

The Best and Worst of State Tax Administration

COST Scorecard on Tax Appeals & Procedural Requirements

Douglas L. Lindholm
Fredrick J. Nicely

February 2010

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 on their adoption of procedural practices which impact the perceived fairness of the rules and requirements 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 legislatures 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 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:

- 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:

The Council On State Taxation (COST) is the premier state tax organization representing taxpayers. COST is a nonprofit trade association consisting of nearly 600 multistate corporations engaged in interstate and international business. COST's mission is to preserve and promote equitable and nondiscriminatory state and local taxation of multi-jurisdictional business entities.

© 2010 Council On State Taxation

122 C Street NW, Suite 330
Washington, DC 20001
Phone: 202.484.5222
www.cost.org

Douglas L. Lindholm is President and Executive Director of the Council On State Taxation (COST). Fredrick J. Nicely is COST's Tax Counsel. The authors would like to express their gratitude to Awo Archampong-Gray, recipient of the 2007 Georgetown University Law Center Fellowship at COST, and Sunday L. Vanderver, recipient of the 2008 Georgetown University Law Center Fellowship at COST, for their dedicated efforts in researching and compiling the survey used to develop this report.

- 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 30 days 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
- Any additional ineffective, burdensome or inequitable practices, such as contingent fee audits, duplicative local revenue departments, use of outside counsel to litigate cases, or retroactive statutes, penalties and/or interest.

Top & Bottom Ranked States

2010 Top-Ranked States		2010 Bottom-Ranked States	
State	Grade	State	Grade
Alaska	A	California	D-
Delaware	A-	Louisiana	D
Idaho	A-	Florida	D
Minnesota	A-	Rhode Island	D
Montana	A-	Alabama	D
Arizona	B+	Illinois	D
Mississippi	B+	New Mexico	D
Wyoming	B+	Pennsylvania	D

INTRODUCTION

This Scorecard is the fourth published effort by the Council On State Taxation (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 upon and updates the 2001, 2004 and 2007 versions¹ and sets the stage for important policy discussions in states where certain procedural practices either create inefficiencies for business and government, or focus on preservation of the fisc without regard to effective tax administration. As with previous versions, this year's Scorecard is designed to provide an objective counterpart to the periodic subjective surveys presented by *CFO Magazine* in May, 2009 and prior years². While the COST Scorecard evaluates each state's statutory and regulatory scheme against objective criteria, the *CFO Magazine* surveys asked corporate tax executives questions regarding their subjective views of the states' tax environments.

To properly gauge taxpayer responses to specific state administrative systems, the approach taken by COST (assessing objective criteria) and the approach taken by *CFO Magazine* (compiling subjective taxpayer responses), 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 incompetent administration and overzealous personnel operating 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 administrative officials.

The differences in the two approaches are reflected in the respective state rankings of the 2009 *CFO Magazine* survey and the COST Scorecard. In response to *CFO Magazine's* request for the "overall impression of the tax environment in each state," survey respondents ranked California, Massachusetts, New Jersey, New York and Michigan as "very unfair and unpredictable" and Wyoming, Nevada, Delaware, South Dakota and Utah as the most "fair and predictable." By contrast, of those states, only California was ranked by COST as among the worst five state tax administration regimes, while only two of COST's "best" states, Delaware and Wyoming, were included among *CFO Magazine's* five most fair and predictable.

The difficulty of evaluating subjective responses, of course, is that it is often impossible to discern *why* a specific response may be forthcoming. For example, the five most fair and predictable states in the CFO survey are relatively small states, and four of the five (save Utah) lack a broad-based state corporate income tax entirely. Such results suggest that a favorable response in the *CFO Magazine* survey may result from the absence of a negative experience with that state's tax administration, rather than satisfaction with elements of the status quo. In addition, there is some indication that the subjective responses are also influenced by negative perceptions of that state generally. The COST survey notes that New York and New Jersey both have fair and effective independent tax tribunals, and indeed, there has been little call by taxpayers to reform the appeals systems in those states. However, the *CFO Magazine* survey, in assessing the independence of state tax appeals systems, notes that New York and New Jersey are perceived to be among the top five "least independent" states. This tainted response may be partially explained by the fact that of the twelve categories examined in the CFO survey, New York and New Jersey each ranked among the top five "worst" states in eleven of the twelve categories, and among the top ten worst in *every* category. The implication of this type of finding is that an effective fix may require more than statutory changes.

THE COST SCORECARD

The COST 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 also addressed in these two columns of the Scorecard: 3) whether the tribunal's judges are required to have experience 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. These four 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, with COST 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.

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 30 days 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
- Any additional ineffective, burdensome or inequitable practices, such as contingent fee audits, duplicative local revenue departments, use of outside counsel to litigate cases, or retroactive penalties and interest.

By focusing on objective criteria, the 2010 Scorecard gives states the opportunity to enact corrective legislation as a means of improving business climates. Indeed, since the publication of the 2007 COST Scorecard, several states have taken steps to improve their administrative and appeals processes. North Carolina and Texas, for example, have taken productive first steps towards improved tax dispute appeal forums, and Mississippi has moved upwards on the Scorecard as a result of favorable legislation impacting its appeals system and procedural issues.³ North Carolina’s changes have improved its overall grade from a D- in 2007 to a B- in the current survey. Mississippi has improved from a C state to a B+ state. It is our hope that publication of this Scorecard will spur policymakers towards additional improvements in the rules for tax administration and the independent appeal of tax matters in all states.

Grading the Survey

Point totals for the Scorecard are determined by assessing states 0 to 3 points for the two categories that evaluate state appeals systems, and 0 to 2 points for each procedural practice. Point totals for each category are increased based on the severity of the state’s deviation from COST’s recommendations for achieving a balanced, fair and effective tax system. Specific 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 was 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:

Overall Score

A	0 to 3 points
B	4 to 7 points
C	8 to 10 points
D	11 to 13 points
F	More than 13 points

Summary Results

The Summary Table on Page 4 ranks each state’s statutes and rules in the areas described above. Although much progress has been made over the last 25 years, 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 Table I on page 9.

BAROMETERS OF STATE TAX ADMINISTRATION

Fair, Efficient, Independent Appeals

Foremost in good tax administration is a fair and efficient tax appeals system. States with fair and efficient tax appeals 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 to 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 almost half of 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. Currently, almost two-

Table I

	Independent Dispute Forum	Pay- to- Play	Even- handed Statute of Lmtns.	Equal Interest Rates	Ample Protest Period	Return Due Date/ Automatic Extension	Filing of IRS Changes	Other Issues	Total Points	Overall Grade
AL	2	2	0	0	2	1	1	3	11	D
AK	0	1	0	0	0	0	1	0	2	A
AZ	0	1	0	0	1	0	2	0	4	B+
AR	3	2	1	0	0	2	2	0	10	C-
CA	3	2	1	2	1	1	0	3	13	D-
CO	3	2	0	1	1	0	1	2	10	C-
CT	1	0	0	2	0	2	2	0	7	B-
DE	1	0	0	0	0	1	1	0	3	A-
DC	1	1	0	2	1	2	1	0	8	C+
FL	3	2	0	1	0	2	2	2	12	D
GA	3	2	0	0	1	1	1	2	10	C-
HI	1	1	0	2	1	1	2	0	8	C+
ID	1	1	0	0	0	0	1	0	3	A-
IL	3	2	0	1	0	1	2	2	11	D
IN	0	1	0	1	1	0	1	2	6	B
IA	3	0	0	0	0	0	2	0	5	B
KS	0	1	2	1	0	0	1	2	7	B-
KY	1	1	1	0	1	0	1	1	6	B
LA	2	2	0	2	1	0	2	3	12	D
ME	1	0	1	1	1	0	2	0	6	B
MD	0	0	0	0	1	2	2	1	6	B
MA	0	0	1	2	0	2	1	0	6	B
MI	0	0	1	1	1	1	1	0	5	B
MN	0	0	0	0	0	1	1	1	3	A-
MS	0	1	0	0	0	1	2	0	4	B+
MO	1	0	0	1	1	0	1	2	6	B
MT	0	0	0	0	1	0	2	0	3	A-
NE	3	0	0	0	0	1	1	1	6	B
NV	3	2	0	2	1	n/a	n/a	0	8	C+
NH	0	0	1	2	0	1	0	1	5	B
NJ	0	0	0	2	0	1	1	1	5	B
NM	3	2	1	1	1	1	1	1	11	D
NY	0	1	0	2	0	2	2	1	8	C+
NC	1	1	0	0	1	1	1	2	7	B-
ND	3	0	1	1	1	0	1	0	7	B-
OH	0	0	0	0	0	2	1	2	5	B
OK	3	2	0	1	0	2	1	1	10	C-
OR	0	1	0	0	1	0	2	1	5	B
PA	3	1	1	2	0	1	2	1	11	D
RI	3	2	0	2	1	2	2	0	12	D
SC	1	1	0	2	0	1	1	0	6	B
SD	3	2	0	0	0	1	2	0	8	C+
TN	3	2	0	0	0	0	2	1	8	C+
TX	2	2	0	1	1	1	2	1	10	C-
UT	2	1	0	0	1	0	2	0	6	B
VT	3	1	0	0	0	2	2	0	8	C+
VA	3	2	0	0	0	0	0	0	5	B
WA	2	2	0	0	1	n/a	n/a	2	7	B-
WV	0	1	0	2	0	1	2	0	6	B
WI	0	0	0	2	2	1	1	2	8	C+
WY	0	1	0	2	1	n/a	n/a	0	4	B+

thirds of states offer this opportunity with a non-judicial forum at a minimum, often with both judicial and non-judicial review. 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, are less attractive to businesses and are more likely to see taxpayers avoiding potential problems with the state by engaging in structural tax planning to minimize potential liabilities in the state.

Trained Judges: Tax tribunal judges must be specifically trained as tax attorneys, 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 helps guide decision-makers 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: Finally, 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 trier of fact. 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 eliminated their full “pay-to-play” requirements several years ago, 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 ap-

peals 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 DOR.

- **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 most fair – in large part because taxpayers are not held hostage by the jurisdiction in possession of the taxpayer's funds.

Jeopardy Situations Justify Prepayment: We do not question the necessity of state jeopardy assessment and collection authority. If a state department of revenue feels that a particular tax assessment is in jeopardy based on the facts and circumstances before it, it should certainly issue a jeopardy assessment on that amount. In those circumstances states need the flexibility to move quickly and should do so as long as minimum due process protections are afforded. Such assessments are a legitimate means of protecting the state fisc. However, the jeopardy assessments should *only* be used in extreme circumstances and the burden of proving that the assessment is in jeopardy should fall upon 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 a number of fundamental components necessary to a fair, efficient, and customer-focused state tax system. The following are basic procedural elements that 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 one statute 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 en-

titled. 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 may also be 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, to allow state processing of the 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. 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 are working to comply with the laws of numerous jurisdictions.

Many states have increased the number of days to submit a protest as compared to prior studies. 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 30 days after the federal tax return due date, or the state’s extended due date should be at least 30 days 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 30 days beyond the extended federal due date is needed to complete these adjustments. To ease administrative burdens, an automatic state extension should only require attaching a copy of the extended federal return with the state return to qualify.

State Reporting Requirements for Federal Tax Changes: For a large multistate company and subsidiaries, an adjustment or charge to a prior federal return can trigger hundreds, if not thousands, of amended return requirements at the state level. Many states have inconsistent and unreasonable requirements for taxpayers attempting to report federal tax changes from prior years to the states. Such circumstances may arise upon the final resolution of a legal dispute on the federal return or upon conclusion of a multiple-year federal

audit that impacts state returns, usually after state statutes of limitation have expired. Because businesses typically operate in multiple jurisdictions, great confusion arises over when notice of a federal change must be filed with a state (final determination), and how it is to be filed (specialized forms are often hard to obtain or difficult to complete). In many states, the time period allowed to file the numerous reports required to reflect a federal change is also far too short.

