not published.
- District of Columbia: Other taxpayers. Rulings do not apply to other taxpayers. Rulings are not published.
- Other: Other taxpayers. Rulings are not published.

**State**

- Florida
- District of Columbia
- Other

**Refund**


---

**State**

- Florida
- District of Columbia
- Other

**Other taxpayers**

- Florida: Other taxpayers. Rulings are not published.
- District of Columbia: Other taxpayers. Rulings do not apply to other taxpayers. Rulings are not published.
- Other: Other taxpayers. Rulings are not published.

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**State**

- Florida
- District of Columbia
- Other

**Refund instruction**


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**State**

- Florida
- District of Columbia
- Other

**Other taxpayers**

- Florida: Other taxpayers. Rulings are not published.
- District of Columbia: Other taxpayers. Rulings do not apply to other taxpayers. Rulings are not published.
- Other: Other taxpayers. Rulings are not published.
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<td>IL</td>
<td>Yes. The Illinois Independent Tax Tribunal has original jurisdiction over most Dept of Revenue determinations where amounts in controversy exceed $1,000. Jurisdiction does not extend to property tax assessments. An ALJ must have substantial knowledge of state tax laws. 35 ILCS 1010. As an executive agency, the Independent Tax Tribunal is unable to provide equitable relief and to invalidate laws or regulations, but it can prepare a record, including on such issues, for review and decision by an appellate court.</td>
<td>No. Prepayment or bond is not required for appeals to the Illinois Tax Tribunal. 35 ILCS 5/905(a)(1). taxpayers have the option of paying the tax under a formal statutory protest and filing a complaint in Circuit Court within 30 days of the payment to enjoin transfer of the payment to the State until the court makes a final disposition.</td>
<td>Equal. 3 years for both. Assessment – 35 ILCS 5/905(a)(1). Refunds – 35 ILCS 5/911(a)(1).</td>
<td>Equal. Federal underpayment rate, adjusted semi-annually. Underpayment – 35 ILCS 5/1003(a)(1). 735/3-2. Overpayment – 35 ILCS 5/909(c)(1). 735/3-2.</td>
<td>60 days after issuance. 35 ILCS 5/908(a).</td>
<td>Original. Same as federal. 35 ILCS 5/905. Extended: 6 months. 35 ILCS 5/905. 86 Ill. Admin. Code § 100.0120(b).</td>
<td>Automatic Extension: Yes. Not required to file a form in order to obtain automatic extension. IL-120 Instructions (Rev. Jan. 2019).</td>
<td>Final determination is not adequately defined to limit reporting based on extraction of all appeals for a tax year. 86 Ill. Admin. Code § 100.9200(a)(4). 120 days to report IRS changes. 35 ILCS 5/906(b). Unclear whether scope limited to IRS changes (per DOR audit). Assessment/refund periods are both 2 years. 35 ILCS 5/906, 5/905 &amp; 5/911. Unknown if estimated payments can be made, likely a 1-year SOL. 35 ILCS 5/911. IL has not conformed to the new MTC model for reporting federal partnership adjustments.</td>
<td>The IL DOR issues binding Private Letter Rulings. The DOR also issues General Information Letters, which cannot be relied upon by either the taxpayer or the DOR. Redacted DOR letter rulings and General Information Letters are available online. Administrative hearing decisions are published online with taxpayer information redacted. The Tax Tribunal is required to index and publish its final decisions, with taxpayer ID numbers, and any trade secrets or other intellectual property redacted. 35 ILCS 5/10/1-85.</td>
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<td>IN</td>
<td>Yes. Appeals from adverse findings of the Indiana Department of Revenue may be brought before the Indiana Tax Court and heard de novo. Ind. Code Ann. §§ 6-8-1-5, 6-8-1-6. The Tax Court Judge is appointed from a panel of nominees put forth by a Judicial Nominating Commission. While tax expertise is not required (Ind. Code Ann. § 33-3-6-2), the current Tax Court judge had significant state and local tax experience prior to her appointment.</td>
<td>No. The Indiana Department of Revenue generally does not take action to collect the tax at issue while an appeal is pending in Tax Court. Ind. Code Ann. § 6-8-1-6.</td>
<td>Equal. 3 years for both. Assessment – Ind. Code Ann. § 6-8-1-5-2(a). Refund – Ind. Code Ann. § 6-8-1-9-1(a)(1).</td>
<td>Equal. Average state investment yield plus 2%. Underpayment – Ind. Code Ann. § 6-8-1-10-1(c). Overpayment – Ind. Code Ann. §§ 6-8-1-9-2(d), 6-8-1-10-1(c).</td>
<td>60 days from date notice is mailed. Ind. Code Ann. § 6-8-1-5-1(d).</td>
<td>60 days from date of notice. Iowa Code §§ 422.28, 422.41; Iowa Admin. Code r. 701-3.5.</td>
<td>Original: One month after federal – 15th day of 4th month following the close of the tax year. Or, for a corporation whose federal tax return is due on or after this date, the 15th day of the month following the due date of the federal tax return. Ind. Code Ann. § 6-3-4-3. Extended: Same period as the federal extension, plus 30 days. Ind. Code Ann. § 6-8-1-6-1(c)(11). Automatic Extension: Yes, with federal extension. Id.</td>
<td>Original: Last day of the 4th month following the close of the taxable year; Iowa Code § 422.21. Extended: 6 months. Long Form IA 1120 instructions pg. 2. Automatic Extension: Yes, Id.</td>
