



# The Best and Worst of State Tax Administration

## Scorecard on Tax Appeals & Procedural Requirements

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### Executive Summary

The Council On State Taxation (COST) has long monitored and commented on state tax administrative practices. Part of that effort has resulted in the regular publication of a Scorecard ranking the states on their treatment of significant issues which impact the perceived fairness of the rules and requirements for administration and appeal of state tax matters. These administrative and appeal issues are important because of their relationship to the effectiveness of our voluntary system of tax compliance. Taxpayers are more willing to comply with a tax system they perceive to be balanced, fair, and effective. Taxpayers operating in an oppressive, unfair, or otherwise biased system are less likely to voluntarily comply. The clear message to state tax administrators and state legislatures is that they should be sensitive to the compliance implications and competitiveness concerns created by poor tax administrative rules and ineffective tax appeal systems.

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*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 taxation of multijurisdictional business entities.*

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COST has evaluated the states based on their treatment of selected procedural elements and the presence of an independent appeals process. The procedural elements consider whether the state has:

- even-handed statutes of limitations,
- equalized interest rates,
- adequate time to file a protest,
- a due date for corporate income tax returns at least 30 days beyond the federal due date, and
- an automatic extension of the state return due date based on the federal extension.

COST has evaluated state tax appeals processes using two separate questions to better articulate the elements of a high quality appeals system. The first question addresses the need for an independent non-judicial forum, and the second inquiry addresses the need for access to an independent tribunal without a prepayment requirement. It is COST’s view that these elements, at a minimum, should be a part of any state’s tax administration that seeks to achieve fairness, efficiency and a customer-focused environment.

The 2007 Scorecard ranks each of the states on their adherence to the above procedural and appeals system elements. By focusing on strictly objective criteria, the Scorecard gives states the opportunity to enact corrective legislation as a means of improving business climates. Indeed, several states have taken significant legislative steps over the years that have significantly improved their ranking on the Scorecard. Maryland and Tennessee are examples of states that have moved upwards on the Scorecard as a result of favorable legislation regarding appeals systems or procedural issues. Texas and North Carolina are both likely to consider legislation that would improve their grade. It is our hope that by publishing this Scorecard we will spur policymakers to improve the rules for tax administration and appeal of tax matters in all of the states.

**Top-Ranked States**

State	Grade
Alaska	A
Arizona	A
Hawaii	A
Idaho	A
Iowa	A
Montana	A
South Carolina	A
Virginia	A

**Bottom-Ranked States**

State	Grade
North Carolina	D-
Connecticut	D
Louisiana	D
Rhode Island	D
Alabama	C-
California	C-
Texas	C-

## Introduction

This Scorecard is COST's third published effort to objectively analyze state treatment of significant procedural issues that reflect whether states provide fair, efficient, and customer-focused tax administration. The Scorecard expands on and updates the 2001 and 2004 versions<sup>1</sup> 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 rather than providing good customer service. As with prior versions, this Scorecard provides an objective counterpart to the subjective surveys CFO Magazine presented in 1996, 2000, 2004 and 2007.<sup>2</sup> While the COST study evaluates each state's statutory scheme against objective criteria, the CFO Magazine surveys asked corporate tax executives and state tax practitioners questions on their subjective views of both state tax administrative practices and substantive tax positions.

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 aggressive 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.

A prime example of the difference between the two approaches is reflected in the different rankings each study gives to the independence of state administrative appeals processes. *CFO Magazine* ranks the administrative appeals process in Illinois, Pennsylvania, California, New Jersey and North Carolina the least independent, respectively, from their audit departments. These five states are ranked as the worst even though, according to the COST Scorecard, New Jersey offers a Tax Court that is completely independent from the state's audit process and California provides for appeal of income and franchise tax matters to the State Board of Equalization (although the SBE also serves a dual role as a tax agency). This difference reflects the fact that the COST Scorecard looks at the statutory provisions while *CFO Magazine* captures the subjective views of corporate tax representatives. Viewing the two analyses in conjunction, one can conclude that California and New Jersey, while offering independent review, each suffer from a perception that their appeals process is reluctant to overturn revenue department decisions. The fix may be more than statutory.

The *CFO Magazine* and COST approaches produce consistent analysis where the statutory lack of independence is the cause of negative taxpayer opinion. As set forth above, North Carolina, Pennsylvania and Illinois were among the five worst states in the *CFO Magazine* ranking of independent administrative appeals. These three states lack statutory independence in their appeals process and were thus also ranked among the worst on this issue in the COST Scorecard. Taxpayer attitude regarding the environment in these two jurisdictions will only be improved once true statutory reform is accomplished.

## The COST Survey

The 2007 Scorecard takes a different approach to ranking the states than has been COST's practice in the past. This year rather than numerically ranking the states against each other we have assigned a grade based on an accumulated point total. The point total was determined by assessing states 1 to 3 points for each category where the state deviates 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. The final grades are based on the following scale:

- A = 0 to 4 points;
- B = 5 to 8 points;
- C = 9 to 12 points;
- D = 13 to 15 points; and
- F = over 15 points.

As in past editions of the Scorecard, COST has evaluated the states based on their treatment of selected procedural elements and the presence of an independent appeals process. The procedural elements consider whether the state has:

- even-handed statutes of limitations,
- equalized interest rates,
- adequate time to file a protest,
- a due date for corporate income tax returns at least 30 days beyond the federal due date, and
- an automatic extension of the state return due date based on the federal extension.

In past versions of the Scorecard COST reviewed whether states had a policy of opening the entire state return to audit in response to federal audit changes. Because many states have moved away from this practice we no longer include this factor as a separate question in the Scorecard. Instead we have included this factor in the new “key additional issues” column discussed under “Barometers of State Tax Administration” (p. 9).

Consistent with the 2004 Scorecard we have continued to evaluate state tax appeals processes using two separate questions to better articulate the elements of a high quality appeals system. The first question addresses the need for an independent non-judicial forum, and the second inquiry addresses the need for access to an independent tribunal without a prepayment requirement. It is COST’s view that these elements, at a minimum, should be a part of any state’s tax administration that seeks to achieve fairness, efficiency and a customer-focused environment.

The table on page 5 ranks each state’s procedural practice in the areas described above. Although much progress has been made over the last 20 years, numerous states are significantly behind the curve in providing fair and efficient tax administration. Detailed survey data for each state is provided beginning on page 10.

	Even-handed statutes	Interest rates	Protest period	State return due date	Automatic extension	Independent dispute forum	Pay to Play	Other key issues	Total Points	Grade
AL	0	0	2	3	0	2	1	4	12	C-
AK	0	0	0	0	0	0	0	3	3	A
AZ	0	0	0	0	0	0	0	3	3	A
AR	0	0	2	3	0	3	3	0	11	C
CA	0	2	0	3	0	2	2	3	12	C-
CO	0	0	2	0	0	3	3	2	10	C
CT	0	2	0	2	3	3	0	4	14	D
DE	0	0	0	2	0	0	0	2	4	A-
DC	0	3	2	3	3	0	0	0	11	C
FL	0	0	0	2	1	3	1	4	11	C
GA	0	0	2	3	0	3	0	1	9	C+
HI	0	0	2	0	0	0	0	0	2	A
ID	0	0	0	0	0	0	1	1	2	A
IL	0	0	0	3	0	3	0	3	9	C+
IN	0	2	0	0	0	3	1	5	11	C
IA	0	0	0	0	0	3	0	0	3	A
KS	0	0	0	0	0	0	0	5	5	B+
KY	2	0	1	0	0	0	0	2	5	B+
LA	0	2	2	0	0	1	1	7	13	D
ME	0	0	2	0	0	3	0	3	8	B-
MD	0	0	2	3	2	0	0	0	7	B
MA	0	2	0	3	3	0	0	1	9	C+
MI	2	1	2	0	0	0	0	3	8	B-
MN	0	0	0	3	0	0	0	5	8	B-
MS	0	0	2	3	0	3	3	0	11	C
MO	0	0	1	0	0	0	0	6	7	B
MT	0	0	2	0	0	0	0	0	2	A
NE	0	0	1	3	0	3	0	0	7	B
NV	0	2	1	0	0	3	3	0	9	C+
NH	2	3	0	3	0	0	0	1	9	C+
NJ	0	2	0	0	1	0	1	0	4	A-
NM	0	1	2	3	0	3	0	1	10	C
NY	0	3	0	3	3	0	0	0	9	C+
NC	0	1	2	2	1	3	2	4	15	D-
ND	2	1	2	0	0	3	0	0	8	B-
OH	0	0	0	3	0	0	0	1	4	A-
OK	0	0	0	3	2	1	1	4	11	C
OR	0	0	2	0	0	0	0	3	5	B+
PA	3	2	1	0	1	3	0	0	10	C
RI	0	0	2	3	3	3	3	0	14	D
SC	0	0	0	3	0	0	0	0	3	A
SD	0	0	2	0	0	3	3	0	8	B-
TN	0	0	0	0	0	3	2	1	6	B
TX	0	1	2	0	3	0	3	3	12	C-
UT	0	0	2	0	0	3	3	0	8	B-
VT	0	0	0	3	1	3	0	0	7	B
VA	0	0	0	0	0	2	0	0	2	A
WA	0	0	2	0	0	1	3	1	7	B
WV	0	0	0	3	0	0	3	3	9	C+
WI	0	2	0	3	0	0	0	3	8	B-
WY	0	2	2	0	0	0	0	0	4	A-