To address these concerns, it is important that states clearly define, by regulation or statute, what constitutes a “final determination” that will trigger a taxpayer’s requirement to report the change to affected states. Taxpayer should be provided at least six months (or 180 days) to file an amended return or worksheet to the state to notify it of the changes. Finally, if the normal statute of limitations for the issuance of a tax assessment has expired, the only tax issues subject to adjustment when a taxpayer reports a federal tax change should be the federal tax changes. The statute of limitations should not be reopened for issues beyond the scope of the federal tax changes. The following are essential elements of a state reporting procedure for changes made to a taxpayer’s federal income tax return:

- **Final Determination:** All states imposing a corporate income tax require a taxpayer to report changes in federal taxable income to the state. In the majority of states the requirement is triggered by when a “final determination” is made regarding the federal income tax return (*e.g.*, issuance of a Revenue Agent’s Report). However, some states have no such definition. Although the Multistate Tax Commission promulgated a model uniform statute for reporting federal tax adjustments in August, 2003, the states are not using a uniform definition as to when a federal tax change constitutes a “final determination” to be reported to the state.⁴ This is unfortunate because it unnecessarily creates compliance problems and wrongfully subjects taxpayers to concomitant penalties and interest for noncompliance. COST suggests the following “best practice” as a workable definition, primarily based on the statutory definition of “final determination” used by New Hampshire.

“A ‘final determination’ is deemed to occur when the latest of any of the following activities occurs with respect to a federal taxable year:

- (1) The taxpayer has made a payment of any additional income tax liability resulting from a federal audit, the taxpayer has not filed a petition for redetermination or claim for refund for the portions of the audit for which payment was made and the time in which to file such petition or claim has lapsed.
- (2) The taxpayer has received a refund from the U.S. Treasury that resulted from a federal audit.
- (3) The taxpayer has signed a federal Form 870-AD or other IRS form consenting to the deficiency or consenting any over-assessment.
- (4) The taxpayer’s time for filing a petition for redetermination with the U.S. Tax Court has expired.

- (5) The taxpayer and the IRS enter into a closing agreement.
- (6) A decision from the U.S. Tax Court, district court, court of appeals, Court of Claims, or Supreme Court becomes final.”
- **Time Period for Reporting:** Taxpayers face a variety of due dates with respect to reporting IRS adjustments, from 30 days to 2 years. COST recommends at least 180 days to report IRS adjustments to states, with the ideal time frame one year or greater. A minimum of 180 days (or six months) is required to allow multijurisdictional taxpayers adequate time to report federal tax changes to the state and local level. Presently, only ten states allow a reporting period of 180 days or more. Kudos to Ohio, Oklahoma and Virginia for allowing taxpayers one year to report such changes.
- **State Statutes Waived Only for Federal Tax Changes:** Some states allow every aspect of the state return to be open for adjustment following a change in federal income tax liability even though the state’s normal statute of limitations has expired. Other states have statutes that are not clear (and/or lack case law) to put the taxpayer on notice that only federal tax changes are open for audit when the state’s normal statute of limitations period has passed. When the normal time period for the state DOR to assess additional tax and a taxpayer to claim a refund has expired, only those items that are changed as a result of the federal income tax change should be open for adjustment (tax due and refund). This issue is reflected in the “other issues” category, discussed below.

Other Significant Procedural Issues

The 2010 Scorecard also 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. In previous editions of the Scorecard many of these issues were noted but not taken into account for scoring purposes. 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 outside paid counsel to litigate tax matters (sometimes fees for these counsels are directly charged to taxpayers); the imposition of statutes on a retroactive basis, and/or the imposition of retroactive penalty and interest provisions. States should guard against utilizing these and similar unfair and burdensome practices.

DETAILED SURVEY DATA

The table beginning on page 12 provides detailed survey data for each state. At least one practitioner from each state and the revenue department (DOR) of each state were asked to review and offer corrections to the data. 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 DOR 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 the responses by in-state practitioners with the responses by the DOR; 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 even-handed statute of limitations for refunds and assessments?
2. Are the interest rates on assessments and refunds the same?
3. Does a taxpayer have at least 60 days to appeal an assessment?
4. For state taxes based on the taxpayer’s federal corporate income tax return, is the state return due at least 30 days after the federal tax return date?
5. Does a taxpayer automatically obtain an extension on filing its state tax return if the taxpayer has obtained a federal extension?
6. Does the state have an independent appeal forum dedicated to handling tax disputes (includes an administrative law judge if the ALJ’s decision cannot be overriden by the revenue department)?
7. Excluding jeopardy assessments, is prepayment or posting of a bond required to have an independent appeal forum hearing?
8. What constitutes a “final determination” when a taxpayer has to report a change to its federal tax liability to the state?
9. Do non-federal tax changes, such as a change of liability reported to another state, also have to be reported (e.g., another state changes the taxpayer’s apportionment)?
10. When do changes in the taxpayer’s federal tax liability have to be reported to the state, and can a taxpayer obtain an extension?
11. What type of return/form is required to report a change in a taxpayer’s federal tax liability to the state?
12. If the normal statute of limitations is closed for modifying the state tax return, is the revenue department limited to only making changes based on the federal tax changes?
13. What additional issues are impacting fair and efficient tax administration?⁵

COST Survey of Appeal Requirements & Administrative Practices

	Independent tax dispute forum?	Pay-to-Play (bond or prepayment requirement)?	Even-handed statutes of limitations (refunds and assessments)?	Equal interest rate applies to assessments and refunds?	Number of days to protest an assessment	Return due 30 days after Federal return & Automatic Extension?	Reporting Federal tax changes	Other issues
AL	No. While taxpayer can appeal to ALJ dedicated to handling tax disputes, ALJ is appointed by and is employee of the DOR. ALA. CODE §40-2A-7, 9. However, the ALJ's decision cannot be overridden by the DOR.	Yes. Payment (or posting of letter of credit or appeal bond) is required if the appeal is made directly to Circuit Court. ALA. CODE § 40-2A-7.	Yes. 3 years both <i>Assessment</i> ALA. CODE §40-2A-7(b)(2). <i>Refund</i> ALA. CODE §40-2A-7(c)(2).	Yes. Federal underpayment rate, equally applied. <i>Underpayment</i> ALA. CODE § 40-1-44(a) <i>Overpayment</i> ALA. CODE § 40-1-44(b).	30 days, no extension allowed. ALA. CODE §40-2A-7(b)(4).	No. State return is due 15 th day of 3 rd month following close of the taxable year. ALA. CODE §40-18-39. Yes. Extension up to six months is automatic and not dependent on federal extension. ALA. ADMIN. CODE reg 810-3-39.02	No definition of final determination. IRS changes must be reported on an amended return, ALA. CODE § 40-2A-7(b). No statutory time period for filing return to report federal change, but AL DOR can impose 5% negligence penalty for failing to comply. ALA. ADMIN. CODE reg 810-3-20.01.	1) Independent local revenue depts. create disconformities and complex interpretive and compliance burdens for sales and use tax filers 2) DOR makes extensive use of outside counsel to challenge pending refund claims. 3) Local jsdms hire private auditing firms, creating disconformities in application of local levies.
AK	Yes. Taxpayer may appeal to the Office of Administrative Hearings within the Department of Administration ALASKA STAT. § 43.05.405.	No. Tax is not required to be paid to appeal to the Office of Admin. Hearings. It must be paid, or a bond posted, to appeal to Superior Court. ALASKA STAT. § 43.05.480	Yes. 3 years both <i>Assessment</i> ALASKA STAT. § 43.05.260(a). <i>Refund</i> ALASKA STAT. §43.05.275(a) (1)(A).	Yes. Greater of Fed. Reserve Rate plus 5%, or 11%, equally applied. <i>Underpayment</i> ALASKA STAT. § 43.05.225(1) <i>Overpayment</i> ALASKA STAT. §43.05.280(a), §43.05.225(1).	60 Days to appeal an assessment to the Department's internal appeal officer in an informal conference process. ALASKA STAT. §43.05.240 (a).	Yes. Taxpayer permitted to file return within 30 days after federal return is due. ALASKA STAT. § 43.20.030(a). Yes. Automatic 6-month extension if no tax is due. Form 0405-611.	Final determination is defined. ALASKA STAT. § 43.20.030(d). IRS changes must be reported in writing within 60 days. ALASKA STAT. § 43.20.030(d).	
AZ	Yes. Decisions of the Arizona Board of Tax Appeals cannot be overridden by DOR. ARIZ. REV. STAT. ANN. §§ 42-1252, 42-1253.	No. Generally, only those amounts not protested must be paid. ARIZ. REV. STAT. ANN. § 42-1251(A). Yes, for sales taxes. Payment must be made to appeal to Arizona Tax Court. ARIZ. REV. STAT. ANN. §42-5034.01.	Yes. 4 years both <i>Assessment</i> ARIZ. REV. STAT. ANN. §42-1104(A). <i>Refund</i> ARIZ. REV. STAT. ANN. §42.1106(A) and 42-1104(A).	Yes. Fed. short term rate plus 3%, equally applied. ARIZ REV STAT. ANN. §42-1123(A).	90 days from date of mailing for income tax protests; 45 days from receipt of notice to taxpayer for all other tax protests. ARIZ. REV. STAT. ANN. §42-1108(B)	Yes. Return is due 15 th day of 4 th month after the end of the calendar or fiscal year. ARIZ. REV. STAT. ANN. §43-325. Yes. Extension is automatic if 90% of the tax is paid at the time of the grant of federal extension. ARIZ. REV. STAT. ANN. § 42-1107(B).	Final determination is defined, ARIZ. REV. STATE. ANN. § 43-327(C). 90 days to either file a copy of the final determination or file an amended return. ARIZ. REV. STATE. ANN. § 43-327(A).	

COST Survey of Appeal Requirements & Administrative Practices (Continued)