<td>The IN DOR’s Letters of Finding and Revenue Rulings are published with taxpayer information redacted in the Indiana Register, the online version of which may be keyword searched in the Register online Bulletin #33. Withholding Requirements for Nonresident Employees.</td>
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<td>IA</td>
<td>No. Tax appeals are heard by an administrative law judge employed by the IA Dept of Inspections and Appeals. The ALJ is not required to have tax expertise. The Director of the Iowa Dept of Revenue may retain any case in order to serve as presiding officer of the hearing; however, most cases are referred to and heard by an ALJ. After the hearing, the ALJ issues a proposed decision subject to further review and modification by the Director. Iowa Admin. Code r. 701-7.17. The Director’s Order becomes the final order and is subject to judicial review in Iowa district court. Iowa Code §§ 17A.19.</td>
<td>No. Prepayment or bond is not required for DOR appeals. Iowa Code § 422.28, 422.25(1)(a), 423.37. Refund – Iowa Code §§ 422.73(1), 423.37, 423.47.</td>
<td>Equal. 3 years for both. Assessment – Iowa Code §§ 422.39, 422.23(1)(a), 423.37, 423.47. Refund – Iowa Code §§ 422.73(1), 423.37, 423.47.</td>
<td>Equal. Prime rate plus 2%. Underpayment – Iowa Code §§ 422.39, 422.24, 421.7, 423.40(1). Overpayment – Iowa Code §§ 421.7, 422.28, 422.41, 422.39, 422.25(3), 421.60(2)(e). All Iowa taxes that result in a refund accrue interest from the first day of the second calendar month following the date of payment or the date the return was due to be filed, including any extensions, of the date it was actually filed, whichever is latest. – Iowa Code § 421.60(2)(e).</td>
<td>60 days from date of notice. Iowa Code §§ 422.28, 422.41; Iowa Admin. Code r. 701-3.5.</td>
<td>60 days from date of assessment. Iowa Code §§ 422.28, 422.41; Iowa Admin. Code r. 701-3.5.</td>
<td>Final determination is defined but not clearly based on exhaustion of all appeals for a tax year. IA Code Ann. §§ 6-3-4-6, 6-3-4-6(d).</td>
<td>Final determination is not conclusively defined but not clearly based on exhaustion of all appeals for a tax year. IA Code Ann. §§ 6-3-4-6, 6-3-4-6(d).</td>
<td>Nonresident employees are subject to withholding on grossed-up travel within the State. Iowa Code Ann. § 6-3-5-1. Information Bulletin #33. Withholding Requirements for Nonresident Employees.</td>
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**Note:** Maine imposes a 3% excise tax on every transaction exceeding $3,000. The tax is calculated before any discount or sales tax is applied. The tax is effective January 1, 2019.
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<td>MN</td>
<td>Yes. The Tax Court is an independent agency of the executive branch. The Tax Court is a court of record. Tax expertise is required. Minn. Stat. Ann. § 271.01. A review of any final order may be had upon certiorari by the Supreme Court. Minn. Stat. Ann. § 271.10.</td>
<td>Taxpayers are required to pay only the uncontested portion of the tax at the time of appeal. Minn. Stat. Ann. § 271.09. 3.5 years for both. Assessment – Minn. Stat. Ann. § 289A.38, Subd. 1. Refund – Minn. Stat. Ann. § 289A.40, Subd. 1.</td>
<td>Equal. Prime rate rounded to the nearest full percent. Underpayment – Minn. Stat. Ann. §§ 289A.55, 270C.40. O verpayment – Minn. Stat. Ann. §§ 289A.56, 270C.405.</td>
<td>60 days after the notice date. Minn. Stat. Ann. § 270C.35 Subd. 4.</td>
<td>Original: Due on federal filing date. Minn. Stat. Ann. § 289A.18, Subd. 1. Extended: 7 months (11 mo. after federal). Minn. Stat. Ann. § 289A.19, Subd. 2. Automatic Extension: Yes. No automatic extension is required. If the IRS does not file the federal return that is longer than Minnesota’s seven-month extension, the state filing due date is extended to the federal due date.</td>
<td>- Final determination not defined in state law and it is not clear if reporting is based on exhaustion of all appeals for a tax year. Minn. Stat. Ann. § 289A.38. - 180 days to report IRS changes. Minn. Stat. Ann. § 289A.38, Subd. 9. Underclear if assessment/refund periods are the same (in dispute); assessment is 1 year. Id. No specific authority for estimated payments, but may be allowed. No clear SOL. - Minnesota has not conferred to the new MTC model for reporting federal partnership adjustments.</td>
<td>The MN DOT does not have an official letter ruling program. The DOR may issue informative revenue notices, which are published. Revenue notices have no precedent value but may be relied upon by taxpayers until revoked or modified. Minn. Stat. Ann. § 270C.07, 270C.35. Tax Court opinions are public and published to the Tax Court’s website. Decisions must be searched (are not published in chronological order).</td>
<td>Nonresident employers who earn income in state wages greater than or equal to the minimum income requirement for filing state income tax return are subject to liability and withholding. Minn. Stat. § 290.92. MN participates in the federal Treasury Offset Program’s State Reciprocal Program without ensuring effective or adequate safeguards. The DOR has publicly indicated it is not bound by MN Tax Court opinions. If a taxpayer follows the Court’s statutory interpretation, the DOR assesses penalties if it disagrees with the opinion even if such disagreement was not made public.</td>
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<td>MS</td>