## Barometers of State Tax Administration

### *Fair, Efficient, Independent Appeals*

Foremost in good tax administration is a fair and efficient tax appeals system. 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.

Today, almost half of the states provide an independent non-judicial 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-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 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.

States with fair and efficient tax appeal systems share three essential elements:

- The tax tribunal is independent;
- The tribunal's judges are specifically trained in tax law; and
- Taxpayers are not required to prepay a disputed tax or post a bond in order to receive an independent, impartial hearing.

**Independent Tribunals:** First, 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.

On January 3, 2007, Texas Comptroller Susan Combs transferred responsibility for administrative tax hearings in Texas from the Comptroller's Office to the State Office of Administrative Hearings. In announcing the transfer, Combs said, "It is imperative to move tax hearings out of the Comptroller's office, to remove any appearance of bias and ensure that the integrity of the hearing process is beyond question." It is hoped that the twenty-seven states that lack independent tribunals will follow Texas' lead.

**Trained Judges:** Second, the tax tribunal's judges must be specifically trained as tax attorneys, and the tribunal should be dedicated solely to deciding tax issues. The tribunal 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. More than 60% of the states grant taxpayers at least a *de novo* hearing on the validity of the assessment, in front of an independent arbiter, before payment of the tax is required. As a matter of fundamental fairness and due process, taxpayers should have this right in every state. It is unfathomable that taxpayers would 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 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 eliminated its “pay-to-play” requirement 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 an independent tax tribunal, the tax commissioner, or—at the very least—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 during the administrative appeals process, some states still require payment of the tax or posting of a bond to obtain access to the circuit 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 in partial pay-to-play states where the initial hearing is before an adjudicatory body that is not independent of the state's department of revenue.
- **No “Pay to Play”:** In almost two-thirds of the states, taxpayers may appeal a disputed tax to an independent tribunal for final determination of the issue before having to pay the tax. Some states require payment or a bond for an appeal to the circuit 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 court level. 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 and a non-judicial forum, states 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 Statute of Limitations:** Statutes of limitation should apply even-handedly to assessments and refund claims. Requiring taxpayers to meet one statute while the tax administrator is granted additional time 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 limitation for refund claims. Extension of the statute of limitations for federal adjustments should apply equally for assessments and refunds. Claims for refund based on constitutional challenges should not be singled out for discriminatory treatment by shortening the statute of limitations.

With a single exception—Pennsylvania—COST is pleased to report that all states offer even-handed statutes of limitations for assessments and refunds. Only four states, Kentucky, Michigan, New Hampshire and North Dakota, have adopted provisions which shorten the statute of limitations when the challenge is Constitutional in nature. Each of these states has been assessed two additional points for attempting to curtail taxpayers' rights to challenge unconstitutional deprivations.

**Equalized Interest Rates:** Interest Rates should apply equally to both assessments and refund claims. Failure to equalize interest rates diminishes the value of the taxpayer's remedy of recovering tax monies to which it is legally entitled. While states are entitled to penalize taxpayers who underreport tax liabilities, the punishment should be imposed through the penalty structure. Interest rates are meant to compensate for the lost time-value of money and should apply equally to both parties. Refunds and liabilities should offset in calculating the amount of interest and penalty due.

The current data shows that two-thirds of the states offer even-handed interest rates. Since COST began doing its Scorecard, states have moved to narrow the difference between interest rates or close the gap altogether; Oklahoma has moved from an extremely large spread to even-handed treatment; the District of Columbia passed legislation narrowing the spread between over and under payments; South Carolina allowed its temporary rate discrimination to lapse.

**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. Shorter protest periods are 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, twenty five states still offer less than 60 days to file protests. While all of the states now offer at least 30 days to protest, COST hopes to see all states grant at least 60 days.

**Extended Due Dates:** The state's corporate income tax return due date should be at least 30 days after the federal tax return due date. Further, the state's corporate income tax return due date should be automatically extended 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 required are complex and time-consuming. A minimum of 30



days beyond the extended federal due date is needed to complete these adjustments; 60 or more days is preferred. To ease administrative burdens, an automatic state extension should only require attaching a copy of the federally extended return with the state return to qualify.

Twenty-five states do not give taxpayers the recommended 30 additional days to complete their state returns after the federal due date. All but 13 states automatically grant an extension of the state due date upon obtaining a federal extension.

### *Other Significant Procedural Issues*

New to the 2007 Scorecard is an opportunity for each state to earn extra demerits – the “key additional issues” column. In preparing the Scorecard we surveyed tax practitioners asking them to identify key additional issues that impact fair and efficient tax administration in the state. In past editions of the Scorecard we discussed many of these issues but did not affirmatively adjust state scores on the basis of these practices. This Scorecard attempts to assign points to the states identified as having negative practices; the adjustments are identified in the state by state point chart at the end of the Scorecard. Some of the noteworthy adjustments were made based on 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 counsel are billed through to taxpayers); federal RAR adjustments open the entire state return to audit; imposition of retroactive penalty and interest provisions. States should guard against utilizing these unfair and burdensome practices.

## Detailed Survey Data

The table beginning on page x provides detailed survey data for each state. At least one practitioner from each state and the Department of Revenue 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 stated do 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 provide even-handed statutes of limitation on over and underpayments of income and sales/use tax?
2. Does the state provide equal interest on refunds and assessments of income tax?
3. Within what time period must taxpayers file a protest after receiving a notice of assessment from the department of revenue?
4. Is the state's corporate income tax return due date at least 30 days after the Federal corporation income tax due date?
5. Does the six-month Federal extension for corporate income tax returns automatically extend the State due date for six months?
6. Does the state provide a non-judicial tax dispute forum (where the record for appeal is set) that is independent of the state DOR?
7. Are taxpayers required to prepay assessed amounts prior to an independent hearing in your state?
8. List any key additional issues that impact fair and efficient tax administration in your state.