	Independent tax dispute forum?	Pay-to-Play (bond or prepayment requirement)?	Even-handed statutes of limitations (refunds and assessments)?	Equal interest rate applies to assessments and refunds?	Number of days to protest an assessment	Return due 30 days after Federal return & Automatic Extension?	Reporting Federal tax changes	Other issues
AR	No. Hearing Officer is appointed by the Director of Finance and Administration ARK. CODE ANN. §26-18-405.	Yes. The taxpayer may 1) pay all or a portion of the assessment; the tax agency may pursue collection activities on unpaid amounts, or 2) file bond (2X amt. of deficiency) to secure payment of tax. ARK. CODE ANN. §§ 26-18-406(a)(1)(A); 26-18-406(a)(2)(A).	Yes. 3 years both. <i>Assessment</i> ARK. CODE ANN. §26-18-306(a). <i>Refund</i> <i>Id.</i> § 26-18-306(i). Uneven statute of limitations following change in federal taxable income – must file amended return post-statute within 90 days or refund is barred. ARK. CODE ANN. § 26-18-306(b).	Yes. 10%, equally applied. <i>Underpayment</i> ARK. CODE ANN. § 26-18-508(1) <i>Overpayment</i> <i>Id.</i> § 26-18-508 (3).	60 days. ARK. CODE ANN. §26-18-404(c)(1).	No. Return is due on March 15 th for calendar year taxpayers, ARK. CODE ANN. § 26-51-806 (a)(3). No. Extension up to 60 days beyond the federal extension may be granted upon written request; <i>Id.</i> § 26-51-807(a).	No definition of final determination. IRS changes must be reported within 90 days on an amended return, ARK. CODE ANN. § 26-8(b)(1).	
CA	No. The State Board of Equalization hears appeals on corporate income & franchise taxes (administered by the Franchise Tax Board), and sales/use taxes (administered by the SBE). The SBE and FTB have overlapping board members. CAL. REV. & TAX. CODE § 19045, <i>et seq.</i> SBE members are elected; no tax expertise is required.	Not before SBE hearing. However, a taxpayer must pay tax & file refund claim for <i>de novo</i> review at Superior Court. CAL. REV. & TAX. CODE § 19382. Currently, CA takes the position that “tax” includes accrued interest. CAL. REV. & TAX. CODE § 1901(c)(1); <i>Robt, Inc. v. Franchise Tax Board</i> , San Diego Sup. Ct. Case No. 37- 2007-00070925-CU-CO-CTL, filed Sept. 7, 2007.	Yes. 4 years both <i>Assessment</i> CAL. REV. & TAX. CODE §19057(a), 19067(a), 19065. <i>Refund</i> CAL. REV. & TAX. CODE §19306(a), 19308. Uneven statute of limitations following change in federal taxable income. 4 years for assessment, 2 years for refund. CAL. REV. & TAX. CODE § 19060.	No. <i>Underpayment</i> Federal underpayment from I.R.C. § 6621(a)(2) applies. CAL. REV. & TAX. CODE §§ 19101(a) & 19521(a). <i>Overpayment</i> rate is modified to lesser of 5% or bond equivalent rate of 13-week treasury bills. CAL. REV. & TAX. CODE § 19521(a)(1) (A), (B), (C).	30/60 days. 60 days for income/franchise tax. CAL. REV. & TAX. CODE §§ 19041(a); 19042. 30 days to appeal sales/use tax assessment. CAL. REV. & TAX. CODE § 6561.	No. State return is due 15 th day of 3 rd month after close of taxable year. CAL. REV. & TAX. CODE § 18601. Yes. Taxpayer may file on or before the 15 th day of the 10 th month of the close of the taxable year without filing a written request. <i>Id.</i> §18604; 2008 CA Instructions for Form 100.	Final determination is defined, CAL. CODE REGS. tit. 18 § 19059(c). IRS changes must be reported within 6 months. CAL. REV. & TAX. CODE § 18622(a).	1) Retroactive enactment of 20% underpayment penalty and 50% interest post-amnesty penalty. CAL. REV. & TAX. CODE §§ 19138 & 19777.5. 2) DOR may make non-IRS adjustments post general statute to assess based on federal waiver; CAL. REV. & TAX. CODE §19065. 3) Local jurisdictions hire contingent fee attorneys for tax assessment cases.

Continues

COST Survey of Appeal Requirements & Administrative Practices (Continued)

	Independent tax dispute forum?	Pay-to-Play (bond or prepayment requirement)?	Even-handed statutes of limitations (refunds and assessments)?	Equal interest rate applies to assessments and refunds?	Number of days to protest an assessment	Return due 30 days after Federal return & Automatic Extension?	Reporting Federal tax changes	Other issues
CO	No. COLO. REV. STAT. §§ 39-21-103 to 39-21-105. Taxpayer may appeal the tax decision to the district court where the taxpayer resides.	Yes. Within 15 days of filing suit in District Court, taxpayer must pay disputed amount or post bond for 2x disputed amount. COLO. REV. STAT. § 39-21-105 (4).	Yes. <i>Assessment</i> Corporate 4 years COLO. REV. STAT. § 39-21-107(2). All other taxes 3 years COLO. REV. STAT. § 39-21-107(1). <i>Refund</i> Corporate 4 years COLO. REV. STAT. § 39-21-108(1). All other taxes 3 years COLO. REV. STAT. § 39-21-108(1).	No. <i>Underpayment</i> Prime rate plus 3%. Discount of 3% if paid within 30 days. <i>Overpayment</i> . Prime rate for refunds over \$5,000 or more than 10% of net liability. All others, prime rate plus 3%. COLO. REV. STAT. § 39-21-109 / § 39-21-110.5	30 days. COLO. REV. STAT. § 39-21-105(1).	Yes. 15 th day of the 4 th month following the close of the taxable year. CO Form 112 Instructions. Yes. 6-month extension is automatic. COLO. REV. STAT. § 39-21-108(1); CO Form 112 Instructions.	Final determination is defined, COLO. REV. STAT. § 39-22-601(6)(b)(I)-(V). IRS changes must be reported within 30 days on an amended return. COLO. REV. STAT. § 39-22-601(6)(a);	1) Local sales tax administration creates onerous interpretive and compliance burdens (including use of outside attorneys to prosecute tax cases). 2) Federal waiver extends period for DOR to conduct complete audit. COLO. REV. STAT. § 39-21-107.
CT	Yes. Appeals from final decisions of the DOR are <i>de novo</i> to the tax division of the Superior Court. CONN. GEN. STAT. § 12-39l. Judges have no requirement of tax expertise.	No. CONN. GEN. STAT. § 12-39m.	Yes. 3 years both CONN. GEN. STAT. §§ 12-225, 12-226 and 12-233 for business tax. CONN. GEN. STAT. §§ 12-415 and 12-425 for sales/use tax.	No. <i>Underpayment</i> 1% per month, CONN. GEN. STAT. § 12-235. <i>Overpayment</i> .66% per month CONN. GEN. STAT. § 12-227. No interest paid on sales and use tax refunds.	60 days. CONN. GEN. STAT. § 12-418(1)(A) for sales & use tax; 60 days. CONN. GEN. STAT. § 12-226(a)(1).	No. First day of the month next succeeding the due date of the corporations corresponding federal tax return. CONN. GEN. STAT. § 12-222(b). No automatic extension for corporation business tax.	No definition of final determination. IRS and non-IRS changes must be reported within 90 days on an amended return. CONN. GEN. STAT. §§ 12-727(b), 12-226(a)(1).	
DE	Yes. The Delaware Tax Appeal Board. DEL. CODE ANN. tit. 30 § 544, see also DEL. CODE ANN. tit. 30 § 321 <i>et seq.</i> However, bank tax disputes are tried before the State Bank Commissioner. DEL. CODE ANN. tit. 5 § 1103.	No. DEL. CODE ANN. tit. 30 § 544.	Yes. 3 years both <i>Assessment</i> DEL. CODE ANN. tit. 30 § 531. <i>Refund</i> 30 DEL. CODE ANN. tit. 30 § 539.	Yes. 0.5% per month, equally applied. <i>Underpayment</i> DEL. CODE ANN. tit. 30 § 533(a). <i>Overpayment</i> DEL. CODE ANN. tit. 30 § 540(a).	60 days. DEL. CODE ANN. tit. 30 § 523. (30 days for withholding taxes.)	No. 1 st day of 4th month following close of the taxable year. DEL. CODE ANN. tit. 30 § 1904(b) Yes. Automatic 6-month extension. DEL. CODE ANN. tit. 30 § 511.	No definition of final determination. IRS changes must be reported within 90 days on an amended return. 30 DEL. CODE § 514.	

COST Survey of Appeal Requirements & Administrative Practices (Continued)

	Independent tax dispute forum?	Pay-to-Play (bond or prepayment requirement)?	Even-handed statutes of limitations (refunds and assessments)?	Equal interest rate applies to assessments and refunds?	Number of days to protest an assessment	Return due 30 days after Federal return & Automatic Extension?	Reporting Federal tax changes	Other issues
DC	Yes. New Office of Admin. Hearings (hears both tax and non-tax cases). D.C. Code § 2-183, et seq. ALJs have no tax expertise requirement.	No, if appeal is to Office of Admin. Hearings. D.C. Code § 47-3303; 47-4312. Yes, to appeal to Superior Court. D.C. Code § 47-4312(a)	Yes, 3 years both <i>Assessment</i> D.C. Code § 47-4301(a). <i>Refund</i> § 47-4304(a).	No. <i>Underpayment</i> 10% per year compounded daily. D.C. Code § 47-4201 <i>Overpayment</i> 6% per year, simple interest D.C. Code § 47-4202.	30 days. D.C. Code § 47-4312(a). However, the taxpayer may appeal an assessment to the DC Superior Ct. Tax division within 6 months after the date of assessment.	No. 15 th day of the third month following the close of the taxable year. D.C. Form D-20 Instructions. No. Must request an extension by filing Form FR-128.	No definition of final determination. IRS changes must be reported in writing within 90 days. D.C. Code § 47-4301(f).	
FL	No. Taxpayers have choice of appealing to Division of Administrative Hearings (DOR may override), or Circuit Court (of general jurisdiction). FLA. STAT. ANN. §§ 213.015, 213.21 & 213.731	No, for a formal administrative appeal, but yes for a judicial appeal. FLA. STAT. ANN. § 72.011(3). Payment/bond requirement for a judicial appeal can be waived at DOR's discretion. FLA. ADMIN. CODE ANN. § 72.01(3)(b)(2).	Yes. 3 years both <i>Assessment</i> FLA. STAT. ANN. §§ 220.705; 95.091 (3). <i>Refund</i> FLA. STAT. ANN. § 220.727/§215.26 (2).	Yes. Interest rate is prime rate + 4% not to exceed 12% equally applied. <i>Underpayment</i> FLA. STAT. ANN. §§ 220.809 & 220.807 <i>Overpayment</i> FLA. STAT. ANN. §§ 220.723 & 220.807 213.255. Interest on overpayment is based on date of refund claim, not date tax is paid. Fla. Stat. Ann. § 220.723.	60 days. FLA. STAT. ANN. § 220.717(1).	No. First day of 4 th month following close of taxable year. FLA. STAT. ANN. § 220.222(1). No. Extension, granted only if taxpayer files Form F-7004. FLA. ADMIN. CODE ANN. 12C-1.0222; FLA. STAT ANN. § 220.23.	No definition of final determination. IRS changes must be reported within 60 days. FLA. STAT. ANN. § 220.23.	1) Direct appeals from Administrative Hearing Division are limited to prior record. 2) ALJ can "fast-track" the final hearing on 14 days notice.
GA	No. Alternate appeal routes, either to the Superior Court GA. CODE ANN § 48-2-59, or to Office of State Admin. Hearings before ALJ independent of the DOR. The Commissioner can override ALJ decision. GA. CODE ANN. § 48-2-59.	No, for formal administrative appeal. GA. CODE ANN § 50-13-12. Yes, for judicial appeal to Superior Court. GA. CODE ANN § 48-2-59(c).	Yes. 3 years both <i>Assessment</i> GA. CODE ANN. § 48-2-49(b), GA. CODE ANN. <i>Refund</i> § 48-2-35(c)(1)(A).	Yes. 1% per month, equally applied <i>Underpayment</i> GA. CODE ANN §§ 48-2-48 & 48-2-40 <i>Overpayment</i> GA. CODE ANN. § 48-2-35(a).	30 days. GA. CODE ANN. § 48-2-45.	No. 15 th day of the third month following the close of the taxable year. GA. CODE ANN § 48-7-56(a); Yes. Automatic 6-month extension; A. CODE ANN § 48-7-57(d) and GA. Comp. R. & Regs. 560-7.08.	No definition of final determination. IRS and non-IRS changes must be reported within 180 days on an amended return. Ga. Code Ann. 48-7-82(e)(1).	1) New 20% penalty on "frivolous" sales tax refund claims and requirement to post bond for expedited refund. 2) No interest paid on refunds if taxpayer fails to claim tax credits on return. GA. CODE ANN § 48-2-35(b).