<td>Yes. The Board of Tax Appeals (BTA) is an independent agency whose members shall possess a special knowledge of taxation and revenue in the State... MISS. CODE ANN. §27-7-7.</td>
<td>No. Prepayment or bond is not required for appeals to the Board of Tax Appeals. Unless otherwise ordered by the chancery court upon motion by the agency, no taxpayer appealing an order of the Board of Tax Appeals is required to post security or a bond, or otherwise pay any contested taxes, interest penalties or other amounts. MISS. CODE ANN. §27-77-7(3).</td>
<td>Generally equal. 3 years for both. However, if an examination has commenced, an assessment may be made within one additional year. Claims for refund must be made within three years from the due date. On 3 years from the extended filing date. Assessment – MISS. CODE ANN. § 27-7-49(1). Refund – MISS. CODE ANN. §§ 27-7-49(4), 27-7-313.</td>
<td>Equal. 0.7% after Jan. 1, 2017, declining to 0.5% after Jan. 1, 2019. MISS. CODE ANN. §§ 27-7-51(1), 27-7-315(2). Underpayments – interest runs from due date. On the return the year the refund is claimed. MISS. CODE ANN. § 27-7-51(2). Overpayments – interest on refunds runs 90 days after later of: 1) due date of the return. 2) filing date of the return. 3) the date a claim for refund is filed, or 4) date the DOR, the BTA, or court determines a refund is due. MISS. CODE ANN. §§ 27-7-31(2).</td>
<td>40 days from the date written notice is mailed or delivered to the taxpayer. MISS. CODE ANN. §§ 27-7-51(1).</td>
<td>Final determination is not defined in state law and is not clear. Missouri has not published guidance for reporting federal tax changes. MISS. CODE ANN. § 27-7-41. 30 days to report IRS changes. MISS. CODE ANN. §§ 27-7-51(2), 27-7-51(54). Scope limited to IRS Changes and assessment/ refund periods are both 3 years. MISS. Code § 27-7-49. No specific authority for estimated payments. Scope limited to IRS Changes and assessment/ refund periods are both 3 years. MISS. Code § 27-7-49. No specific authority for estimated payments.</td>
<td>The MS DOR issues written guidance to taxpayers in the form of letter rulings, but does not publish them or make them available publicly. It also issues declaratory opinions that are available unredacted through Public Records Act requests, but these are rarely sought or issued. MISS. Admin. Code § 351.01(108). The DOR does not publish decisions of its Board of Review, and Board of Tax Appeals decisions are not published (although they become part of the public record if judicial review is sought).</td>
<td>Nonresident employees are subject to withholding on the first day of travel within the State. MISS. Code Ann. §§ 27-7-53(1), 27-7-53(2). MISS. Admin. Code § 351.11.09.101.</td>
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<td>MO</td>
<td>Yes. The Administrative Hearing Commission is an independent agency assigned to the Office of Administration. Commissioners are not required to have tax expertise (and generally do not at appointment) and hear all types of executive agency appeals. MISS. ADMIN. CODE §§ 621.01.03. Appeals of the Commission’s tax decisions usually go directly to the Supreme Court of Missouri. Missouri Constitution, art. v, §3.</td>
<td>No. Prepayment or bond is not required for income tax and sales/use tax cases. MISS. ADMIN. CODE §§ 621.01.03. In order to continue to appeal a property tax case, taxpayers must pay all taxes assessed, protesting only the disputed amount by the December 31st deadline. The protested disputed amount will be held in escrow until the property tax appeal is resolved. MISS. ADMIN. CODE §§ 139.031(1) – (4).</td>
<td>Generally, equal. For income tax, 3 years from when the return is filed for DOR to assess and for taxpayer to claim a refund. For a sales/use tax refund, duplicate copies of a claim for refund must be filed within 10 years from date of overpayment. MISS. ADMIN. CODE §§ 144.190. Assessment – MISS. ADMIN. CODE §§ 143.7111(1), 144.220(3). Refund – MISS. ADMIN. CODE §§ 143.801(1), 144.190(2).</td>
<td>Unequal. Underpayment – Assess interest at a rate charged by banks. MISS. ADMIN. CODE §§ 143.621, 143.631. If a protest is filed and the DOR issues a final decision adverse to the taxpayer, the taxpayer has 30 days from date of mailing to appeal the final decision to the Administrative Hearing Commission. MISS. ADMIN. CODE § 143.651.</td>
<td>Income Tax: 60 days after mailing date to protest a notice of deficiency. MISS. ADMIN. CODE §§ 143.621, 143.631. If a protest is filed and the DOR issues a final decision adverse to the taxpayer, the taxpayer has 30 days from date of mailing to appeal the final decision to the Administrative Hearing Commission. MISS. ADMIN. CODE § 143.651.</td>
<td>Find determination is not defined in state law and is not clear. Missouri has not published guidance for reporting federal tax changes. MISS. CODE ANN. § 27-7-41. 30 days to report IRS changes. MISS. CODE ANN. §§ 27-7-51(54). Scope limited to IRS Changes and assessment/ refund periods are both 3 years. MISS. Code § 27-7-49. No specific authority for estimated payments.</td>
<td>The MO DOR publishes redacted versions of letter rulings and maintains an online, searchable database with ruling data to 2013 [private letter rulings expire after 3 years and may not be relied upon by other taxpayers]. MISS. REV. STAT. §§ 336.021(10); MISS. CODE REGS. § 10-1.120. Administrative Hearing Commission decisions are published on the Commission’s website, along with filings submitted in connection with the appeal.</td>