COST Survey of Administrative Practices & Appeal Requirements

	Even-handed statutes of limitations (refunds and assessments)	Interest rates on assessments and refunds	Number of days to protest an assessment	State return due at least 30 days after Federal return?	Federal extension automatically extends state due date	State provides independent, non-judicial tax dispute forum	Payment or bond required before independent hearing	Key additional issues impacting fair and efficient tax administration
AL	3 years both <i>Assessment</i> Ala. Code §40-2A-7(b)(2). <i>Refund</i> Ala. Code §40-2A-7(c)(2).	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. §40-2A-7(b)(4).	No. Ala. Code §40-18-39.	Yes. Ala. Code §40-18-39-.02 states “...may grant a reasonable extension of time” Tax Form 20-E Instructions.	No, Admin. Law Judge only. Ala. Code §40-2A-7, 9.	Yes, unless TP can show net worth ≤ \$20,000. Ala. Code §40-2A-7	1) Independent local revenue departments create disconformity and complex interpretive and compliance burdens for taxpayers.  2) Department is using outside counsel to challenge pending refund claims after losing <i>South Central Bell</i> at US Supreme Court.
AK	3 years both <i>Assessment</i> AK. Stat. §43.05.260(a). <i>Refund</i> AK. Stat. §43.05.275(a)(1)(A).	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 §43.05.240 (a).	Yes. TP permitted to file return within 30 days after federal return due. §43.20.030(a) tax is due and payable at the same time payable to the fed gov't. 43.20.030(d)	If tax is due, no. Tax return, yes. See Instructions 04-611.	Yes. The Office of Admin. Hearings. Ak. Stat. 43.05.405 et seq (as amended and effective July 1, 2005	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 court. Ak. Stat 43.05.480	Federal RAR opens entire state return to audit. §43.20.030(d).
AZ	4 years both <i>Assessment</i> A.R.S. §42-1104(A). <i>Refund</i> A.R.S. §§42.1106(A). and 42-1104(A).	Fed. Short Term Rate Plus 3%, Equally Applied. A.R.S. §42-1123(A).	Yes. 90 days from date of mailing for income tax protests; 45 days from receipt of notice to	Yes. Ariz. Rev. Stat. Ann. §43-325.	Yes. A.R.S. § 42-1107.B if the 90% payment requirement is met.	Yes. A.R.S. §42-1252, 1253. <sup>3</sup>	No. <sup>4</sup>	1) Taxpayers that receive sales tax refunds do not have to return them to their customers. Ariz. <i>Dep't of Rev. v. Canyoneers</i> , 200 Ariz. 139, 23 P.3d 684 (Ct. App. 2001). Refunds may

	Even-handed statutes of limitations (refunds and assessments)	Interest rates on assessments and refunds	Number of days to protest an assessment	State return due at least 30 days after Federal return?	Federal extension automatically extends state due date	State provides independent, non-judicial tax dispute forum	Payment or bond required before independent hearing	Key additional issues impacting fair and efficient tax administration
			taxpayer for all other tax protests. §42-1108(B)					be issued as credits or vouchers. A.R.S. § 42-1118.A.  2) Judges of the Arizona Tax Court are regular Superior Court judges with no tax background, and are regularly rotated out of the Court and replaced every three to four years. The Arizona courts rarely see sophisticated income tax cases.
AR	3 years both <i>Assessment</i> A.C.A. §26-18-306(a). <i>Refund</i> A.C.A. § 26-18-306(i).	10%, equally applied <i>Underpayment</i> A.C.A. § 26-18-508(1) <i>Overpayment</i> A.C.A. § 26-18-508 (3).	30 days. §26-18-404(c).	No. ACA 26-51-806 (a)(3); See Form AR1100 CT instructions	Yes. ACA §26-51-807(a).	No. A.C.A. §26-18-405.	Yes. <sup>5</sup>	
CA	4 years both <i>Assessment</i> Cal. Rev. & Tax Code §19057(a), 19067(a), 19065. <i>Refund</i> Cal. Rev. & Tax Code §19306(a0, 19308.	<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	60 days for income tax. § 19041. 30 days for sales/ use. § 6561.	No. See Form 100 instructions.	7 months. See Form 100 instructions.	CA does provide a non-judicial tax dispute forum for corporation franchise and income taxes (i.e. the State Board of Equalization) that is independent of the Franchise Tax Board. <sup>6</sup> Cal. Rev. & Tax. Code §	Not before SBE hearing. However, Taxpayer must pay tax & file refund claim prior to de novo review at Superior Court.	CA imposed retroactive penalties and interest under their recent Voluntary Compliance Initiative with limited rights of appeal.

	Even-handed statutes of limitations (refunds and assessments)	Interest rates on assessments and refunds	Number of days to protest an assessment	State return due at least 30 days after Federal return?	Federal extension automatically extends state due date	State provides independent, non-judicial tax dispute forum	Payment or bond required before independent hearing	Key additional issues impacting fair and efficient tax administration
		13-week treasury bills. §19521(a)(1) (A), (B), (C).				19045, et seq. Sales/use tax issues are administered and appealed before the SBE.		
CO	4 years both <i>Assessment</i> Corporate 4 years C.R.S. §39-21-107(2). All other taxes 3 years C.R.S. §39-21-107(1). <i>Refund</i> Corporate 4 years C.R.S. §39-21-108(1). All other taxes 3 years C.R.S. §39-21-108(1).	Prime Rate plus 3%, equally applied <i>Underpayment</i> C.R.S. § 39-21-109 / § 39-21-110.5 <i>Overpayment</i> C.R.S. § 39-21-110 / § 39-21-110.5 C.R.S. 39-21-110.5(2).	30 days. §39-21-105(1).	Yes. See Form 112 instructions	Yes. See Form 112 instructions.	No. Colo. Rev. Stat. § 39-21-103 to 39-21-105.	Yes. Colo. Rev. Stat. § 39-21-105 (4)	Local jurisdictions use private attorneys to prosecute tax cases.
CT	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.	<i>Underpayment</i> 1% per month § 12-235 <i>Overpayment</i> .66% per month C.G.S.A. § 12-227 Interest on underpayment runs from due date of return. Interest on overpayment only runs from claim for refund filed.	60 days. §12-418	No. First day of the month next succeeding the due date of the Federal return. Conn. Gen. Stat § 12-222(b)	No. Conn. Gen. Stat. §12-222; See Form CT-1120 instructions.	No.	No. Taxpayer "may make" payment. Conn. Gen. Stat 12-39m	1) Federal RAR opens entire state return to audit. §12-727. 2) There is no time limit set for CT to act on a refund request.

	Even-handed statutes of limitations (refunds and assessments)	Interest rates on assessments and refunds	Number of days to protest an assessment	State return due at least 30 days after Federal return?	Federal extension automatically extends state due date	State provides independent, non-judicial tax dispute forum	Payment or bond required before independent hearing	Key additional issues impacting fair and efficient tax administration
DE	3 years both <i>Assessment</i> 30 Del. Code §531. <i>Refund</i> 30 Del. Code §539.	1% per month, equally applied <i>Underpayment</i> § 533(a) <i>Overpayment</i> § 540(a).	60 days. §1904	No. First day of fourth month. See Delaware Form 1100 instructions. See 30 Del. C. § 1904(b)	Yes. See Delaware Form 1100 instructions.	Yes. The Delaware Tax Appeal Board. 30 Del. Code § 544, see also 30 Del. S. § 321 <i>et seq.</i>	No. 30 <u>Del. C.</u> § 544	DOR has used private attorneys to prosecute tax cases.
DC	3 years both <i>Assessment</i> DC Code §47-4301(a). <i>Refund</i> §47-4304(a).	<i>Underpayment</i> 13% per year, simple interest (after 1/1/03, 10% per year compounded daily). § 47-4201 <i>Overpayment</i> 6% per year, simple interest § 47-4202.	30 days. §47-3303.	No. See Form D-20 instructions	No. See Form D-20 instructions.	Yes. New Office of Admin. Hearings (hears both tax and non-tax cases). DC Code 2-183, et seq.	No, if appeal is to Office of Admin. Hearings. Yes, if taxpayer chooses to appeal to DC Superior Court.	
FL	3 years both <i>Assessment</i> Fla. Stat. §220.705/§95.091 (3). <i>Refund</i> Fla. Stat. §220.727/§215.26 (2).	Prime Rate + 4% not to exceed 12% equally applied <i>Underpayment</i> §§ 220.809 & 220.807 <i>Overpayment</i> F.S.A. §§ 220.723 & 220.807 213.255.	60 days. §72.011.	No. First day of 4 <sup>th</sup> month. Fla. Stat. 220.222(1)	Yes. Fla. Stat. § 220.222(2) Taxpayer must file form F-7004 to obtain the extension.	No. F.S.A. §§ 213.015, 213.21 & 213.731	No. <sup>7</sup> § 72.011.	1) Taxpayers seeking direct appeal from informal determination must do so within 30 days and are limited to the record appealed from.  2) The ALJ in formal administrative litigation may “fast-track” the final hearing on 14 days’ notice.
GA	3 years both <i>Assessment</i> Ga. Code Ann. §48-2-49(b). <i>Refund</i> Ga. Code Ann. §48-2-35(b)(1).	1% per month, equally applied <i>Underpayment</i> §§ 48-2-48 & 48-2-40 <i>Overpayment</i> § 48-2-35(a).	30 days. §48-2-45.	No. See form IT 611 instructions and O.C.G.A. §48-7-56	Yes. GA Code Ann. § 48-7-57 (d); Revenue Rule 560-7-8-.08.	No. Ga. Code Ann. §§ 48-2-46 to 48-2-50, & 48-2-59. <sup>8</sup>	No. <sup>9</sup>	Taxpayers may not directly appeal to Court of Appeals; must first file application for discretionary appeal seeking permission to file.