Continues

COST Survey of Appeal Requirements & Administrative Practices (Continued)

	Independent tax dispute forum?	Pay-to-Play (bond or prepayment requirement)?	Even-handed statutes of limitations (refunds and assessments)?	Equal interest rate applies to assessments and refunds?	Number of days to protest an assessment	Return due 30 days after Federal return & Automatic Extension?	Reporting Federal tax changes	Other issues
HI	Yes. Taxpayer may appeal to district Board of Review. HAW. REV. STAT. § 235-114; 237-42; 238-8. Yes, for Tax Appeal Court.	No, for appeal to Board of Review. HAW. REV. STAT. § 235-114; 237-42; 238-8. Yes, for Tax Appeal Court.	Yes. 3 years both <i>Assessment</i> HAW. REV. STAT. §235-111(a); 237-40(a); 238-7. <i>Refund</i> HAW. REV. STAT. § 235-111(b); 237-40(d); 238-7.	No. <i>Overpayment</i> . 66% per month. HAW. REV. STAT. § 231-23(d)(1). <i>Underpayment</i> .33% per month. 2009 Hawaii Laws Act 40 (S.B. 1327).	30 days. HAW. REV. STAT. § 235-114.	Yes. Return is due the 20 th day of the 4 th month following close of fiscal year. Hawaii Form N-30 Instructions. No. Must file Form N-301 for 6-mo. extension	No definition of final determination. IRS and non-IRS changes must be reported within 90 days on an amended return. HAW. REV. STAT. § 235-101(b).	
ID	Yes. IDAHO CODE ANN. §§ 63-3801 to 63-3820. Idaho Tax Commission members are appointed by the Governor; no tax expertise is required.	Yes. 20% of the amount asserted to appeal to District Court. IDAHO CODE ANN. §63-3049	Yes. 3 years for both. <i>Assessment</i> IDAHO CODE ANN. §63-3068(a); Sales Tax 63-3633(a). <i>Refund</i> IDAHO CODE ANN. § 63-3072(b); Sales Tax §63-3626(b).	Yes. Federal Mid-Term Rate plus 2%, equally applied <i>Underpayment</i> IDAHO CODE ANN. § 63-3045(6)(c) <i>Overpayment</i> IDAHO CODE ANN. § 63-3073 / § 63-3045(6)(c).	63 days. IDAHO CODE ANN. §63-3045(1)(a).	Yes. 15 th day of the 4 th month following the close of the fiscal year. IDAHO CODE ANN. §63-3032 and 63-3085 Yes. Automatic 6-month extension, IDAHO CODE ANN. § 63-3033.	IRS and non-IRS changes must be reported within 60 days, per DOR rule. Statute requires immediate filing. IDAHO CODE ANN. § 63-3069(2).	
IL	No. 35 ILL. COMP. STAT. §§ 5/908 through 5/918, & § 5/1201	Yes, to bypass administrative hearing and reach Circuit Court for <i>de novo</i> review. 35 ILL. COMP. STAT. § 5/3-102, -103	Yes. 3 years for both. <i>Assessment</i> ILL. COMP. STAT. §5/905(1). <i>Refund</i> §5/911(1).	Yes. Fed. Underpayment Rate, adjusted semiannually, equally applied. <i>Underpayment</i> 35 ILL. COMP. STAT. §§ 5/1003(a) & 735/3-2. <i>Overpayment</i> 35 ILL. COMP. STAT. §§ 5/909(c) & 735/3-2.	60 days. 35 ILL. COMP. STAT. § 5/908(a).	Yes. Extended state due date is one month beyond federal extended due date. 35 ILL. COMP. STAT. §§ 5/505(1); 5/505(a)(i) Yes. Automatic 6-month extension plus 1 additional month, 35 ILL. COMP. STAT. §5/505 (L).	No definition of final determination. 120 days to file amended form, Illinois Income Tax Act § 506(b). Must file even if no tax change.	1) Illinois has a cumbersome admin. hearings process. Taxpayers are subject to discovery and rules of evidence do not apply; appeal is on-the-record. 2) Eligible tax liabilities not satisfied during the amnesty period are subject to interest 200% of normal rate. 35 ILL. COMP. STAT. §735/3-2(f).

COST Survey of Appeal Requirements & Administrative Practices (Continued)

	Independent tax dispute forum?	Pay-to-Play (bond or prepayment requirement)?	Even-handed statutes of limitations (refunds and assessments)?	Equal interest rate applies to assessments and refunds?	Number of days to protest an assessment	Return due 30 days after Federal return & Automatic Extension?	Reporting Federal tax changes	Other issues
IN	Yes. Appeals from adverse findings at the DOR's informal conference may be brought before the Indiana Tax Court <i>de novo</i> . See IND. CODE § 6-8.1-5-1(g) and (h); § 6-8.1-9-1(c) and (d).	Yes; before reaching the Tax Court the taxpayer must petition to enjoin collection of the tax. IND. CODE ANN. § 33-26-6-2.	Yes. 3 years for both. <i>Assessment</i> IND. CODE ANN. § 6-8.1-5-2(a). <i>Refund</i> IND. CODE § 6-8.1-9-1(a)(1).	Yes. Average state investment yield plus 2%. <i>Underpayment</i> IND. CODE ANN. § 6-8.1-10-1(c) <i>Overpayment</i> IND. CODE ANN. §§ 6-8.1-9-2(c); 6-8.1-10-1(c). Interest on refunds paid from date of refund claim, not date of overpayment. id.	45 days. IND. CODE ANN. § 6-8.1-5-1(d).	Yes. 15th day of fourth month following the close of the tax year. IND. CODE ANN. § 6-3-4-3 Yes. Automatic 6-month extension, IND. CODE ANN. § 6-8.1-6-1(c).	No substantive definition of final determination. IRS changes must be reported within 120 days on an amended return. IND. CODE § 6-3-4-6.	1) DOR may make non-IRS adjustments to offset refund. IND. CODE § 6-3-4-6(c). 2) Retroactive law change to delay refunds to pass-through entities. (<i>Riverboat Dev.</i> , 881 N.E.2d 107), IND. CODE ANN. § 6-8.1-9-2.
IA	No. Although an ALJ of the Department of Inspections and Appeals conducts evid. hearings, DOR can retain jurisdiction and override. Iowa ADMIN. CODE r.701-7.50(17A).	No. Iowa Code § 17A.19 and § 421.1; 422.28; 423.47	Yes. 3 years for both. <i>Assessment</i> Iowa Code § 422.39, 422.25, 423.37. <i>Refund</i> Iowa Code § 423.37 and 423.47.	Yes. Average Prime Rate plus 2%, equally applied <i>Underpayment</i> Iowa Code §§ 422.39; 422.24; 421.7 and 423.40(1). <i>Overpayment</i> 421.7; 422.28; 422.41; 422.39; 422.25(3) and 421.60(2)(e).	60 days. Iowa Code § 422.28, 422.41 and Iowa ADMIN. CODE r. 701-55.5.	Yes. Last day of the 4 th month following the close of the taxable year. IOWA CODE § 422.21. Yes. Automatic extension, Form IA 1120 instructions.	No definition of final determination. IRS changes must be reported "as soon as possible"; IOWA CODE § 421.27(2)(b).	
KS	Yes. Court of Tax Appeals (COTA). KAN. STAT. ANN. § 74-2433.	No, for appeals to COTA. However, a 125% bond is required when appealing to Court of Appeals. KAN. STAT. ANN. § 74-2426(d).	No, only 1-year allowed for sales tax refunds, KAN. STAT. ANN. § 79-3609(b). 3 years for assessments and refunds of other taxes. <i>Assessment</i> KAN. STAT. ANN. § 79-3230(a). <i>Refund</i> KAN. STAT. ANN. § 79-3230(c).	Yes, Federal underpayment rate plus 1%. <i>Underpayment</i> KAN. STAT. ANN. §§ 79-3228(a) & 79-2968 <i>Overpayment</i> KAN. STAT. ANN. §§ 79-32,105(c) & 79-2968. Interest on refunds paid from date of refund claim, not date of overpayment. id.	60 days. KAN. STAT. ANN. § 79-3226(a).	Yes. 15 th day of the 4 th month following the close of the taxable year. Form K-120 instructions. Yes. Automatic 6-month extension; Form K-120 instructions.	No definition of final determination. IRS and non-IRS changes must be reported within 180 days on an amended return; KAN. STAT. ANN. § 79-3230(f).	1) 10% reduction of tax credits for two-years, H.B. 2365. 2) DOR may make non-IRS adjustments post general statute to assess. See <i>In re Lee Apparel Co.</i> , 40 P. 3d 974.

Continues

COST Survey of Appeal Requirements & Administrative Practices (Continued)

	Independent tax dispute forum?	Pay-to-Play (bond or prepayment requirement)?	Even-handed statutes of limitations (refunds and assessments)?	Equal interest rate applies to assessments and refunds?	Number of days to protest an assessment	Return due 30 days after federal return & Automatic Extension?	Reporting Federal tax changes	Other issues
KY	Yes. Kentucky Board of Tax Appeals. Members are appointed by the Governor. No tax expertise required. Ky. REV. STAT. ANN. §§ 131.310 thru 131.370.	No, before KBTA. 103 KAR 1:010. Yes, bond required for appeal to Circuit Court. Ky. REV. STAT. ANN. §131.370.	Yes. 4 years for both. <i>Assessment</i> Ky. REV. STAT. ANN. §141.210(2). <i>Refund</i> Ky. REV. STAT. ANN. §134.580(4). Statute is shorter if challenge is Constitutional Ky. REV. STAT. ANN. § 134.590.	No. <i>Underpayment</i> Prime plus 2%. Ky. REV. STAT. ANN. § 131.183(2)(a)(2). <i>Overpayment</i> Prime minus 2%. Ky. REV. STAT. ANN. § 131.183(2) (b) (2).	45 days. Ky. REV. STAT. ANN. §§131.110(1); § 1:010.	Yes. 15 th day of the 4 th month following the close of the taxable year. Ky. REV. STAT. ANN. §§141.160 and 141.220. Yes. Automatic 6-month extension, Form 720 SL instructions.	Final determination is defined. Ky. REV. STAT. ANN. § 141.210(4)(b). IRS changes must be reported within 30 days on an amended return; Ky. REV. STAT. ANN. §141.210(4).	DOR uses private attorneys to prosecute tax cases.
LA	Yes. Louisiana Board of Tax Appeals (BTA) LA. REV. STAT. ANN. §§ 47:1401 to 1486. However, the DOR has significant control over whether a taxpayer can appeal to the Board of Tax Appeals. ⁶ See LA. REV. STAT. ANN. § 47:1431 Also, the BTA is not available for local tax disputes.	No to appeal to BTA, but taxpayer may be forced to pay to appeal if DOR does not issue formal assessment. LA. REV. STAT. ANN. §§47:1401 to 1486. Yes, to appeal to District Court. LA. REV. STAT. ANN. § 47:1576.	Yes. 3 years for both. <i>Assessment</i> LA. CONST. art. 7, §16; LA. REV. STAT. ANN. §§ 47:1579 & 1581 based on LA. CONST. ART. VII § 16. <i>Refund</i> LA. REV. STAT. ANN. § 47:1623.	No. <i>Underpayment</i> for 2009 8.5% LA. REV. STAT. ANN. § 47:1601(A). <i>Overpayment</i> for 2009 5.5% LA. REV. STAT. ANN. §§ 47:1624(A); 13:4202(B); 47:1601(2)(a).	30 days after receipt of proposed assessment; 60 days if DOR issues formal assessment. LA. REV. STAT. ANN. §§ 47:1563 & 47:1565.	Yes. 15 th day of the 4 th month following the close of the taxable year. LA. REV. STAT. ANN. §§ 47:287.614 & 47:609. Yes. Automatic 6-month extension, LA. REV. STAT. ANN. §§47:614(D) & 47:612.	No definition of final determination. IRS changes must be reported within 60 days on an amended return, LA. REV. STAT. ANN. §§47:103C & 47:287.614C. DOR may make non-IRS adjustments post general statute to assess based on federal waiver LA. REV. STAT. ANN. §§47:1580(B) & 47:1623(E).	1) Separate local taxing authorities create onerous interpretive and compliance burdens for taxpayers. Local jurisdictions also use outside counsel to prosecute tax cases, including RICO allegations. 2) Taxpayers have no right to recover legal fees incurred to defeat invalid tax assessments, but must pay outside attorney fees in local tax disputes up to 10% of amount collected. 3) Local taxing authorities are authorized to pay contract auditors on a contingent fee basis. LA. REV. STAT. ANN. §47:337.26(B)(3).