<td>Nonresident employees are subject to liability and withholding on the first day of travel in the State. MISS. REV. STAT. §§ 336.021(10); MISS. CODE REGS. § 10-1.120. Administrative Hearing Commission decisions are published on the Commission’s website, along with filings submitted in connection with the appeal.</td>
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<td>NV</td>
<td>No. Disputes are generally first heard by an ALJ employed by the Nevada Dept of Taxation and housed in the same office space as other Department of Taxation personnel. ALJ decisions can be appealed to the NV Tax Commission, an eight-member body appointed by the Governor. The Tax Commission is limited to the record established before the ALJ, with limited exceptions.</td>
<td></td>
<td>Even-handed</td>
<td>Unequal</td>
<td>45 days after service of notice of determination to petition for a redetermination, Nev. Rev. Stat. § 360.346(1)</td>
<td>N/A</td>
<td>N/A</td>
<td>Taxpayers may submit a written request for an advisory opinion, which constitutes written guidance. The NV DOT does not release advisory opinions in redacted form or otherwise, Nev. Admin. Code 401.190. To obtain such opinions requires a formal public records request and the appropriate redactions. The DOT also publishes Technical Bulletins. While not binding legal authority, the DOT routinely cites them as precedent in binding cases, and the ALJ and the Tax Commission allow the practice. Neither the ALJ nor the Tax Commission publish rulings.</td>
<td>For Commerce tax, exempt taxpayers and taxpayers under the $4,000,000 liability threshold are required to provide very detailed information (this is the bulk of taxpayers filing the Commerce Tax return). In addition, the Commerce Tax reporting period for all taxpayers is the state fiscal year (July 1 through June 30) which does not conform to most taxpayers’ reporting and record keeping periods.</td>
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<td>NH</td>
<td>No. Generally only after a hearing before the Department-appointed administrative officer, whose decision must be signed by the Commissioner. Final determinations of the Tax Commissioner’s hearing officers are reviewed de novo with an opportunity to make a full record by either: (1) the Board of Tax &amp; Land Appeals (BTLA) or (2) the Superior Court. N.H. Rev. Stat. Ann. § 71-B:11 and 21-J:28-b. IV. While the BTLA requires tax expertise of real estate valuation and appraisal or both (N.H. Rev. Stat. § 71-B:11), the expertise of the Board, and substantially all cases before the BTLA, relates to property taxes, not business taxes.</td>
<td></td>
<td>Generally equal</td>
<td>Unequal</td>
<td>60 days after notice of the assessment. N.H. Rev. Stat. Ann. § 21-J:29-b, I.</td>
<td>- Original 15th day of the 4th month in the case of business organisations other than partnerships, following the close of the taxable period. N.H. Rev. Stat. Ann. §§ 77-A:6, l:77-E:5. - Extended: 7 months. N.H. Code Admin. R. Rev 307.09 and Rev 2407.07. - Automatic Extension: Yes. Taxpayer must apply using Form BT EXT if they have not paid 100% of their Business Enterprise Tax (BET) and for Business Profits Tax (BPT) and are requesting a 7-month extension, an automatic 7-month extension to file BET and BPT returns is granted without filing the form. BT EXT Instructions (2018).</td>
<td>Final determination is defined but does not require exhaustion of all appeals for a tax year. N.H. Admin. Rules, Rev. 307.11 (b) [Profits Tax] and N.H. Admin. Rules, Rev. 2407.06 (b) [Enterprise Tax]. 6 months to report IRS changes, N.H. Rev. Stat. §§ 77-A:10 [Profits Tax] &amp; 77-E:9 [Enterprise Tax]. Scope limited to IRS changes; however, it is unknown if assessment/refund periods are the same. N.H. Admin. Rule 307.11. No specific authority for estimated payments. New Hampshire imposes entity level tax making adoption of the model unnecessary.</td>
<td>The NH Department of Revenue Administration (DRA) publishes Declaratory Rulings on its website relating to specific taxpayers with questions. They are redacted and Technical Information Releases relating to general, non-binding guidance. A limited number of rulings are published on the DRA’s website (6 rulings from 2013-2017) because this mechanism is rarely pursued. The DRA Hearings Bureau does not publish decisions. The Board of Tax and Land Appeals (BTLA) decisions are published (searchable database only). Superior Court publications are increasing, but not required. The DRA publishes significant BTLA and judicial decisions on its website.</td>
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<p>| NH    | | | | | | | | | |</p>
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<thead>
<tr>
<th>State</th>
<th>Independent tax dispute forum?</th>
<th>Pay-to-Play required?</th>
<th>Even-handed statutes of limitations?</th>
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<th>Number of days to protest an assessment</th>
<th>Corporate return due date and extensions</th>
<th>Reporting Federal corporate tax changes</th>
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<th>Other fairness issues</th>
</tr>
</thead>
</table>
NY