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HI	3 years both <i>Assessment</i> H.R.S. §235-111(a). <i>Refund</i> §235-111(b)	2/3 of 1% per month, equally applied <i>Overpayment</i> § 231-39(b)(4)(A) <i>Underpayment</i> § 231-23(d)(1).	30 days. §235-114.	Yes. Form N-30 instructions.	Yes. Form N-30 instructions.	Yes. H.R.S. §§ 232-8 through § 232-13. Proviso: Appeal from BOR to tax appeal court is de novo.	No. H.R.S. § 235-114 [eff 7-1-06]	
ID	3 years both <i>Assessment</i> Idaho Code §63-3068(a); Sales Tax 63-3633(a). <i>Refund</i> Idaho Code §63-3072(b); Sales Tax §63-3626(b).	Same as federal Mid-Term Rate plus 2%, equally applied <i>Underpayment</i> § 63-3045(6)(c) <i>Overpayment</i> § 63-3073 / § 63-3045(6)(c).	63 days. §63-3045(1).	Yes. Idaho Code §63-3032 and 63-3085	Yes. Idaho Code §63-3033. Idaho allows an automatic 6-month extension.	Yes. Idaho Code §§ 63-3801 through 63-3820.	Yes. 20% of the amount asserted. Idaho Code §63-3049 [eff. 7-01-05]	If Idaho taxable income or credits are adjusted as a result of a final federal determination, and the limitations period is less than one year, the limitations period is extended to one year from the date the IRS delivered the final notice to the taxpayer. Idaho Code 63-3072.
IL	3 years both <i>Assessment</i> 35 Ill. Comp. Stat. §5/905(1). <i>Refund</i> 35 Ill. Comp. Stat. §5/911(1).	Fed. Underpayment Rate, adjusted semiannually, equally applied <i>Underpayment</i> 35 ILCS §§ 5/1003(a) & 735/3-2. <i>Overpayment</i> 35 ILCS §§ 5/909(c) & 735/3-2.	60 days. 35 ILCS 5/ 908.	No. ILCS § 5/505(1) 35 ILCS §5/505(a)(i)	Yes. The extension is 6 mos. Plus 1 additional month 35 ILCS 5/505 (L).	No. 35 Ill. Comp. Stat. §§ 5/908 through 5/918, & § 5/1201	No. ILCS § 5/3-103	Cumbersome Administrative Hearing process. Taxpayers are subject to discovery although rules of evidence do not apply. Appeal to Circuit Court is not de novo, but on the record made at the Administrative Hearing.
IN	3 years both <i>Assessment</i> Ind. Code §6-8.1-5-2(a). <i>Refund</i> Ind. Code §6-8.1-9-	<i>Underpayment</i> Average investment yield on state money plus 2%. IC 6-8.1-10-1(c)	60 days. §6-8.1-5-1.	Yes. Compare IC 6-3-4-3 (15th day of fourth month following the close of the	Yes. IC 6-8.1-6-1(c).	No, but appeals from the Department of Revenue may be brought before the	No, but only if an appeal is taken pursuant to Ind. Code §6-8.1-5-1(g) (as	1) Federal RAR opens entire state return to audit. § 6-3-4-6. 2) Administrative

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	1(a)(1).	<i>Overpayment</i> Average investment yield on state money. IC 6-8.1-9-2(c); IC 6-8.1-10-1(c).		tax year); I.R.C. §06072(b) (15th day of the third month.)		Indiana Tax Court de novo. See Ind. Code §6-8.1-5-1(g) and (h) and Ind. Code §6-8.1-9-1(c) and (d).	opposed to refund appeals under Ind. Code §6-8.1-9-1(c)), and either an injunction against collection is granted by the Tax Court under Ind. Code 33-26-6-2 or the Department of Revenue agrees to stay collection.	hearings for refund denials are at DOR discretion. Additionally, certain appellate rights are different in refund cases. See IC 6-8.1-9-1.  3) Special time limitations are imposed on taxpayers who wish to either petition to commence filing combined (unitary) returns or to stop filing combined (unitary) returns. See Ind. Code §6-3-2-2(q), as amended by the Indiana General Assembly in 2006 (House Enrolled Act 1001, not yet signed by the Governor). Similar time periods are not imposed upon the Department of Revenue.
IA	3 years both <i>Assessment</i> Iowa Code §422.39, 422.25, 423.37. <i>Refund</i> Iowa Code §423.37 and 423.47.	Average Prime Rate (previous 12-month period) plus 2%, equally applied <i>Underpayment</i> §§ 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. §§422.28, 422.41 and Iowa Regs. §701-55.5.	Yes. Iowa Code 422.21	Yes. Form IA 1120 instructions; Taxpayer must pay 90% of correct tax by due date.	An ALJ of the Admin. Hearings Division of the Department of Inspections and Appeals conducts evidentiary hearings, unless the Director of Revenue retains jurisdiction. Dept. rule 701-7.50(1)	No. Iowa Code § 17A.19 and § 421.1; 422.28; 423.47	

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KS	3 years both <i>Assessment</i> K.S.A. §79-3230(a). <i>Refund</i> K.S.A. §79-3230(c).	Fed. Underpayment Rate plus 1%, equally applied <i>Underpayment</i> K.S.A. §§ 79-3228(a) & 79-2968 <i>Overpayment</i> K.S.A. §§ 79-32,105(e) & 79-2968.	60 days. §79-3226.	Yes. Form K-120 instructions.	Yes. Form K-120 instructions.	Yes. Kan. Stat. Ann. 79-3233g.	Board of Tax Appeals -- no. K.S.A. §74-2433; K.S.A. §74-2426 (d)	1) Concerns have been expressed about the lack of specific state tax experience required for arbiters serving on the Kansas Board of Tax Appeals.  2) DOR doesn't pay interest on refunds paid within 60 days; Also, interest is calculated from the date the amended return is filed, and not the date of overpayment.
KY	4 years both <i>Assessment</i> K.R.S. §141.210(2). <i>Refund</i> K.R.S. §134.580(4).  Statute is shorter if challenge is Constitutional KRS 134.590	Adjusted Prime Rate, equally applied. <i>Underpayment</i> K.R.S. § 131.183(1) <i>Overpayment</i> K.R.S. § 131.183(2)	45 days. §131.110(1) & 131.081(11); 103 KAR 1:010.	Yes. KRS 141.160 and 141.220	Yes. Form 720 SL instructions.	Yes. Ky. Rev. Stat. Ann. §§ 131.310 thru 131.370.	No. Ky Admin Reg 1:010 Section 4	DOR is using private attorneys to prosecute tax cases.
LA	3 years both <i>Assessment</i> La. Cont. Art. 7, §16; La. R.S. 47:1579 and 1581 based on LA Cont. Art. VII § 16. <i>Refund</i> La. R.S. 47:1623.	<i>Underpayment</i> 1 1/4 % per month La. R.S. 47:1601(A) <i>Overpayment</i> Discount Rate plus 3 1/4% per year La. R.S. 47:1624(A) La. C.C. Art. 2924(B)(1) La. R.S. 13:4202(B)	15 calendar days from notice if no return filed; 30 days from notice if incorrect form filed. §47:1563.	Yes. La. R.S. 47:287.614 and 47:609	Yes. La. R. S. 47:614(D) and 47:612.	Yes. La. R.S. 47:1401 to 1486; however, the La. DOR has some control over whether a taxpayer can appeal to the BTA. See La. R.S. 47:1431 (formal assessment	Yes. <sup>10</sup> §§47:1401 to 1486.	1) Numerous separate local taxing authorities (Parishes), create disconformity and complex interpretive and compliance burdens for taxpayers.  2) Local jurisdictions use outside counsel to