COST Survey of Appeal Requirements & Administrative Practices (Continued)

	Independent tax dispute forum?	Pay-to-Play (bond or prepayment requirement)?	Even-handed statutes of limitations (refunds and assessments)?	Equal interest rate applies to assessments and refunds?	Number of days to protest an assessment	Return due 30 days after federal return & Automatic Extension?	Reporting Federal tax changes	Other issues
ME	Not at the administrative level. ME. REV. STAT. ANN. §§5301 & 151. However, complex tax cases may be transferred to the Business and Consumer Court (a special docket of the Superior Court) that is gaining expertise in handling tax disputes. No tax expertise required.	No. ME. REV. STAT. ANN. tit. 36 § 152.	Yes. 3 years for both. <i>Assessment</i> ME. REV. STAT. ANN. tit. 36 §141(1). <i>Refund</i> ME. REV. STAT. ANN. tit. 36 §5278(1). However, statute of limitations following change in federal taxable income is only 2 years for refund. ME. REV. STAT. ANN. tit. 36 §§ 141(1); 5278(4).	Yes for interest rate; no for date interest starts. Interest rate is prime plus 3%. <i>Underpayment</i> ME. REV. STAT. ANN. tit. 36 §186. <i>Overpayment</i> ME. REV. STAT. ANN. tit. 36 §§ 5279(1) & 186. Interest on refunds begins from date refund filed, with no interest if paid within 90 days of refund claim was filed, ME. REV. STAT. ANN. tit. 36 § 5279(4).	30 days. ME. REV. STAT. ANN. tit. 36 §151.	Yes. State extended due date is 30 days beyond federal extended due date. ME. REV. STAT. ANN. tit. 36 §151. Yes. Automatic 7-month extension. ME. REV. STAT. ANN. tit. 36, § 5231.1-A and Form 1120ME instructions.	No definition of final determination. Non-IRS changes must be reported within 90 days on an amended return; ME. REV. STAT. ANN. tit. 36 § 5227-A(1)&(2).	
MID	Yes, Maryland Tax Court. MD. CODE ANN., TAX – GEN. §§ 3-101 to 3-113.	No. MD. CODE ANN., TAX – GEN. § 13-510.	Yes. 3 years for both. <i>Assessment</i> MD. CODE ANN., TAX – GEN. § 13-1101(a). <i>Refund</i> §§ 13-903 and 1103(a).	Yes. Greater of 13% or average prime rate plus 3% per year, equally applied. MD. CODE ANN., TAX – GEN. §13-604(b).	30 days. MD. CODE ANN., TAX – GEN. §§13-508(a).	Yes. State extended due date is 30 days beyond federal extended due date. Form 500 instructions. No. 7-month extension available with filing of Form 500E. Md. CODE ANN., TAX – GEN. § 10-823.	No definition of final determination. IRS changes must be reported within 90 days on an amended return; Md. CODE ANN., TAX – GEN. § 13-409(a) & (b).	Maryland legislature imposed burdensome reporting requirements (and penalties for noncompliance) to study combined reporting. Md. S.B. 2 § 6.
MA	Yes, Appellate Tax Board. MASS. GEN. LAWS ANN. ch. 58A §§1-14.	No. MASS. GEN. LAWS ANN. ch. 62C § 32.	Yes. 3 years both. <i>Assessment</i> MASS. GEN. LAWS ANN. ch. 62C §26(b). <i>Refund</i> MASS. GEN. LAWS ANN. ch. 62C §37. Refund time period is 3 years from the unextended due date of the return; assessments are 3 years from the extended due date.	No. <i>Underpayment</i> federal ST rate plus 4%; <i>Overpayments</i> federal ST rate plus 2%. MASS. GEN. LAWS ANN. ch. 62C § 32, & 40.	60 days. MASS. GEN. LAWS ANN. ch. 62C §39.	No. Form 355 instructions. Yes. Automatic 6-month extension, or extension greater than 6 months with filing of Form 355-7004. Form 355 instructions.	Final determination is defined, MASS. GEN. LAWS ANN. ch. 62C § 30. IRS and non-IRS changes must be reported within 3 months on an amended return, MASS. GEN. LAWS ANN. ch. 62C § 30.	

Continues

COST Survey of Appeal Requirements & Administrative Practices (Continued)

	Independent tax dispute forum?	Pay-to-Play (bond or prepayment requirement)?	Even-handed statutes of limitations (refunds and assessments)?	Equal interest rate applies to assessments and refunds?	Number of days to protest an assessment	Return due 30 days after Federal return & Automatic Extension?	Reporting Federal tax changes	Other issues
MI	Yes, Michigan Tax Tribunal, MICH. COMP. LAWS ANN. §§ 205.21 & 205.22.	No, before the Tax Tribunal and subsequent appeals. Yes, if TP chooses option of hearing at the Court of Claims. MICH. COMP. LAWS ANN. § 205.22.	Yes. 4 years for both. <i>Assessment</i> MICH. COMP. LAWS ANN. § 205.27a(2). <i>Refund</i> MICH. COMP. LAWS ANN. §§ 205.30(2); 205.27a(2); 209.27a(2). Statute is shorter if challenge is Constitutional MICH. COMP. LAWS ANN. §205.27a(6).	Yes, Interest rate is prime plus 1%. <i>Underpayment</i> MICH. COMP. LAWS ANN. § 205.23(2). <i>Overpayment</i> MICH. COMP. LAWS ANN. §§ 205.30(3); 205.23(2). Interest on refunds does not accrue until 45 days after a refund claim is filed. MICH. COMP. LAWS ANN. § 209.30(3).	60 days to seek informal hearing at DOR on notice of intent to assess. (cite?) Only 35 days to appeal to Michigan Tax Tribunal. MICH. COMP. LAWS ANN. §205.22.	Yes. Last day of 4 th month following close of taxable year. MICH. COMP. LAWS ANN. § 208.1505. No. Extension up to 8 months granted with filing of tentative return and copy of federal extension request by due date. MICH. COMP. LAWS ANN. § 208.1505(4).	No definition of final determination. IRS changes must be reported within 120 days on an amended return; MICH. COMP. LAWS ANN. § 208.1507(2).	
MN	Yes, Minnesota Tax Court. MINN. STAT. ANN. §§271.01 to 271.21.	No. MINN. STAT. ANN. §§271.01 to 271.21.	Yes. 3 ½ years for both. <i>Assessment</i> MINN. STAT. ANN. § 289A.38 <i>Refund</i> MINN. STAT. ANN. § 289A.40	Yes. 6% per annum equally applied. <i>Underpayment</i> MINN. STAT. ANN. §§ 289A.55; § 270C.40 <i>Overpayment</i> MINN. STAT. ANN. §§ 289A.56; 270.76; 270C.405.	60 days. MINN. STAT. ANN. §289A.65 & §270C.35. Subd.3.	Yes. Extended state due date is one month beyond federal extended due date. MINN. STAT. ANN. §289A.18 Yes. Automatic 7-month extension. MINN. STAT. ANN. §289A.19.	No definition of final determination. IRS and non-IRS changes must be reported within 180 days on an amended return; MINN. STAT. ANN. § 289A.38.	Absent a prior field audit, DOR may make non-IRS adjustments post general statute to assess. MINN. STAT. ANN. § 289A.38 (subd. 9).
MS	Yes, Board of Tax Appeals, effective July 2010 (S.B. 2712.)	No, to Board of Tax Appeals. To appeal to Chancery Court, a bond of 50% of amount in dispute is required; the Court may waive bond requirement. (S.B. 2712.)	Yes. 3 years both. <i>Assessment</i> Income Miss. CODE ANN. § 27-7-49(1) <i>Refund</i> Income Miss. CODE ANN. § 27-7-313 Sales 27-65-42.	Yes. 1% per month equally applied. <i>Underpayment</i> Miss. CODE ANN. § 27-7-51(2) <i>Overpayment</i> Miss. CODE ANN. §§ 27-7-51(2); 27-7-315.	30 days. §27-77-5(1) through June 30, 2010. 60 days, effective July 1, 2010. §27-77-5(1).	No. Form 83-100 instructions. Yes. Automatic 6-month extension. Form 83-100 instructions.	No definition of final determination. IRS changes must be reported within 30 days on an amended return; Miss. Code Ann. 27-7-51(4).	

COST Survey of Appeal Requirements & Administrative Practices (Continued)

	Independent tax dispute forum?	Pay-to-Play (bond or prepayment requirement)?	Even-handed statutes of limitations (refunds and assessments)?	Equal interest rate applies to assessments and refunds?	Number of days to protest an assessment	Return due 30 days after Federal return & Automatic Extension?	Reporting Federal tax changes	Other issues
MO	Yes. The Administrative Hearings Commission is independent of the DOR. Members are appointed by Governor. No requirement for tax expertise. Mo. ANN. STAT. §§ 621.015 to 621.205.	No. Mo. ANN. STAT. § 621.050.	Yes. 3 years for both. <i>Assessment</i> Mo. ANN. STAT. § 143.711(1) <i>Refund</i> Mo. ANN. STAT. § 143.801(1).	Yes. Interest rate is adjusted prime rate. <i>Underpayment</i> Mo. ANN. STAT. §§ 143.731(1)& 32.065. <i>Overpayment</i> Mo. ANN. STAT. § 143.811(1)& 32.065. Interest on refunds begins on date of refund claim, not date of payment. Mo. Ann. Stat. § 32.069.	60 days. Mo. ANN. STAT. §143.631(1). Upon appeal to the Admin. Hearing Cmsn, only 30 days to appeal. <i>Id.</i> §621.052.1.	Yes. 15 th day of fourth month following close of taxable year. Mo. ANN. STAT. § 143.511 Yes. Automatic 6-month extension. Form MO-1120 instructions.	No definition of a final determination. IRS changes must be reported within 90 days on an amended return; Mo. ANN. STAT. § 143.601.	1) DOR argues that sales & use taxes are different taxes and if offset during audit, tolls the statute of limitations for the offset tax. 2) New issues to support claims for refunds may not be raised at the AHC.
MT	Yes, State Tax Appeal Board. MONT. CODE ANN. §§ 15-2-101 to 15-2-307	No. MONT. CODE ANN. § 2-4-702	Yes. 3 years for both. <i>Assessments</i> MONT. CODE ANN. §§15-31-509(1) & 15-30-146. <i>Refunds</i> <i>Id.</i> §§15-31-509(2); 15-30-149.	Yes. 1% per month, equally applied. <i>Underpayment</i> MONT. CODE ANN. §§ 15-31-503 & 15-1-216. <i>Overpayment</i> MONT. CODE ANN. §§ 15-31-531; 15-31-503; 15-1-216.	30 days. MONT. CODE ANN. §15-1-211.	Yes. 15 th day of fifth month following close of taxable year. Form CLT-4 Instructions Yes. Automatic 6-month extension MONT. CODE ANN. § 15-31-111(3).	No definition of final determination. IRS and non-IRS changes must be reported within 90 days on an amended return; MONT. CODE ANN. § 15-31-506.	
NE	No. NEB. REV. STAT. §§ 77-27,127.	No. NEB. REV. STAT. § 77-2798	Yes. 3 years for both. <i>Assessment</i> Income Tax NEB. REV. STAT. § 77-2786 Sales Tax § 77-2709. <i>Refund</i> Income Tax <i>Id.</i> § 77-2793 Sales Tax-§77-2708.	Yes. Fed. rate plus 3%, equally applied. <i>Underpayment</i> NEB. REV. STAT. §§ 77-2788(1) & 77-2709(3) & 45-104.02(2) <i>Overpayment</i> NEB. REV. STAT. §§ 77-2794(1) & 45-104.02(2).	60 days. NEB. REV. STAT. §77-2777.	No. 15th day of third month after close of tax year. Form 1120N instructions and § 77-2768. Yes. Automatic 6-month extension; 7 month extension available with the filing of Form 7004N. Form 1120N instructions and § 77-2770.	Final determination is defined, NEB. REV. STAT. § 77-2775(2). IRS and non-IRS changes must be reported within 60 days on an amended return; <i>Id.</i> § 77-2775(2).	DOR may make non-IRS adjustments post general statute to assess. NEB. REV. STAT. §77-2786.