Yes. The Division of Tax Appeals (DTA) is an independent, two-tier appellate system operated and administered by the Tax Appeals Tribunal (TAT). N.Y. Tax Law § 2002-2010. The record for further appeal is established at the ALJ level of the DTA. N.Y.C.R.R. § 3000.17. ALJ decisions are appealable to the TAT. N.Y. Tax Law §§ 2006, 2010(4); N.Y.C.R.R. § 3000.17. The TAT comprises three commissioners with knowledge and skill in the area of taxation. N.Y. Tax Law § 2004.

Partial. Prepayment or bond is not required for DTA or TAT. However, deficiencies of sales/use tax and corporate franchise tax must be paid to establish jurisdiction in the Appellate Division of the Supreme Court, N.Y. TAX LAW §§ 1090(a) (capital tax), 1138(a)(4) (sales/use tax).


45 days to request DOR review after denial of refund or assessment made or delivered. N.C. Gen. Stat. Ann. § 105-241.2(b). Generally equal. 3 years from due date for both. Assessment – N.C. Gen. Stat. Ann. § 105-241.8(a), or 3 years after taxpayer filed, if later. Refund – N.C. Gen. Stat. Ann. § 105-241.6(a), or 2 years after payment, if later. Id.

Notice of determination may be appealed within 90 days from mailing. N.Y. Tax Law §§ 1089(b), 1138(a)(1).

Original. Same as federal – April 15 for calendar-year taxpayers. N.Y. Tax Law § 211(1).

Extended: 6 months. N.Y. Tax Law §§ 193, 1515.

Automatic Extension: No. Taxpayer must apply using Form CT-5.

Final determination is defined and is based on exhaustion of all appeals for a tax year. 20 N.Y.C.R.R. 6-1.3(b). 90 days to report IRS changes (120 days for combined reports). N.Y. Tax Law § 21(13).

Scope limited to IRS changes and in general 2-year SOL periods apply to assessment/refund. N.Y.T.L. § 1083(c)(3) & 1087(c). No clear authority for estimated payments. NY has not conformed to the new MTC model for reporting federal partnership adjustments.

NC

Yes. The Office of Administrative Hearings (OAH) is an independent agency, N.C. Gen. Stat. Ann. § 105-241.15. The Chief ALJ may designate certain ALJs to preside over tax cases, however, no specific tax experience is required. N.C. Gen. Stat. Ann. § 7A-753. The Business Court (a special division of the Superior Court) hears nearly all tax appeals from OAH decisions. N.C. Gen. Stat. Ann. §§ 105-241.16; 7A-45.4. There is minimal opportunity to supplement the record established at the OAH during the Business Court appeal.

Partial. Prepayment or bond is not required to appeal to OAH. However, a taxpayer must pay the full amount of the tax, penalties, and interest due under an OAH Final Decision to appeal to the Superior Court. N.C. Gen. Stat. Ann. § 105-241.16.

Generally equal. Generally, 3 years from due date for both. Assessment – N.C. Gen. Stat. Ann. § 105-241.8(a), or 3 years after taxpayer filed, if later. Refund – N.C. Gen. Stat. Ann. § 105-241.6(a), or 2 years after payment, if later. Id.


45 days to request DOR review after denial of refund or assessment made or delivered. N.C. Gen. Stat. Ann. § 105-241.2(b). Generally equal. 3 years from due date for both. Assessment – N.C. Gen. Stat. Ann. § 105-241.8(a), or 3 years after taxpayer filed, if later. Refund – N.C. Gen. Stat. Ann. § 105-241.6(a), or 2 years after payment, if later. Id.


Final determination is not adequately defined to limit reporting based on exhaustion of all appeals for a tax year. N.C. Gen. Stat. § 105-130.20. 6 months to report IRS changes. N.C. Gen. Stat. § 105-130.20. Scope is limited to IRS changes and in general 1-year SOL periods apply to assessment/refund. N.C. GS §§ 105-241.6 & 105-241.10. Allows estimated payments, refundable when event is finalized. N.C. GS § 105-130-4(b).

NC has not conformed to the new MTC model for reporting federal partnership adjustments.

The NY Department of Taxation and Finance (DTF) is required by statute to issue written advisory opinions that are binding on the DTF only with respect to the person for whom the advisory is rendered. N.Y. Tax Law § 171. Advisory opinions are redacted with respect to the confidentiality, and are published on the DTF’s website, along with other tax guidance. The Division of Tax Appeals publishes determinations and decisions on its website, which generally must be searched.

Nonresidents in the state for more than 14 days in a calendar year are subject to liability and withholding. N.Y. Dept. of Tax’n, and Fin., 158-M-12(3) : 20 NYCT 171.6(b) [4].

- NY participates in the federal Treasury Offset Program’s State Reciprocal Program without effective or adequate safeguards.