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		R.S. 47:1601(2)(a).				required).		prosecute tax cases  3) Taxpayers are liable for outside counsel's attorney fees up to 10% of amount collected.
ME	3 years both <i>Assessment</i> 36 M.R.S.A. §141(1). <i>Refund</i> 36 M.R.S.A. §5278(1).	Prime plus 3 %, equally applied. <i>Underpayment</i> 36 M.R.S.A. §186. <i>Overpayments</i> 36 M.R.S.A. §5279(1) & 186.	30 days. §151.	Yes. 36 M.R.S.A. §151.	Yes. Automatic, Fed + 30 36 M.R.S. § 5231.1-A.	No. 36 M.R.S.A. §§5301 and 151.	No.	Although appeal to Superior Court is de novo, the AG's office argues taxpayers are precluded from raising issues not heard at the informal conference level.
MD	3 years both <i>Assessment</i> Md. Code Ann. Tax – Gen. § 13-1101(a). <i>Refund</i> §§ 13-903 and 1103(a).	Greater of 13% or Average Prime Rate plus 3% per year, equally applied.	30 days. §13-508, §13-1104	No. Form 500 instructions	Yes. HB 1434, effective July 1, 2006, if the Comptroller finds that good cause exists and subject to §13-601, the Comptroller may extend the time to file a tax return up to 7 months for a corporation. Otherwise the Form 500E Instructions had set the extension at 6 months.	Yes. Md. Code Ann. Tax – Gen. §§ 3-101 to 3-113	No. Md. Code Ann. Tax – Gen. § 13-510	
MA	3 years both <i>Assessment</i> M.G.L.A. 62C §26(b). <i>Refund</i> M.G.L.A. 62C §37.	Underpayment federal ST rate plus 4%; overpayments: federal ST rate plus 2%. L.L. c. 62C, s.32, 40.	60 days. §§37& 39.	No. Form 355 instructions.	No. Form 355 instructions.	Yes. M.G.L.A. 58A §§1-14 Appellate Tax Board.	No. Mass. Gen L § 32 G.L.C. 62C § 32	S of L for refunds is 3 years from the un-extended due date of the return; for assessments, it is 3 years from the extended due date.

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MI	4 years Both <i>Assessment</i> MCL § 205.27a(2) <i>Refund</i> MCL § 205.30(2), §205.27a(2), 209.27a(2)  Statute is shorter if challenge is Constitutional MCL 205.27a(6).	Prime plus 1% equally applied <i>Underpayment</i> MCL § 205.23(2) <i>Overpayment</i> MCL § 205.30(3) / § 205.23(2) MCL 205.23(2). But see special rules for refund claims <sup>11</sup>	35 days. §205.22.	Yes. MCL 208.73(4). <sup>12</sup>	Yes -- period of federal extension plus 60 days -- MCL 208.73(4) "automatic" with filing of required forms by due date.	Yes. <sup>13</sup> MCL 205.21, 205.22.	No. <sup>14</sup> MCL 205.22.	Refunds must be requested explicitly on the face of a return or in a separate request or correspondence in order to commence the refund payment process. Interest on a refund begins to run forty-five days after the refund is requested.
MN	3 1/2 Years Both <i>Assessment</i> Minn. Stat. § 289A.38 <i>Refund</i> Minn. Stat. § 289A.40	6% per annum, equally applied. <i>Underpayment</i> Minn. Stat. §§ 289A.55; § 270C.40 <i>Overpayment</i> Minn. Stat. §§ 289A.56, 270.76; § 270C.405.	60 days. §289A.65.	No. Form M4/Minn. Stat. §289A.18	Yes. Automatic 7 months extension whether Fed 7004 filed or not. Form M4 Taxpayers are not required to file a form for an extension but must pay 90% of the tax due by the original due date. Form M4/Minn.Stat. §289A.19.	Yes. Minn. Stat. Ann. 271.01 to 271.21	No.	1) Refund interest differential on purchaser refund claims compared to vendor refund claims (sales tax).  2) Refunds payable in installments where aggregate refunds exceed \$50 million. Minn. Stat. §270C.43  3) Penalty abatement procedure resides in the Collections Division rather than the Appeals Division; no independent appeal review.  4) RAR opens entire return to audit unless return has already been subject to field audit.

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MS	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	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 §27-7-71(1)	No. Form 83-100 instructions.	Yes. Instructions say "commissioner may recognize time authorized by IRS for filing of annual income tax returns" Form 83-100 instructions.	No.	Yes. 2005 Miss. Laws Ch. 499 (S.B. 2742)	
MO	3 Years Both <i>Assessment</i> R.S.Mo. § 143.711(1) <i>Refund</i> R.S.Mo. § 143.801(1).	Adjusted Prime Rate equally applied <i>Underpayment</i> R.S.Mo. § 143.731(1) / § 32.065 <i>Overpayment</i> R.S.Mo. § 143.811(1) / § 32.065	60 days. §143.631. Upon appeal to the Admin. Hearing Cmsn, only 30 days to appeal. §621.052.	Yes. Mo Rev. Stat § 143.511	Yes. Form MO-1120 instructions.	Yes. Mo. Rev. Stat. 621.015 to 621.205 The Admin. Hearing Commission is under a different state department. Comm’rs are appointed by Governor for terms of 6 years.	No. Mo. Rev. Stat. § 621.050	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.  3) The state does not allow the payment of refunds attributable to the carryback of income tax credits filed on amended returns. See L. 2002, S1248, effective 6-19-2002.
MT	3 Years Both Corporate: <i>Assessments</i> Montana Code Ann. §15-31-509(1); M.C.A. § 15-30-146.	1% per month, equally applied <i>Underpayment</i> Mont. Code Ann. § 15-31-503 / § 15-1-216 <i>Overpayment</i>	30 days. §15-1-211.	Yes. Form CLT-4 Instructions	Automatic whether Federal 7004 filed or not; 11/15 is furthest extension Mont. Code Ann. § 15-31-111(3).	Yes. Mont. Code Ann. 15-2-101 to 15-2-307	No. Mont. Code Ann. § 2-4-702	

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	<i>Refunds</i> M.C.A. §§15-31-509(2); 15-30-149.	Mont. Code Ann. § 15-31-531 / § 15-31-503 / § 15-1-216.						
NE	3 Years Both <i>Assessment</i> Income Tax Neb. Rev. Stat. § 77-2786 <i>Refund</i> Sales Tax Section 77-2709 Income Tax Neb. Rev. Stat. § 77-2793 Sales Tax-Section 77-2708	Fed. ST Rate plus 3%, <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).	90 days for income tax, 30 days for sales/use and withholding tax. §77-2777.	No. Form 1120 instructions and Section 77-2768. 15th day of the 3rd month following the close of the tax year.	Yes. Form 1120 instructions and Section 77-2770.	No. Neb. Rev. Stat. §§ 77-27,127	No. Neb. Rev. Stat § 77-2798	
NV	3 Years Both <i>Assessment</i> Nev. Rev. Stat. Ann. § 360.355 <i>Refund</i> Nev. Rev. Stat. Ann. § 372.635 See also NRS 374.640 for refunds.	<i>Underpayment</i> 12% per annum <i>Overpayment</i> 6% per annum Nev. Rev. Stat. Ann. § 372.660 See also NRS 374.665 with regard to overpayments.	45 days. §360.360	N/A	N/A	No. Nev. Admin. Code 360.185	Yes. Taxpayers must prepay or enter a payment agreement. See NRS 360.395	
NH	3 Years Both <i>Assessment</i> N.H. Rev. Stat. § 21-J:29(I)(a) <i>Refund</i> N.H. Rev. Stat. § 21-J:29(I)(b).  Statute is shorter if challenge is	<i>Underpayment</i> Fed. Underpayment Rate plus 2% N.H. Rev. Stat. § 21-J:28(II) <i>Overpayment</i> Fed. Underpayment Rate less 3%	60 days. §21-J:28-b.	No. General instructions for filing business tax return. RSA 77-A:6(I)	Yes. Automatic 7 months whether Federal 7004 filed or not. See NH General Instructions for filing Business Tax -- but must have paid 100% of tax due.	Yes. N.H. Admin. Rules, Tax 102.01; N.H.R.S. § 71-B:1 through B:22; RSA 21:J(3)-XVII Rev 204. Taxpayer option to appeal administrative decisions to Board of Tax and Land	Generally no. May be required to post bond if department makes a request based on risk of non-payment RSA § 21-J:28-b, V but is unusual.	DOR is asserting that “failure to pay” penalties apply on amounts assessed based on interpretive differences as well as on amounts paid on the original return.