Continues

COST Survey of Appeal Requirements & Administrative Practices (Continued)

	Independent tax dispute forum?	Pay-to-Play (bond or prepayment requirement)?	Even-handed statutes of limitations (refunds and assessments)?	Equal interest rate applies to assessments and refunds?	Number of days to protest an assessment	Return due 30 days after federal return & Automatic Extension?	Reporting Federal tax changes	Other issues
NV	No. Appeal to Nevada Tax Commission is on the record established by Department of Taxation's Hearing Officer. NEV. ADMIN. CODE § 360.185.	Yes. Taxpayers must prepay or enter a payment agreement. See NEV. REV. STAT. § 360.395.	Yes. 3 years for both. <i>Assessment</i> NEV. REV. STAT. ANN. § 360.355 <i>Refund</i> <i>Id.</i> § 372.635 See also § 374.640 for refunds.	No. <i>Underpayment</i> 12% per annum <i>Overpayment</i> 6% per annum NEV. REV. STAT. ANN. § 372.660 See also § 374.665 with regard to overpayments.	45 days. NEV. REV. STAT. ANN. § 360.360.1.	N/A	N/A	
NH	Yes. N.H. ADMIN. R. ANN., Tax 102.01; N.H. REV. STAT. ANN. §§ 71-B:1 through B:22; 21:j(3)-XVII Rev 204. Taxpayer may appeal administrative decisions to Board of Tax & Land Appeals (non-judicial) or Superior Court.	Generally, no. Taxpayer may be required to post bond if department makes a request based on risk of non-payment. N.H. REV. STAT. ANN. § 21-j:28-b.V.	Yes. 3 years for both. <i>Assessment</i> N.H. REV. STAT. ANN. § 21-j:29(i)(a) <i>Refund</i> <i>Id.</i> § 21-j:29(i)(b). Statute is shorter if challenge is Constitutional. <i>Id.</i> § 21-j:29-I(d).	No. <i>Underpayment</i> Fed. underpayment rate plus 2% N.H. REV. STAT. ANN. § 21-j:28(II) <i>Overpayment</i> Fed. underpayment rate less 3% <i>Id.</i> § 21-j:28(III)	60 days. N.H. REV. STAT. ANN. § 21-j:28-b.I.	Yes. State extended due date is 30 days beyond federal extended due date. N.H. REV. STAT. ANN. § 77-A:6(I). Automatic 7- month extension if 100% of tax due is paid. See NH General Instructions for filing Business Tax.	Final determination defined. N.H. ADMIN. R. ANN. § 307.10. IRS changes must be reported within 6 months on an amended return; N.H. REV. STAT. ANN. § 77-A:9 & 10.	1) DOR asserts that "failure to pay" and "failure to file" penalties apply based on interpretive differences as well as on amounts paid on the original return.
NJ	Yes. New Jersey Tax Court. N.J. STAT. ANN. § 54:51A-13.	No, however taxpayer may be required to post bond for contested amount based on financial risk. N.J. STAT. ANN. § 54:49-18.	Yes. 4 years for both. <i>Assessment</i> N.J. STAT. ANN. § 54:49-6(b). <i>Refund</i> <i>Id.</i> § 54:49-14(a).	No. <i>Underpayment</i> Prime rate plus 3% N.J. STAT. ANN. § 54:49-3. <i>Overpayment</i> <i>Id.</i> § 54:49-15.1 [prime rate]	90 days. N.J. STAT. ANN. § 54:49-18(a).	Yes. 15 th day of fourth month following close of taxable year. N.J. STAT. ANN. § 54:10A-15. No. Must file Form CBT-200T. <i>Id.</i> § 54:10A-19, N.J.A.C. 18:7-11.12.	Final determination is defined, N.J. STAT. ANN. § 54:10A-13. IRS and non-IRS changes must be reported within 90 days on an amended return; <i>Id.</i> § 54:10A-13.	Limited ability for taxpayer to file a claim for refund if assessment appeal period is missed. N.J. STAT. ANN. § 54:49-14.

COST Survey of Appeal Requirements & Administrative Practices (Continued)

	Independent tax dispute forum?	Pay-to-Play (bond or prepayment requirement)?	Even-handed statutes of limitations (refunds and assessments)?	Equal interest rate applies to assessments and refunds?	Number of days to protest an assessment	Return due 30 days after Federal return & Automatic Extension?	Reporting Federal tax changes	Other issues
NM	No. There is also no <i>de novo</i> review on appeal unless tax is prepaid. Record is set at DOR. N.M. STAT. ANN. §§7-1-1 to 7-1-82.	Yes. To appeal DOR determination, tax must be paid to obtain an independent review at District Court. N.M. STAT. ANN. § 7-1-23 & 7-1-26(d).	Yes. 3 years for both. <i>Assessment</i> N.M. STAT. ANN. § 7-1-18(A) <i>Refund</i> <i>Id.</i> § 7-1-26(D)(1). Unequal following a change in federal taxable income, 3 years to assess and 1 year for refund. N.M. STAT. ANN. §§ 7-1-13(C) & 7-1-26(F).	Yes. Interest rate is 15% per year, equally applied. <i>Underpayment</i> N.M. STAT. ANN. § 7-1-67(B) <i>Overpayment</i> <i>Id.</i> § 7-1-68(B). Interest for refunds runs from refund claim date, not date of overpayment.	30 days. N.M. STAT. ANN. § 7-1-24.B.	No. NMSA 1978, §7-2A-9; Form CIT-1 instructions Yes. Automatic 6-month extension. Additional time may be granted by filing Form RPD 410-96. N.M. STAT. ANN. § 7-1-13.	No definition of final determination. IRS changes must be reported within 90 days on an amended return; N.M. STAT. ANN. § 7-1-13(C).	Lack of regulations, particularly for corporate income taxes, creates uncertainty and ambiguity.
NY	Yes. The New York State Division of Tax Appeals and the Tax Appeals Tribunal. N.Y. Tax LAW §§ 2000-2026.	Generally, no. However, all taxpayers in NY City, plus sales tax and corporate franchise taxpayers in NY State, must pay tax to appeal to the Appellate Division of the Supreme Court. N.Y. Tax LAW § 2006. NYC Admin Code § 11-681.	Yes. 3 years for both. <i>Assessment</i> Corporate Franchise Tax N.Y. Tax LAW § 1083(a) Sales/Use Tax § 1147(b) <i>Refund</i> Corporate Franchise Tax § 1087(a) Sales/Use Tax § 1139(a),(c).	No. <i>Underpayment</i> Fed. ST Rate plus 5% N.Y. Tax LAW §§ 1084 (a) and 1096(c) (2)(B). <i>Overpayment</i> Fed. ST Rate plus 2% <i>Id.</i> §§1088(a) and 1096(c)(2)(A).	90 days N.Y. Tax LAW §1138(a) (1).	No. Form CT-4 instructions No. 6-month extension with filing of Form CT-5. Additional extensions may be granted for good cause. N.Y. Tax LAW §§ 193.0211; 1462; 1515.	No definition of final determination. IRS and non-IRS changes must be reported within 90 days (120 days for combined reports) on an amended return; N.Y. Tax LAW § 211(3).	Retroactive imposition of controversial use tax presumption of nexus for soliciting sales.
NC	Decision by Office of Administrative Hearings (OAH) can be overridden by Secretary of Revenue, but taxpayer may then appeal to Business Court and be heard <i>de novo</i> . N.C. GEN. STAT. ANN §§ 105-241.15 to .16.	No, to reach OAH. Yes, to appeal from OAH to the Business Court. N.C. GEN. STAT. ANN §§105-241.13 to 105-241.15.	Yes. 3 years for both. <i>Assessment</i> N.C. GEN. STAT. ANN. § 105-241.1(c) <i>Refund</i> <i>Id.</i> § 105-266(c)(1).	Yes. Interest rate (minimum .5% / max. 16% per year), is applied equally. <i>Underpayment</i> N.C. GEN. STAT. ANN. § 105-241.1(i) <i>Overpayment</i> <i>Id.</i> § 105-266(b).	45 days. N.C. GEN. STAT. ANN §105-241.11(a).	Yes. 15 th day of fourth month following close of taxable year. N.C. GEN. STAT. ANN. § 105-130.17. No. 6-month extension with the filing of Form CD-419. <i>Id.</i> §§ 105-130.17 (d) & 105-263.	No definition of final determination. IRS and non-IRS changes must be reported, per DOR, within 6 months on an amended return; N.C. GEN. STAT. ANN § 105-130.20	1) DOR refuses to provide guidance on standards used for forced combination on audit. 2) Retroactive imposition of controversial use tax presumption of nexus for soliciting sales.

Continues

COST Survey of Appeal Requirements & Administrative Practices (Continued)

	Independent tax dispute forum?	Pay-to-Play (bond or prepayment requirement)?	Even-handed statutes of limitations (refunds and assessments)?	Equal interest rate applies to assessments and refunds?	Number of days to protest an assessment	Return due 30 days after Federal return & Automatic Extension?	Reporting Federal tax changes	Other issues
ND	No. N.D. CENT. CODE ch. 28-32-42 to -46, & 57-38-39 to 57-38-40.	No. N.D. CENT. CODE ch. 28-32, & 57-38-39 to 57-38-40.	Yes. 3 years for both. <i>Assessment</i> N.D. CENT. CODE § 57-38-38 <i>Refund</i> <i>Id.</i> § 57-38-40 Statute is shorter if challenge is Constitutional. <i>Id.</i> § 57-01-19.	Yes for income taxes & No for sales/use taxes. <i>Income Tax:</i> 1% per month, equally applied <i>Underpayment</i> N.D. CENT. CODE § 57-38-45(1)(d). <i>Overpayment</i> <i>Id.</i> § 57-38-35.2(1) <i>Sales/ Use Taxes: Assessments:</i> 12% per annum; <i>Id.</i> § 57-39.2-18. <i>Refunds:</i> 10% per annum. <i>Id.</i> § 57-39.2-25.	30 days. N.D. CENT. CODE § 57-38-39.3.	Yes. 15 th day of fourth month following close of taxable year. Form 40 instructions. Yes. 6-month automatic extension, <i>Id.</i>	Final determination is defined, N.D. ADMIN. CODE § 81-03-01.1-09(1)(b). IRS changes must be reported within 90 days on an amended return; N.D. ADMIN. CODE § 81-03-01.1-09(1)(b) & § 57-38-34.4(1).	
OH	Yes. Ohio Board of Tax Appeals (BTA) OHIO REV. CODE ANN. § 5717.01 to 5717.06.	No. OHIO REV. CODE ANN. § 5717.02.	Yes. 3 years for CFT and 4 years for sales/use tax & CAT. OHIO REV. CODE ANN. §§ 5733.12(B) & 5733.11(A) (corp. franchise tax); 5739.07(D) & 5739.16(A) (sales tax); 5751.08 (A)&5751.09(F) (CAT).	Yes. Fed. ST rate plus 3%, equally applied <i>Underpayment</i> OHIO REV. CODE ANN. §§ 5747.13(C) & 5703.47 <i>Overpayment</i> <i>Id.</i> §§ 5747.11(C) & 5703.47.	60 days. OHIO REV. CODE ANN. § 5733.11(B).	No. Last day of third month following close of taxable year. Ft 1120 instructions. No. Extension to 5/31 with filing of Form FT120ER. Further extension with filing of Form FT 1120 EX. FT 1120 instructions.	No definition of final determination. IRS changes must be reported within one year on an amended return; OHIO REV. CODE ANN. § 5733.031(C).	1) Taxpayer may be precluded from raising new issues in an appeal from a final determination of DOR. OHIO REV. CODE ANN. § 5717.02. 2) Ohio BTA is seriously underfunded in FY 2010-11, hindering timely resolution of cases.
OK	No. OKLA. STAT. ANN. tit. 68, §§ 101-102, 201-203, 207, 225-228 ALJ in the Administrative Proceedings of the Tax Commission conducts formal <i>de novo</i> hearing. Appeal to the 3-member Tax Commission is not <i>de novo</i> .	No prepayment required to appeal to the Tax Commission. Prepayment required for appeal to Supreme Court or Court of Appeals. OKLA. STAT. ANN. tit. 68 § 225(D).	Yes. 3 years for both. <i>Assessment</i> OKLA. STAT. ANN. tit. 68 § 223(A) <i>Refund</i> <i>Id.</i> § 2373.	Yes. <i>Underpayment</i> 1.25% per month 68 OKLA. STAT. ANN. tit. § 217(A) <i>Overpayment</i> 1.25% per month <i>Id.</i> § 217(H). Interest rate on refund denied by Tax Commission is only 3% per year from a judicial appeal, 68 OKLA. STAT. ANN. § 225(E).	60 days. OKLA. STAT ANN. tit. 68 § 221.C.	Yes. State extended due date is 30 days beyond federal extended due date. Form 512 instructions Yes. Automatic 7-month extension. Form 512 instructions.	Final determination is defined, OKLA. STAT. ANN. tit. 68 § 2375(H) (2). IRS and non-IRS changes must be reported within one year on an amended return; OKLA. STAT. ANN. tit. 68 § 2375(H) (2).	DOR may make non-IRS allocation/apportionment adjustments post general statute to assess. OKLA. STAT. ANN. tit. 68 § 2375(H)(4).