- Unlike federal False Claims Act (FCA), NY’s FCA authorizes lawsuits by whistle-blowers against TPs. N.Y. State Fin. Law §§ 189(4)(a); 190(2).
<table>
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<td>ND</td>
<td>No. Taxpayers may file an administrative complaint after a final assessment by the Tax Commissioner. N.D. Cent. Code §§ 57-38-39, 57-38-40, 28-32-21; N.D. Taxpayer Bill of Rights. The hearing officer assigned is required to ensure hearings are fair and impartial. N.D. Cent. Code §§ 28-32-31; N.D. Taxpayer Bill of Rights. Appeals from an administrative order are to district court. N.D. Cent. Code §§ 28-32-42 to 28-32-46 and 57-39-2-16. Except as otherwise provided, the agency record is the exclusive basis for administrative agency action, and judicial review of agency action. N.D. Cent. Code § 28-32-44(3).</td>
<td>Partial Prepayment or bond is not required for administrative appeals. However, an appeal from an order of an administrative agency does not stay the enforcement of the agency’s order unless the court to which the appeal is taken orders a stay, subject to such terms and conditions as the court may impose. N.D. Cent. Code §§ 57-32-42, 28-32-48, 57-01-11.</td>
<td>Generally equal. 3 years for both. Assessment–N.D. Cent. Code §§ 57-38-38(1); 57-39.2-15. Refund – N.D. Cent. Code §§ 57-38-40; 57-39-2.15; 1; 57-39.2-4.1. However, statute is shortened if challenge is constitutional. N.D. Cent. Code § 57-01-19.</td>
<td>Equal for income taxes, but unequal for sales/use taxes. Underpayment – income and Sales/use taxes:1% per month. N.D. Cent. Code §§ 57-38-34(2); Form 40 instructions, p. 1. Extended: Statute of limitations for one month after the due date of the automatic federal extension. Id. Automatic Extension: Yes. Extension of time to file a federal return is automatically accepted for the state return. Attach a copy of the Federal Form 7004 to the state tax return and mark the extension circle on page 1.</td>
<td>Find determination is defined and is based on exhaustion of all appeals for a tax year. N.D. Admin. Code § 51-03-01.1 (b). 90 days to report IRS changes. N.D. Cent. Code § 57-38-34(1). Scope is limited to IRS changes and 2-year SOL periods apply to assessment/refund. N.D. Cent. Code §§ 57-38-40(7) (b) &amp; 57-38-38(6)(a). No estimated payment process; can file amended return.</td>
<td>No. Prepayment or bond is not required for the BTA or for subsequent appeals. Ohio Rev. Code Ann. § 5717.02.</td>
<td>No. Prepayment or bond is not required for the BTA or for subsequent appeals. Ohio Rev. Code Ann. § 5717.02.</td>
<td>OH</td>
<td>Yes. The Board of Tax Appeals (BTA). Ohio Rev. Code Ann. § 5703.02. Two of the three board members are required to be licensed attorneys with a least six years of tax experience. Ohio Rev. Code Ann. § 5703.03. The BTA provides evidentiary hearings for purposes of establishing the record for further appeal. Taxpayers may appeal to the Supreme Court or Court of Appeals from the Department of Taxation. Taxpayers contesting real property tax matters must appeal to the Court of Appeals. Ohio Rev. Code Ann. § 5717.04.</td>
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<td>SD</td>
<td>Yes. The Secretary of Revenue may accept, reject, or modify proposed decisions of the Office of Hearing Examiners and issue a final decision. S.D. Codified Laws § 1-26D-4. The final decision of the Secretary may be appealed to the Circuit Court, which must accord “great weight” to the findings and inferences made by the agency on questions of fact. S.D. Codified Laws §§ 1-26-36.</td>
<td>No prepayment is required for appeal to the ALC. The final decision of the Secretary of Revenue may be appealed to the Circuit Court, which must accord “great weight” to the findings and inferences made by the agency on questions of fact. S.D. Codified Laws §§ 1-26D-4.</td>
<td>Equal. 3 years for both. Assessment – S.D. Codified Laws §§ 10-59-16. Refund – S.D. Codified Laws §§ 10-59-19.</td>
<td>Equal. 1% per month. Underpayment – S.D. Codified Laws §§ 10-59-6. Overpayment – S.D. Codified Laws §§ 10-59-24. Note: DOR can deny interest if it is determined an overpayment was the taxpayer’s error. SDSL 10-59-24.</td>
<td>60 days from the date of the certificate of assessment. S.D. Codified Laws §§ 10-59-9.</td>
<td>Original. Financial institution return is due 15 days after federal income tax return is due. S.D. Codified Laws §§ 10-43-30. Extended: 6 months with federal extension form. S.D. Codified Laws §§ 10-43-30. Automatic Extension: Yes. If the Secretary accepts the final decision of the hearing examiner, prepayment or bond is required to appeal. However, if the Secretary rejects or modifies the hearing examiner’s decision, prepayment or bond is not required. If the Secretary’s decision is affirmed by the circuit court, prepayment or bond is required for further appeal. S.D. Codified Laws §§ 10-59-9.</td>
<td>Find determination is not defined in state law and it is not clear reporting is based on exhaustion of all appeals for a tax year. S.D. Codified Laws §§ 10-50.1. 120 days to report IRS changes (bank tax). SDSL § 10-43-30.1. Scope for bank tax limited to IRS changes; however, refund must be made w/120 days and DOR has 6 years to assess. SDSL §§ 10-43-50.1, 50.2, &amp; 50.3. DOR states estimated payments can be made. SDSL § 10-43-30.1. Unknown if SD’s bank tax needs to conform to the new MTC model for reporting federal partnership adjustments.</td>
<td>Upon request, the S.D. DOR will issue written advice to a taxpayer, and the taxpayer can rely on this written advice. S.D. Codified Laws §§ 10-59-27. The written advice is specific to the taxpayer and not published. Administrative hearing decisions are not published.</td>
<td>“There is no bar to assessment or collection...” S.D. Codified Laws §§ 10-59-16.</td>
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<td>TN</td>
<td>No. An Informal Conference is available to dispute a proposed assessment or denial of a refund claim. Hearing Officers are DOR employees and are not truly independent. The Hearing Officers have the requisite tax expertise. A record is not established for a further appeal. Tenn. Code Ann. § 67-1-1438. Suits challenging an assessment or disputing the Dept's denial of a refund claim are heard by the Chancery Court of Davidson County or the Chancery Court of the county where taxpayer has its principal place of business. Tenn. Code Ann. §§ 67-1-1801 to 67-1-1807.</td>
<td>To stay collection of an assessment, a bond or letter of credit in the amount of 150% of the assessment must be filed when suit is filed to contest an assessment. Tenn. Code Ann. § 67-1-1802(a)(1)(A).</td>
<td>Equal. 3 years for both. Assessment — Tenn. Code Ann. § 67-1-1501(b). Refund — Tenn. Code Ann. § 67-1-1502(a)(1)(A).</td>
<td>Equal. Interest rate is published in Tenn. Admin. Register. and is equally applied for underpayment (Tenn. Code Ann. § 67-1-801(a)) and overpayment (Tenn. Code Ann. § 67-1-801(b)). When determined by amendment review that a person is entitled to a refund or credit of tax collected by the commissioner, interest is added to the amount of refund or credit due, beginning 45 days from the date the commissioner receives proper proof to verify that the refund or credit is due and payable. 67-1-801(b)(1).</td>