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	Constitutional. RSA 21-J:29-I(d).	N.H. Rev. Stat. § 21-J:28(III)				Appeals (non-Judicial) or Superior Court.		
NJ	4 Years Both <i>Assessment</i> N.J. Stat. Ann. § 54:49-6(b). <i>Refund</i> N.J. Stat. Ann. § 54:49-14(a).	<i>Underpayment</i> Prime Rate plus 3% N.J.S.A. § 54:49-3 <i>Overpayment</i> N.J.S.A. § 54:49-15.1 [prime rate]	90 days. §54:49-18(2).	Form CBT-100 instructions. Yes. N.J.S.A. 54:10A-15.	No. N.J.S.A. 54:10A-19, N.J.A.C. 18:7-11.12 Must use Form CBT-200T.	New Jersey tax Court provides independent tax dispute forum.	No, but taxpayer may be required to post bond for contested amount	
NM	3 Years Both <i>Assessment</i> N.M.S.A. § 7-1-18(A) <i>Refund</i> N.M.S.A. § 7-1-26(D)(1).	15% per year, equally applied <i>Underpayment</i> N.M.S.A. § 7-1-67(B) <i>Overpayment</i> N.M.S.A. § 7-1-68(B). Interest runs from date of claim for refund, not date of overpayment.	30 days. §7-1-24.	No. NMSA 1978, §7-2A-9; Form CIT-1 instructions	Yes. Form CIT-1 instructions. NMSA 1978, § 7-1-13.	No. NMSA 7-1-1 to 7-1-82 There is no prepayment remedy in a non-judicial forum independent of the department.	No. Taxpayer can challenge assessment without paying tax or pay and claim refund. NMSA 1978, §7-1-23 but see 7-1-26(d)	The dept will not offset an overpayment in an open period for assessment against an underpayment for a different open period on the theory that the SOL for claiming a refund on overpayments is closed.
NY	3 Years Both <i>Assessment</i> Corporate Franchise Tax §1083(a) Sales/Use Tax § 1147(b) <i>Refund</i> Corporate Franchise Tax § 1087(a) Sales/Use Tax § 1139(a),(c).	<i>Underpayment</i> Fed. ST Rate plus 5% N.Y. Tax Law §§ 1084 (a) and 1096(e)(2)(B). <i>Overpayment</i> Fed. ST Rate plus 2% N.Y. Tax Law §§1088(a) and 1096(e)(2)(A).	90 days §1138(a)(1).	No. Form CT-4 instructions	No. A separate extension form must be filed for New York. (Forms may be obtained on the Department of Taxation and Finance's website.) N.Y. Tax Law §§ 193,0211,1462 and 1515.	Yes. The New York State Division of Tax Appeals and the Tax Appeals Tribunal. N.Y. Tax Law §§ 2000-2026.	No. N.Y. Tax Law 2006	
NC	3 Years Both <i>Assessment</i> N.C. Gen. Stat. §	The interest rate, set by the Secretary twice a year	30 days. §105-241.1(c).	No. N.C. Gen. Stat §105-130.17	No, a taxpayer must submit a request for an	No. The record on appeal is not set at the Tax Review	Yes. GS 105-267. DS. 105-241.3 allows	Federal RAR opens entire state return to audit. §105-130.20.

	Even-handed statutes of limitations (refunds and assessments)	Interest rates on assessments and refunds	Number of days to protest an assessment	State return due at least 30 days after Federal return?	Federal extension automatically extends state due date	State provides independent, non-judicial tax dispute forum	Payment or bond required before independent hearing	Key additional issues impacting fair and efficient tax administration
	105-241.1(e) <i>Refund</i> N.C. Gen. Stat. § 105-266(c)(1).	(min.5%/max. 16% per year), is applied equally. <sup>15</sup> <i>Underpayment</i> N.C. Gen. Stat § 105-241.1(i) <i>Overpayment</i> N.C. Gen. Stat § 105-266(b).			extension to the DOR by the due date of the return. Extension is automatic if timely requested and gives the taxpayer seven add'l months to timely file the return. N.C. Gen. Stat § 105-130.17 (d); N.C. Gen. Stat § 105-263.	Board, which hears appeals of the Secretary's decisions based on the record established at a Department of Revenue hearing.	filing of a bond in lieu of payment of tax in order to obtain judicial review of the Tax Review Board's administrative review of the Secretary's decision.	Lengthy and cumbersome administrative refund claim process. GS 105-266.1
ND	3 Years Both <i>Assessment</i> N.D. Cent. Code § 57-38-38 <i>Refund</i> N.D. Cent. Code § 57-38-40  Statute is shorter if challenge is Constitutional. N.D.C.C. § 57-01-19.	Income Taxes: 1% per month, equally applied <i>Underpayment</i> N.D. Cent. Code § 57-38-45(1)(d) <i>Overpayment</i> N.D. Cent. Code § 57-38-35.2(1) Sale/Use Taxes: <i>Assessments</i> : 12% per annum; N.D.C.C. § 57-39.2-15 <i>Refunds</i> : 10% per annum on refunds. N.D.C.C. § 57-39.2-24	30 days. N.D. Cent Code §57-38-39.	Yes. Form 40 instructions	Yes. Form 40 instructions.	No. The Office of Administrative Hearings is an independent tribunal that conducts the hearings in tax disputes. The ALJ issues Proposed Findings of Fact and Conclusions of Law, which may or may not be adopted by the Tax Commissioner, N.D.C.C. ch. 28-32, and 57-38-39 to 57-38-40.	No.	
OH	4 Years Both <i>Assessment</i> O.R.C. §	Fed. ST Rate plus 3%, equally applied	Franchise tax: 60 days. R.C. 5733.11	No. Form 1120 instructions.	Yes. Form FT 1120-E instructions.	Yes. Ohio Rev. Code Ann. 5717.01 to	No. Ohio Rev. Code Ann. §5717.02	Taxpayer may not raise new issues in an appeal from a final determination

	Even-handed statutes of limitations (refunds and assessments)	Interest rates on assessments and refunds	Number of days to protest an assessment	State return due at least 30 days after Federal return?	Federal extension automatically extends state due date	State provides independent, non-judicial tax dispute forum	Payment or bond required before independent hearing	Key additional issues impacting fair and efficient tax administration
	5747.13(A) <i>Refund</i> O.R.C. § 5747.11(B).	<i>Underpayment</i> ORC. §§ 5747.13(C) & 5703.47 <i>Overpayment</i> ORC. §§ 5747.11(C) & 5703.47	Sales tax: 60 Days R.C. 5703-9-45			5717.06.		of the Tax Commissioner R.C. 5717.02
OK	3 Years Both <i>Assessment</i> 68 Okl. St. § 223(A) <i>Refund</i> 68 Okl. St. § 2373.	<i>Underpayment</i> 1 1/4% per month 68 Okl. St. § 217(A) <i>Overpayment</i> 1-1/4% per month 68 Okl. St. § 217(H).	60 days. §221.	No. Form 512 instructions	Yes. Form 512 instructions. (Must file Oklahoma form)	No. Okla. Stat. Ann. tit. 68, §§ 101-102, 201-203, 207, 225-228 But the Tax Commission does offer a non-judicial dispute forum statutorily and functionally separate from the audit functions of the Commission.	As of July 1, 2002, prepayment no longer required, but Tax Commission may "request" Okla. Stat. 68 §225(D)	1) Federal RAR opens entire state return to audit. §2375(H).  2) The section of the Uniform Tax Procedure Code authorizing filing of a claim for refund and payment of a refund of tax provides that it does not apply to refunds of income tax erroneously paid. 68 O.S. 2001, § 227(f)(1).
OR	3 Years Both <i>Assessment</i> ORS § 314.410(1) <i>Refund</i> 3 years after return filed or 2 years after tax or portion of tax paid, whichever is later ORS § 314.415(2)(a).	Equally applied Rates are different for different tax periods. As of 1-1-06 rate is 7% simple per year. <i>Underpayment</i> ORS § 305.220(1) <i>Overpayment</i> ORS § 305.220(2).	30 days for informal conference at DOR; 90 days to Magistrate Division. §305.265(5).	Yes. Form 20 instructions.	Yes. Form 20 instructions. ORS §314.385(1)(c)	Yes. The record is not created in the State DOR, it is first created in the regular division of the court. ORS 305.425.	No. Tax is not due in the magistrate division. ORS § 305.419(1). Another exception to the prepayment requirement exists for hardship 305.419(3).	Federal RAR opens entire state return to audit. ORS §314.140, 314.380.
PA	<i>Inc./Franchise Assessment</i> Req. within 18 mos: resettlement	No. <i>Underpayment</i> the Federal <i>Underpayment</i> rate is used.	90 days from date of settlement notice for	Yes. Form CT-1 instructions	Yes, provided the taxpayer files a request with PA to get 30 days after	No. Both the Governor and the Business Tax Reform	No, however security is required to stay collection action.	