COST Survey of Appeal Requirements & Administrative Practices (Continued)

	Independent tax dispute forum?	Pay-to-Play (bond or prepayment requirement)?	Even-handed statutes of limitations (refunds and assessments)?	Equal interest rate applies to assessments and refunds?	Number of days to protest an assessment	Return due 30 days after Federal return & Automatic Extension?	Reporting Federal tax changes	Other issues
OR	Yes. Taxpayer may appeal assessment directly to the Magistrate Division of the Oregon Tax Court. OR. REV. STAT. ANN. § 305.280(2).	No. Tax is not due in the magistrate division. OR. REV. STAT. ANN. § 305.419(1). Yes. However, absent hardship, payment is required for subsequent appeal to the Regular Division of the Tax Court. <i>Id.</i> § 305.419(3).	Yes. 3 Years Both <i>Assessment</i> OR. REV. STAT. ANN. § 314.410(1) <i>Refund</i> 3 years after return filed or 2 years after tax or portion of tax paid, whichever is later <i>Id.</i> § 314.415(2)(a).	Yes. Rates vary by tax periods. <i>Underpayment</i> OR. REV. STAT. ANN. § 305.220(1) <i>Overpayment</i> <i>Id.</i> § 305.220(2).	30 days for informal conference at DOR; 90 days to Magistrate Division. OR. REV. STAT. ANN. § 305.265(5).	Yes. 15 th day of fourth month following close of taxable year. Form 20 instructions. Yes. Automatic 6-month extension, Form 20 instructions. OR. REV. STAT. ANN. § 314.385(1)(c).	No definition of a final determination. IRS and non-IRS changes must be reported. No statutory time period for filing return to report federal changes OR. REV. STAT. ANN. § 314.380(2).	DOR may make non-IRS adjustments post general statute to assess. OR. REV. STAT. ANN. § 314.410(4)(b).
PA	No. The Secretary of Revenue sits on the Board of Finance and Revenue which conducts formal <i>de novo</i> review from DOR final determination. PA. CONS. STAT. ANN. §§ 1103 and 7341.	No, but "security" is required to stay collection action. Pa. R.A.P. 1731.	No. In general it is 3 years for both. 72 PA. CONS. STAT. ANN. § 7407.3 & <i>Id.</i> § 10003.1(a). However, taxpayers only have 6 months from an assessment or settlement to request a refund for all periods covered by the audit. 72 PA. CONS. STAT. ANN. § 10003.1(b).	No. <i>Underpayment</i> the Federal Underpayment rate is used. <i>Overpayment</i> the Federal Underpayment rate minus 2% is used. 72 PA. CONS. STAT. ANN. § 806.	90 days from assessment mailing date. 72 PA. CONS. STAT. ANN. § 9702. 30 days for sales/use tax (\$7232).	Yes. 15 th day of fourth month following close of taxable year. Form CT-1 instructions No. Taxpayer must file request for extension. §72 PA. CONS. STAT. ANN. 7405.	Final "change" is not defined. 72 PA. CONS. STAT. ANN. § 7406; 61 Pa. Code § 153.54. IRS changes must be reported within 30 days on an amended return; 72 PA. CONS. STAT. ANN. § 7406. \$5 per day penalty.	DOR will not allow taxpayer to contest changes that do not result in tax increase (e.g., NOL adjustment) until adjustment results in additional tax. ⁸
RI	No. Administrative appeals are decided by tax administrator. Appeals of those decisions are to District Court. R.I. GEN. LAWS §§ 44-11-6, 44-11-20, 44-30-89, 44-19-17, 44-19-25.	Yes. Prepayment required before appeal to District Court. Taxpayer may file a motion for exemption only available in hardship cases where TP can show reasonable probability of success on the merits. R.I. GEN. LAWS 8-8-25, -26.	Yes. 3 years for both. <i>Assessment</i> Corporate Tax: R.I. GEN. LAWS § 44-11-7.1(a); Sales Tax: 44-19-13 <i>Refund</i> Corporate Tax: <i>Id.</i> § 44-11-20(a); Sales Tax: 44-19-26.	No. <i>Underpayment</i> Prime rate plus 2%. R.I. GEN. LAWS § 44-11-7/§44-1-7 <i>Overpayment</i> Prime rate. <i>Id.</i> § 44-1-7.1.	30 days. R.I. GEN. LAWS §§44-30-89(a), §8-8-25(b).	No. Form RI 1120C instructions. No automatic extension; must file RI 7004, 1120C instructions. Discretion vested with DOR. R.I. GEN. LAWS §44-11-3.	No definition of final determination. IRS and non-IRS changes must be reported within 60 days on an amended return; R.I. GEN. LAWS § 44-11-19.	

Continues

COST Survey of Appeal Requirements & Administrative Practices (Continued)

	Independent tax dispute forum?	Pay-to-Play (bond or prepayment requirement)?	Even-handed statutes of limitations (refunds and assessments)?	Equal interest rate applies to assessments and refunds?	Number of days to protest an assessment	Return due 30 days after Federal return & Automatic Extension?	Reporting Federal tax changes	Other issues
SC	Yes. The ALJ Division, a separate agency of the Executive Branch. ALJs are elected by the General Assembly; no tax expertise is required. S.C. CODE ANN. §1-23-500-660 and Chapter 60 of Title 12.	No prepayment required for appeal to ALJ Division. However, payment of tax or bond must be posted to appeal to the Circuit Court and the Court of Appeals, S.C. CODE ANN. §12-60-3370.	Yes. 3 years for both. <i>Assessment</i> S.C. CODE ANN. § 12-54-85(A). <i>Refund</i> <i>Id.</i> § 12-54-85(F)(1).	No. <i>Underpayment</i> Federal underpayment rate. See S.C. CODE ANN. § 12-54-25(d) and IRC §§ 6621 (a)(2) and 6622. <i>Overpayment</i> Federal underpayment rate less 2%, 2008 Act No 310	90 days. S.C. CODE ANN. §12-60-450(A).	No. Form SC1120 instructions. S.C. CODE ANN. § 12-6-4970 (B) Yes. Automatic 6-month extension.	No definition of final determination. IRS changes must be reported within 180 days on an amended return; S.C. CODE ANN. § 12-54-85(D).	
SD	No. Secretary of Revenue reviews ALJ determinations. SDCL 10-59.	Yes. Taxpayer can post bond in lieu of payment. S.D. CODIFIED LAWS §10-59-59-9.	Yes. 3 years for both. <i>Assessment</i> S.D. CODIFIED LAWS § 10-59-16(3) <i>Refund</i> <i>Id.</i> § 10-59-19.	Yes. 1.25% per month, equally applied <i>Underpayment</i> S.D. CODIFIED LAWS § 10-59-6. <i>Overpayment</i> <i>Id.</i> §§ 10-59-24 & 10-59-6.	60 days. S.D. CODIFIED LAWS §10-59-9.	No. Financial Institution return is due 15 days after federal income tax return is due. Yes. Automatic 6-month extension with federal extension form.	No definition of final determination. IRS changes must be reported within 60 days on an amended return; S.D. REG. 64:26:02:05.	
TN	No. TENN. CODE ANN. §§ 67-1-1801 to 67-1-1807.	Yes. Bond, letter of credit, or affidavit is required in the amount of 150% of assessment. TENN CODE ANN. §67-1-1801.	Yes. 3 years for both. <i>Assessment</i> TENN. CODE ANN. § 67-1-1501(b) <i>Refund</i> <i>Id.</i> § 67-1-1802(a).	Yes. Interest published in Tenn. Admin. Register, equally applied. <i>Underpayment</i> TENN. CODE ANN. § 67-1-801(a) <i>Overpayment</i> <i>Id.</i> § 67-1-801(b).	90 days. TENN. CODE ANN. §67-1-1801(a)(1)(B).	Yes. 15 th day of fourth month following close of taxable year. TENN. CODE ANN. § 67-4-2015. Yes. Automatic 6-month extension. <i>Id.</i> § 67-4-2015.	No definition of final determination. IRS and non-IRS changes must be reported. No statutory time period for filing return to report federal change. Tenn. Code Ann. §§ 67-1-1802 (A) (3) & 67-1-1501(B)(3).	Assessment for additional tax is deemed made by recording the liability at DOR. The assessment is valid regardless of whether notice is provided to the taxpayer. Tenn Code Ann. § 67-1-1438(b).

COST Survey of Appeal Requirements & Administrative Practices (Continued)