<td>A taxpayer has 30 days after the date of the notice of proposed assessment to request an informal conference. Tenn. Code Ann. § 67-1-1438(b). A taxpayer has 90 days after the date the assessment becomes final to file suit to contest the assessment. Tenn. Code Ann. § 67-1-1801(b)(1).</td>
<td>Original. Same as federal — 15th day of the notice of proposed assessment to request a formal hearing. Tenn. Code Ann. § 67-4-2015(a). Extended: 6-month extension. Not Automatic: Taxpayer must file an extension form on or before the original due date unless no payment is required. Tenn. Code Ann. § 67-4-2015(b)(2).</td>
<td>Final determination is not defined in state law and it is not clear reporting is based on exhaustion of all appeals for a tax year. No specified period to report IRS changes (note, SOL remains open for two years after taxpayer notifies DOR of adjustment). TN Code Ann. § 67-1-150(b)(3). Scope limited to IRS changes: TP has 3 years to file refund, unclear how long DOR can assess (shall not expire prior to 2 years from filing report). Tenn. Code §§ 67-1-1802(a)(3) &amp; 67-1-1901(b)(3). DOR allows estimated payments. TN has not conformed to the new MTC model for reporting federal partnership adjustments.</td>
<td>The Commissioner has discretionary authority to issue letter rulings and revenue rulings. These are published with taxpayer information redacted to protect confidentiality. Tenn. Code Ann. § 67-1-109. The TN DOR's Hearing Office does not issue its determinations, but instead summarizes selected final conference letters in an annual report.</td>
<td>No general state income tax on earned income and therefore no withholding requirements. Tenn. Dept. of Rev. — General Tax Help: What is Tennessee's Withholding Requirement?</td>
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<td>Corporate return due date and extensions</td>
<td>Reporting Federal corporate tax changes</td>
<td>Transparency in tax guidance and rulings</td>
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<td>UT</td>
<td>Yes. The four-member State Tax Commission conducts de novo initial (informal) and formal hearings. Utah Code Ann. §§ 59-1-501 to -504. Appeals from formal hearings of the State Tax Commission go to the district court for a trial de novo. Utah Code Ann. § 59-1-601. Commissioners are appointed by the Governor with consent of the Senate. No experience is required, but the Governor must request and consider lists of qualified candidates prior to appointment. Utah Code Ann. § 59-1-201.</td>
<td>Partial. Prepayment or posting a bond is not required for State Tax Commission hearings. Taxpayers seeking judicial review must post security with the commissioner. However, the commission “shall waive” the security requirements if the taxpayer has sufficient financial resources or collection is not jeopardized. The commission may not unreasonably deny a waiver, and its decision is subject to judicial review. Utah Code Ann. § 59-1-611.</td>
<td>Equal. 3 years for both. Assessment – Utah Code Ann. §§ 59-7-191(a); 59-1-1410. Refund – Utah Code Ann. §§ 59-7-522(a); 59-7-1411.</td>
<td>Equal. Federal short-term rate plus 2%. Underpayment – Utah Code Ann. §§ 59-7-510, 59-1-402(3) (d). Overpayment – Utah Code Ann. §§ 59-7-533, 59-1-402(3) (d).</td>
<td>30 days from date of mailing to file a petition. Supplemental information allowed later. Utah Code Ann. §§ 59-7-501; 59-1-504.</td>
<td>Find determination is not defined in state law and it is not clear reporting is based on exhaustion of all appeals for a tax year. Utah Code Ann. § 59-7-505(2). Extended: 6 months. Form TC-20 instructions: Utah Code Ann. § 59-7-505(3). Automatic Extension: Yes. No application is required.</td>
<td>Find determination is not defined in state law and it is not clear reporting is based on exhaustion of all appeals for a tax year. Utah Code Ann. § 59-7-505(2). Extended: 6 months. Form TC-20 instructions: Utah Code Ann. § 59-7-505(3). Automatic Extension: Yes. No application is required.</td>
<td>Utah private letter rulings are published on the UT State Tax Commission (STC) website with taxpayer information redacted. STC decisions are published on its website with taxpayer information redacted.</td>
<td>Employers doing business in the state for 60 days or less in a calendar year and have Tax Commission approval may be exempt from Utah withholding requirements. The Tax Commission may extend the exemption for 30 days. Utah Tax. Employees are subject to liability for personal income taxes on all Utah wages. Publication 14-Withholding Tax Guide (Rev. 10/18).</td>
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<td>WA</td>
<td>Yes. The Dept of Revenue is not foreclosed from collecting tax, though payment of tax is not a jurisdictional requirement in the BTA; taxpayers may request a stay of collection from the DOR and post a bond. Payment is a jurisdictional requirement for appeals both directly to the superior court and from BTA decisions. RCW 82.32.180.</td>
<td>Equal. 4 years for both. Assessment – Wash. Rev. Code §§ 82.32.030(1), 82.32.100(3). Refund – Wash. Rev. Code § 82.32.060(1).</td>
<td>Equal. Federal short-term plus 2%. Underpayment – Wash. Rev. Code § 82.32.030(1). Overpayment – Wash. Rev. Code §§ 82.32.060(1), 82.32.060(3)(b), 82.32.060(2).</td>
<td>30 days after issuance of notice for excise taxes (includes sales/ use and B&amp;O taxes). Wash. Rev. Code § 82.03.190.</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>The WA DOR issues binding written guidance. The DOR does not publish its Tax Rulings (considered confidential tax information). Board of Tax Appeals decisions are published to its website. The DOR’s Administrative Review and Hearings Division applies certain criteria in deciding whether to publish opinions (e.g., addresses a novel area of law, a novel application of facts, or overrules a previous position). Approximately one-quarter of such decisions are currently being published. The Legislature has repeatedly passed retroactive legislation expressly intended to reverse state high court decisions. See Dot Foods v. Dept of Revenue (2016) and In re Estate of Hambleton v. Washington (2014). The DOR asserts it is not bound by: 1) informal decisions of BFA for other taxpayers or the same taxpayer for different tax years; 2) letter rulings for other taxpayers; 3) unpublished Dept determinations for other taxpayers; 3) industry guidelines posted on its website; and 4) regulations.</td>
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When a nonresident employee works only a short period of time within Wisconsin it is reasonably expected that the total wages of such nonresident employee for services rendered in WV will not exceed his personal exemption, employers need not withhold during the wages exceed his personal exemption. W.S. Code 51. R. § 110-21-714.2, 2. WV participates in the federal Treasury Offset Program’s State Reciprocal Program (SRP) without ensuring effective or adequate safeguards. Wisconsin Tax Appeals Commission decisions are published on the Wisconsin State Bar website. The Tax Commissioner can issue technical assistance advisories, upon request, at his or her discretion. W. Va. Code §11-10-5r. The technical assistance advisories are available on the WV State Tax Department’s website and are modified or redacted to not disclose the taxpayer’s identity. However, only 4 have been published since 2006: 1 in 2010, 2011, 2013, and 2019, respectively. Office of Tax Appeals decisions (redacted) are available on the OTA website. 