	<b>Even-handed statutes of limitations (refunds and assessments)</b>	<b>Interest rates on assessments and refunds</b>	<b>Number of days to protest an assessment</b>	<b>State return due at least 30 days after Federal return?</b>	<b>Federal extension automatically extends state due date</b>	<b>State provides independent, non-judicial tax dispute forum</b>	<b>Payment or bond required before independent hearing</b>	<b>Key additional issues impacting fair and efficient tax administration</b>
	within 3 yrs 72 P.S. § 7407; Sales Tax 3 yrs plus current yr. <i>Inc/Franchise Refund</i> Req. within 6 mos of pymt on account of audit assessment or settlement; otherwise within 3 Yrs from payment 72 P.S. § 10003.1(a); Sales Tax 3 yrs plus current year	<i>Overpayment</i> the Federal Underpayment rate minus 2% is used. 72 P.S. §806.	corporate (§1102) and individual (§§1103 and 7340). 30 days for sales/use tax (§7232).		the Federal extended due date. 72 P.S. § 7405.	Commission have recommended the establishment of a non-judicial tax dispute forum.	Pa. R.A.P. 1731, 1782. (Appellants allegedly do not have to incur the cost of a bond.)	
RI	3 Years 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: R.I. Gen. Laws § 44-11-20(a); Sales Tax: 44-19-26.	Prime Rate plus 2%, equally applied <i>Underpayment</i> R.I. Gen. Laws §44-11-7/§44-1-7 <i>Overpayment</i> R.I. Gen. Laws §44-1-7.1/§44-1-7.	30 days. R.I. Gen. laws §44-30-89; §8-8-25.	No. Form RI 1120C instructions. The due date is set forth in 44-11-3 and it is not specifically tied to the federal due date.	No. Have to file RI 7004. Form RI 1120C instructions. Under 44-11-3 the discretion to grant an extension is vested in the tax administrator	No. Appeals of decisions of the tax administrator go to the district court (8-8-25); administrative appeals are decided by the tax administrator (44-11-6, 44-11-20, 44-30-89, 44-19-17, 44-19-25.	Yes. Taxpayer may file a motion for exemption. R.I. Gen. Laws §8-8-26. This exemption is only available in hardship cases where TP can show a reasonable probability of success on the merits.	
SC	3 Years Both <i>Assessment</i> S.C. Code Ann. § 12-54-85(A).	Interest on assessments and refunds is at the federal	90 days. §12-60-450.	No. Form SC1120 instructions. S.C. Code § 12-6-	Yes.	Yes. S.C. Code Ann. 1-23-500-660 and Chapter 60 of Title 12. <sup>16</sup>	No. Tax Appeal Procedures for State Tax Assessments and	



	Even-handed statutes of limitations (refunds and assessments)	Interest rates on assessments and refunds	Number of days to protest an assessment	State return due at least 30 days after Federal return?	Federal extension automatically extends state due date	State provides independent, non-judicial tax dispute forum	Payment or bond required before independent hearing	Key additional issues impacting fair and efficient tax administration
	<i>Refund</i> S.C. Code Ann. § 12-54-85(F)(1).	underpayment rate. See S.C. Code § 12-54-25 (d) and IRC §§ 6621 (a)(2) and 6622.		4970 (B)			License Revocations (Other than property tax) Chapter 60 of Title 12	
SD	3 Years Both <i>Assessment</i> S.D. Codified Laws § 10-59-16(3) <i>Refund</i> S.D. Codified Laws § 10-59-19.	1 1/4 % per month, equally applied <i>Underpayment</i> S.D. Codified Laws § 10-59-6 <i>Overpayment</i> S.D. Codified Laws §§ 10-59-24 and 10-59-6.	30 days. §10-59-9.	N/A	N/A	No. SDCL 10-59.	Yes. But Bond may be posted in lieu of payment. S/D/ Codified Laws §10-59-9	
TN	3 Years Both <i>Assessment</i> Tenn. Code Ann. § 67-1-1501(b) <i>Refund</i> Tenn. Code Ann. § 67-1-1802(a).	Formula Rate of Interest published in Tenn. Admin. Register, equally applied. <i>Underpayment</i> Tenn. Code Ann. § 67-1-801(a) <i>Overpayment</i> Tenn. Code Ann. § 67-1-801(b).	90 days. §67-1-1801.	Yes. Tenn Code Ann § 67-4-2015	Yes. Tenn Code Ann § 67-4-2015.	No. Tenn. Code Ann. 67-1-1801 to 67-1-1807.	No. But bond, letter of credit, or affidavit is required in the amount of 150% of assessment. Tenn Code Ann §67-1-1801	“Double-Secret Assessment” – An assessment for additional tax is deemed made by recording the liability in the office of the department. The assessment is valid regardless of whether notice is provided to the taxpayer.
TX	4 Years Both <i>Assessment</i> Tex. Tax Code §§ 111.201, 111.205 <i>Refund</i> Tex. Tax Code §§111.107, 111.206, 111.201.	<i>Underpayment</i> interest rate is Prime Rate plus 1%. Tex. Tax Code § 111.060(b). <i>Overpayment</i> interest rate is the lesser of the annual rate of interest	30 days. §§1.5, §111.009(b)§111.105(a).	Yes. Tex. Tax Code Ann. § 171.202	No. Tex. Tax Code Ann. § 171.202.	Yes. All cases were transferred to the State Office of Administrative Hearings by Comptroller Combs effective January 3, 2007.	Yes, unless the taxpayer files an oath of inability to prepay the tax and the court grants relief from the requirement to prepay the tax.	Federal RAR opens entire state return to audit. §§111.206 and 171.212.

	Even-handed statutes of limitations (refunds and assessments)	Interest rates on assessments and refunds	Number of days to protest an assessment	State return due at least 30 days after Federal return?	Federal extension automatically extends state due date	State provides independent, non-judicial tax dispute forum	Payment or bond required before independent hearing	Key additional issues impacting fair and efficient tax administration
		earned on deposits in the state treasury during December of the previous calendar year or the Prime Rate plus 1% Tex. Tax Code § 111.064(a).					Tex. Tax Code § 112.051 and §112.108	
UT	3 Years Both <i>Assessment</i> Utah Code § 59-7-519(1) <i>Refund</i> Utah Code § 59-7-522(2)(a) Utah Code Ann. 59-12-110 gives time for refund (2)(b) and assessment (6)(a).	Fed. ST Rate plus 2%, equally applied <i>Underpayment</i> Utah Code §§ 59-7-510 & 59-1-402(3)(b) <i>Overpayment</i> Utah Code §§ 59-7-533 & 59-1-402(3)(a).	30 days for the petition with supplemental information allowed later. §59-7-517(3)(f).	Yes. Utah corporate/franchise tax returns are due 15th day of fourth month following close of taxable year. Utah Code Ann. § 59-7-505(2); Form TC-20 Instructions	Yes, whether Federal 7004 filed or not. Form TC-20 instructions; Utah Code Ann. §59-7-505(3).	No. Utah Code §§ 59-1-501 to 59-1-505	Effective May 1, 2006, taxpayers seeking judicial review shall provide security to cover the deficiency in full or in part, but may be granted a waiver by the commission under certain circumstances. Utah Code Ann. § 59-1-611	
VT	3 Years Both <i>Assessment</i> 32 V.S.A. § 5882(a) <i>Refund</i> 32 V.S.A. § 5884(a).	Average Prime Rate (previous 12-month period), equally applied <i>Underpayment</i> 32 V.S.A. § 3108 <i>Overpayment</i> 32 V.S.A. §§ 5884(b) & 3108.	60 days §5868.	No. Form CO-411 instructions	No., but copy of federal form may be used for Vermont. Form CO-411 instructions.	No. 32 V.S.A. §§ 5883 to 5888	Corporate -- No. Vt. Stat. Ann. §5886 Sales & Use -- Yes. Vt. Stat. Ann. §9817	
VA	3 Years Both <i>Assessment</i> Va. Code Ann. § 58.1-104	<i>Underpayment</i> Fed. Underpayment Rate plus 2%	90 days §58.1-1821.	Yes. Form 500 instructions	Yes. Whether Federal 7004 filed or not. Va. Code Ann. §58.1-453	No. Va. Code Ann. 58.1-1820 to 58.1-1825, 58.1-1845. But taxpayer	Payment is not required prior to proceeding with an appeal in	