	Independent tax dispute forum?	Pay-to-Play (bond or prepayment requirement)?	Even-handed statutes of limitations (refunds and assessments)?	Equal interest rate applies to assessments and refunds?	Number of days to protest an assessment	Return due 30 days after Federal return & Automatic Extension?	Reporting Federal tax changes	Other issues
TX	Administrative tax appeals are to the Tax Division of the State Office of Administrative Hearings (SOAH), independent of Comptroller. However, the Comptroller retains the right to reject SOAH decisions. Tex Gov't Code § 2003.101.	Yes, unless the taxpayer demonstrates an inability to prepay the tax and the court grants relief. Tex. Tax Code ANN. § 112.051 & §112.108.	Yes. 4 years for both. <i>Assessment</i> Tex. Tax Code ANN. §§ 111.201 & 111.205. <i>Refund</i> <i>Id.</i> §§111.107; 111.206; 111.201.	No. <i>Underpayment</i> interest rate is prime rate plus 1%. Tex. Tax Code ANN. § 111.060(b). <i>Overpayment</i> interest rate is lesser of the annual rate earned on state treasury deposits during December of the previous calendar year or the prime rate plus 1%. <i>Id.</i> § 111.064(a).	30 days. Tex. Tax Code ANN. §115; §111.009(b).	Yes. May 15 th . Tex. Tax Code ANN. § 171.202 No. Extension through Nov. 15 must be requested on Form 05-110. <i>Id.</i> § 171.202.	Final determination is defined. Tex. Tax Code § 171.212. IRS and non-IRS changes must be reported within 120 days on an amended return; <i>Id.</i> § 111.206 & § 171.212.	Comptroller may make non-IRS adjustments post general statute to assess. Tex. Tax Code § 111.206.
UT	No. The 4-member elected State Tax Cmsn conducts formal <i>de novo</i> hearing. UTAH CODE ANN. §§ 59-1-501 to 59-1-505. However, the District Court may review all decisions of the STC in a <i>de novo</i> trial. <i>Id.</i> § 59-1-601.	Yes, but it can be waived. Waivers are liberally granted for most taxpayers. Utah CODE ANN. § 59-1-611.	Yes. 3 years for both. <i>Assessment</i> UTAH CODE ANN. § 59-7-519(1) <i>Refund</i> <i>Id.</i> § 59-7-522(2)(a). UTAH CODE ANN. § 59-12-110 gives time for refund (2)(b) and assessment (6)(a).	Yes. Fed. ST rate plus 2%, equally applied <i>Underpayment</i> UTAH CODE ANN. §§ 59-7-510 & 59-1-402(3)(b). <i>Overpayment</i> <i>Id.</i> §§ 59-7-533 & 59-1-402(3)(a).	30 days for the petition with supplemental information allowed later. UTAH CODE ANN. §§59-1-503, 504	Yes. 15th day of fourth month following close of taxable year. UTAH CODE ANN. § 59-7-505(2); Yes. Automatic 6-month extension. Form TC-20 instructions; § UTAH CODE ANN. 59-7-505(3).	No definition of final determination. IRS changes must be reported within 90 days on an amended return; UTAH CODE ANN. §59-7-519(3).	
VT	No. The Tax Commissioner conducts formal <i>de novo</i> hearing. VT. STAT. ANN. tit. 32 § 5883 to 5888.	No, for corporate income taxes. VT. STAT. ANN. tit. 32 §5886 Yes, for sales & use taxes. <i>Id.</i> § 9817	Yes. 3 years for both. <i>Assessment</i> VT. STAT. ANN. tit. 32 § 5882(a) <i>Refund</i> <i>Id.</i> § 5884(a).	Yes. Average prime rate (previous 12-month period), equally applied <i>Underpayment</i> § VT. STAT. ANN. tit. 32 § 3108 <i>Overpayment</i> <i>Id.</i> §§5884(b) & 3108.	60 days VT. STAT. ANN. tit. 32 §.5883.	Yes. State extended due date is 30 days beyond federal extended due date. Form CO-411 instructions Yes. Automatic extension to 30 days after federal extension period. Form CO-411 instructions.	Final determination is defined. VT. STAT. ANN. tit. 32 VSA 5866. IRS and non-IRS changes must be reported within 60 days on an amended return; VT. STAT. ANN. tit. 32 5866(a)(1).	

Continues

COST Survey of Appeal Requirements & Administrative Practices (Continued)

	Independent tax dispute forum?	Pay-to-Play (bond or prepayment requirement)?	Even-handed statutes of limitations (refunds and assessments)?	Equal interest rate applies to assessments and refunds?	Number of days to protest an assessment	Return due 30 days after Federal return & Automatic Extension?	Reporting Federal tax changes	Other issues
VA	No. Commissioner makes final determination in admin. appeal. CODE ANN. §§58.1-1820 to 58.1-1825, 58.1-1845. Proceedings at Circuit Court are <i>de novo</i> .	Yes. Payment or bond required before appeal to Circuit Court. VA. CODE ANN. § 58.1-1825(B).	Yes. 3 years for both. <i>Assessment</i> VA. CODE ANN. § 58.1-104. <i>Refund</i> <i>Id.</i> § 58.1-1823.	Yes. At present time the federal underpayment and overpayment interest rates are the same. <i>Underpayment</i> Federal underpayment rate plus 2%. VA. CODE ANN. §§ 58.1-308 and 58.1-15. <i>Overpayment</i> Federal overpayment rate plus 2%. <i>Id.</i> § 58.1-15.	90 days. VA. CODE ANN. §58.1-1821.	Yes. 15 th day of fourth month following close of taxable year. Form 500 instructions. Yes. Automatic 6-month extension. VA. CODE ANN. § 58.1-453.	Final determination is defined, VA. CODE ANN. § 58.1-311. IRS changes must be reported within one year on an amended return; <i>Id.</i>	
WA	Taxpayers are allowed an appeal before the Board of Tax Appeals. ⁹ See WASH. REV. CODE §§ 82.03.010 <i>et seq.</i> No tax expertise is required.	Yes. Prepayment or stay of collection required for appeal to Superior Court. WASH. REV. CODE §§ 82.32.180 & 200.	4 Years Both <i>Assessment</i> WASH. REV. CODE §§ 82.32.050(3) & 82.32.100(3). <i>Refund</i> <i>Id.</i> § 82.32.060(1).	Yes. Fed. ST rate plus 2%, equally applied. <i>Underpayment</i> WASH. REV. CODE § 82.32.050(2). <i>Overpayment</i> <i>Id.</i> §§82.32.060(1); (5)(b); 82.32.050(2).	30 days for excise tax (no corporate income tax for WA). WASH. REV. CODE §82.32.160.	N/A	N/A	1) No statutory support for DOR rule stating purchasers "should" request a refund of overpaid sales tax directly from the vendor before requesting refund from the DOR. WASH. ADMIN. CODE § 458-20-229(3)(b)(ii). 2) DOR asserts it is not bound by informal decisions of the Board of Tax Appeals with respect to any other taxpayer or same taxpayer for different tax years.
WV	Yes. WV Office of Tax Appeals. § 121-1-88 thru 101; W. Va. CODE § 11-10A-8.	No, to appeal to Office of Tax Appeals. Yes, to appeal to Circuit Court. W. Va. Code § 11-10A-18,-19.	Yes. 3 years for both. <i>Assessment</i> W. Va. Code § 11-10-15(a) <i>Refund</i> <i>Id.</i> § 11-10-14(f).	No. <i>Underpayment</i> 9.5%, W. Va. CODE §§ 11-10-17(a). <i>Overpayment</i> 8% W. Va. CODE §§ 11-10-17(a) & 11-10-17(c).	60 days. W. Va. Code §11-10-8(a).	No. W. Va. Code §§ 11-23-9 & 11-24-13. Yes. Automatic 6-month extension. W. Va. Code §§11-23-10 & 11-24-18.	No definition of final determination. IRS and non-IRS changes must be reported within 90 days on an amended return; W. Va. Code §§ 11-24-7(b); 11-24-7(e) (11)(B); & 11-24-20.	

COST Survey of Appeal Requirements & Administrative Practices (Continued)

	Independent tax dispute forum?	Pay-to-Play (bond or prepayment requirement)?	Even-handed statutes of limitations (refunds and assessments)?	Equal interest rate applies to assessments and refunds?	Number of days to protest an assessment	Return due 30 days after federal return & Automatic Extension?	Reporting Federal tax changes	Other issues
WI	Yes. WI Tax Appeals Commission Wis. STAT. ANN. §§ 71.87 to 71.90, & 73.01.	No. Wis. STAT. ANN. § 73.01 (5) (a)	Yes. 4 years for both. <i>Assessment</i> Wis. STAT. ANN. § 71.77(2). <i>Refund</i> <i>Id.</i> § 71.75(5).	No. <i>Underpayment</i> 12% per year Wis. STAT. ANN. § 71.82(1)(a). <i>Overpayment</i> 9% per year Wis. STAT. ANN. § 71.82(1)(b).	60 days. Wis. STAT. ANN. § 71.88(1)(a).	Yes. State extended due date is 30 days beyond federal extended due date. Wis. STAT. ANN. §§ 71.44 (1)(a) & 71.24 (7). Yes. Automatic 7-month extension. <i>Id.</i> § 71.44 (3).	Final determination is defined; Wis. ADMIN. CODE § 2.105. IRS and non-IRS changes must be reported within 90 days on an amended return; Wis. STAT. ANN. § 71.76.	1) DOR may make non-IRS adjustments post general statute to assess. Wis. STAT. ANN. §§ 71.76 & 71.77. Period is also open for refunds. 2) Recent law penalizes taxpayers not providing records within 15 days (1 st request) and 30 days (2 ^d request) by DOR.
WY	Yes. Wyoming State Board of Equalization. WYO. STAT. ANN. §§ 39-11-102.1, 39-11-109.	No, for appeal to Board of Equalization. Wyoming Rules Bd. of Eq. Gen. 5 Taxpayer must prepay or obtain stay order to appeal to District Court.	3 Years Both <i>Assessment</i> WYO. STAT. ANN. § 39-15-110(b) <i>Refund</i> <i>Id.</i> § 39-15-110(a).	No. <i>Underpayment</i> Average prime rate (by formula) plus 4% WYO. STAT. ANN. § 39-15-108(b). <i>Overpayment</i> Interest is average prime rate. <i>Id.</i> § 39-11-109(f).	30 days (for assessment created by audit). WYO. STAT. ANN. § 39-15-110(b).	N/A	N/A	

ENDNOTES

¹*Best and Worst of State Tax Administration: COST Scorecard on Appeals, Procedural Requirements*, 8 Multistate Tax Report 231 4/27/01; *Best and Worst of State Tax Administration: COST Scorecard on Appeals, Procedural Requirements*, 11 Multistate Tax Report 137 3/26/04; *Best and Worst of State Tax Administration: COST Scorecard on Appeals, Procedural Requirements*, 44 State Tax Notes 475 (May 14, 2007).

²See Tim Reason, *Stingers: Cash-Strapped States Put the Bite on Business*, CFO Magazine, January 2004; George Donnelly, *States of Confusion: The 2000 Tax Survey*, CFO Magazine, September 2000; Ian Springsteel, *State Taxes: A Guide for the Besieged*, CFO Magazine, August 1996; Kate O'Sullivan, *Give & Take: As state economic-development teams offer tax breaks to attract companies, revenue departments seek to get that money back*, CFO Magazine, January 2007; Kate O'Sullivan, *The Tax Men Cometh: beset by plunging revenues, states step up their pursuit of corporate taxes*, CFO Magazine, May 2009.

³See N.C. GEN. STAT. ANN. §§ 105-241.13 to 15; MS will have an independent dispute forum beginning in July, 2010, see S.B. 2712.

⁴MTC Model Uniform Statute can be found at: www.mtc.gov.

⁵This question was not provided to DOR employees.

⁶The taxpayer has the right to a hearing in order to dispute an assessment of taxes, interest, and penalties by timely filing an appeal with the BTA in accordance with R.S. 47:1414, 1431, and 1481. A taxpayer shall not be required to pay the disputed tax, interest, and penalties in order to exercise this right. The taxpayer has the right to a formal hearing in order to contest the assessment of taxes, interest, and penalties by timely filing suit with the appropriate state district court. The assessment must be paid in full under protest in order to exercise this right in accordance with R.S. 47:1576. By refusing to issue a formal assessment, the La. DOR could effectively "force" a taxpayer to pay the disputed taxes under protest (La. R.S. 47:1576) and sue for a refund.

⁷Any interested party may petition to include new evidence in an appeal from a final determination of DOR. The BTA may remand a case for administration determination upon a finding that issues not raised on appeal are relevant in the determination of the controversy.

⁸See DOR Act 119 Petition Procedures, No. 135. It can be obtained at: <http://www.revenue.state.pa.us>.

⁹Judicial review of matters decided through formal BTA hearings are based on the record considered by the BTA and are reviewed under the state's administrative procedures act; judicial appeals of informal BTA hearings are reviewed *de novo*. WASH. REV. CODE § 82.03.180. Although the BTA is technically "independent" of the DOR, it is generally perceived as unsatisfactory for litigating excise tax disputes. In practice, the vast majority of the cases heard by the BTA are property tax valuation disputes. The three board members (appointed by the Governor) often have little or no prior experience with excise tax matters.

The Council On State Taxation (COST) is a nonprofit trade association consisting of over 600 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.

122 C Street, NW, Suite 330
Washington, DC 20001
Phone: (202) 484-5222
Fax: (202) 484-5229
www.cost.org