Nonresident employ-ees who earn in-state wages of $1,500 or more in a calendar year are subject to liability and withholding. Wis. Stat. § 71.64(6); Dept. of Rev., Pub. W-166 (Feb. 2019). WV participates in the federal Treasury Offset Program’s State Reciprocal Program but follows effective safeguards. 2013 Wis. Act 20 retroactively reduced interest rate for over-payments on most taxes from 9% to 3%, effective for refunds paid after date of enactment, regardless of year refund applied. §§ 1440e; 9337(4). Wis. Stat. 71.62 (1)(b).
<table>
<thead>
<tr>
<th>State</th>
<th>Independent tax dispute forum?</th>
<th>Pay-to-Play requirement?</th>
<th>Even-handed statutes of limitations?</th>
<th>Even-handed interest rates?</th>
<th>Number of days to protest an assessment</th>
<th>Corporate return due date and extensions</th>
<th>Reporting Federal corporate tax changes</th>
<th>Transparency in tax guidance and rulings</th>
<th>Other fairness issues</th>
</tr>
</thead>
<tbody>
<tr>
<td>WY</td>
<td>The Wyoming State Board of Equalization consists of three members appointed by the Governor and hears appeals of final decisions of the Department of Revenue. The Board may contract with an attorney licensed in the state of Wyoming to perform the functions of a presiding officer, provided the attorney is knowledgeable of and qualified in the particular areas of taxation which are the subject of the appeal. Wyo. Stat. Ann. §§ 39-11-102.1, 39-11-109.</td>
<td>Partial. Prepayment or bond is not required for an appeal to the Board of Equalization. However, taxpayers must prepay or obtain a stay order to appeal to the District Court. Wyoming Board of Equalization, Ch. 2, Sections 5 and 35.</td>
<td>Equal. 3 years for both. Assessment – Wyo. Stat. Ann. § 39-15-110(b). Refund – Wyo. Stat. Ann. § 39-15-110(a).</td>
<td>Unequal. Underpayment – Average prime rate (by formula) plus 4%. Overpayment – Average prime rate, only if escrowed for taxes paid under protest on appeal. See generally Wyo. Stat. Ann. § 39-11-109(1)(c).</td>
<td>30 days from the date of the final administrative decision at issue or of the date of mailing of the final administrative decision as evidenced by postmark, whichever is later. Wyo. Board of Equalization Rules, Chapter 2, Section 1.5.</td>
<td>N/A</td>
<td>N/A</td>
<td>The WY DOR issues letter rulings to taxpayers under its general administrative authority, but does not publish them, citing confidentiality statutes. The Wyoming State Board of Equalization publishes written opinions to its website.</td>
<td></td>
</tr>
</tbody>
</table>
The Council On State Taxation (COST) is a nonprofit trade association consisting of approximately 550 multistate corporations engaged in interstate and international business. COST’s objective is to preserve and promote equitable and nondiscriminatory state and local taxation of multijurisdictional business entities.