	Even-handed statutes of limitations (refunds and assessments)	Interest rates on assessments and refunds	Number of days to protest an assessment	State return due at least 30 days after Federal return?	Federal extension automatically extends state due date	State provides independent, non-judicial tax dispute forum	Payment or bond required before independent hearing	Key additional issues impacting fair and efficient tax administration
	<i>Refund</i> Va. Code Ann. § 58.1-1823.	Va. Code Ann. §§ 58.1-308 and 58.1-15 <i>Overpayment</i> Fed. Overpayment (non-corp) Rate plus 2% Va. Code Ann. § 58.1-15.				does enjoy a right to an internal conf. before a determination is issued for an administrative appeal filed pursuant to Va. Code Ann. § 58.1-1821. The conference does not establish the record for appeal. Any proceeding with the circuit court is de novo.	circuit court. The Tax Commissioner may petition the court to compel payment prior to proceeding with the appeal under certain statutorily prescribed conditions designed to protect against frivolous litigation.	
WA	4 Years Both <i>Assessment</i> Rev. Code Wash. § 82.32.050(3) & 82.32.100(3) <i>Refund</i> Rev. Code Wash. § 82.32.060(1).	Fed. ST Rate plus 2%, equally applied <i>Underpayment</i> Rev. Code Wash. § 82.32.050(2) <i>Overpayment</i> Rev. Code Wash. § 82.32.060(1), (5)(b) / § 82.32.050(2).	30 days for excise tax (no income tax for WA). §82.32.160.	N/A	N/A	Yes. Rev. Code Wash §§ 82.03.010 to 82.02.200. Taxpayers are allowed an appeal before the Board of Tax Appeal (an agency independent of the DOR). See RCW 82.03.010 et seq. <sup>17</sup>	Yes. Wash. Rev. Code & 82.32.180. <sup>18</sup>	Subject to certain exceptions, the DOR's administrative rule governing refunds provides that a purchaser "should" request a refund of overpaid sales tax directly from the vendor before requesting a refund from the DOR. See WAC 458-20-229(3)(b)(ii). However, there is no statutory provision that supports the DOR's authority to impose such a requirement.
WV	3 Years Both <i>Assessment</i> W. Va. Code § 11-	Greater of Adj. Prime Rate or 8%, equally	60 days. §11-10-8.	No. 2005 Combined Corporate Net	Yes. 2005 Combined Corporate Net	Yes. Procedural Rule WV Office of Tax	Bond required or certification of assets.	Federal RAR opens entire state return to audit. 11-24-6a, 11-24-6

	<b>Even-handed statutes of limitations (refunds and assessments)</b>	<b>Interest rates on assessments and refunds</b>	<b>Number of days to protest an assessment</b>	<b>State return due at least 30 days after Federal return?</b>	<b>Federal extension automatically extends state due date</b>	<b>State provides independent, non-judicial tax dispute forum</b>	<b>Payment or bond required before independent hearing</b>	<b>Key additional issues impacting fair and efficient tax administration</b>
	10-15(a) <i>Refund</i> W. Va. Code § 11-10-14(1).	<i>Underpayment</i> W. Va. Code §§ 11-10-17(a) and 11-10-17a <i>Overpayment</i> W. Va. Code §§ 11-10-17(d) and 11-10-17a.		Income/Bs Franchise Tax Booklet. § 11-23-9; §11-24-13	Income/Bs Franchise Tax Booklet. § 11-23-10; §11-24-18.	Appeals § 121-1-88 thru 101 W. Va. Code § 11-10A-8.	W. Va. Code § 11-10A-19(e)	
WI	4 Years Both <i>Assessment</i> Wis. Stat. § 71.77(2) <i>Refund</i> Wis. Stat. § 71.75(5).	<i>Underpayment</i> 12% per year Wis. Stat. § 71.82(1)(a) <i>Overpayment</i> 9% per year Wis. Stat. § 71.82(1)(b).	60 days. §71.88(1)	No. Wis. Stat § 71.44 (1)(a) Wis. Stat. §§ 71.24 (7)	Yes. Wis. Stat § 71.44 (3).	Yes. Wis. Stat. §§ 71.87 to 71.90, & 73.01.	No. Wis. Stat. Ann. § 73.01 (5) (a)	Federal RAR opens entire state return to audit. §§ 71.76 & 71.77.
WY	3 Years Both <i>Assessment</i> Wyo. Stat. § 39-15-110(b) <i>Refund</i> Wyo. Stat. § 39-15-110(a).	<i>Underpayment</i> Average Prime Rate (by formula) plus 4% Wyo. Stat. § 39-15-108(b) <i>Overpayment</i> Interest is provided on any protested payments of tax at average prime 39-11-109(f)	30 days. §39-15-110.	N/A	N/A	Yes. Wyo. Stat. §§ 39-11-102.1, 39-11-109.	No. Wyoming Rules Bd. of Eq. Gen. 5 Commencement of Case	

## Endnotes

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<sup>1</sup> *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.

<sup>2</sup> See Tim Reason, *Stingers: Cash-Strapped States Put the Bite on Business*, CFO Magazine, January 2004 at 32; George Donnelly, *States of Confusion: The 2000 Tax Survey*, CFO Magazine, September 2000 at 54; Ian Springsteel, *State Taxes: A Guide for the Besieged*, CFO Magazine, August 1996 at 26; 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.

<sup>3</sup> A.R.S. §§ 42-1251 and 1253 and other authority provide that appeals of tax assessments and refund denials must first go through the Arizona Department of Revenue and a hearing officer.

<sup>4</sup> Under A.R.S. § 42-1251.A, no amount under protest must be paid prior to filing an appeal. Only those amounts not protested have to be paid. This remains the same throughout all possible appeals, including in the court system. (A.R.S. §§ 42-1251.B says that if you fail to timely appeal an assessment, you can pay all of it and then file for a refund. To the extent it requires paying, it's an additional remedy after the normal appeal route is gone.)

<sup>5</sup> Taxpayer has only 2 options: 1) Pay all or a portion of assessment. Tax agency may pursue collection activities on unpaid amounts A.C.A. 26-18-406 (a)(1)(A), or 2) File Bond to secure payment of tax A.C.A. 26-18-406 (a)(1)[2](A).

<sup>6</sup> However, the court proceeding following an adverse decision by State Board of Equalization is de novo and thus "no record for appeal is set" at the Board of Equalization level.

<sup>7</sup> If the taxpayer elects to file an action with the Division of Administrative hearings pursuant to Fla. Stat. § 72.011 (1)(a) and Fla. Chapter 120. Yes - (Fla. Stat. § 72.011(3)) requires the taxpayer to pay the contested portion of the assessment if the taxpayer elects to file an action with the circuit court pursuant to Fla. Stat. § 72.011 (1)(a). The Department may waive the requirement to pay or provide bond. Fla. Stat. § 72.011 (3)(b)1. The circuit court may determine the amount, if any, of alternative security. Fla. Stat. § 72.011(3)(b)2.

<sup>8</sup> Georgia provides alternate appeal routes -- either to the superior court pursuant to O.C.G.A. §48-2-59 as noted or to the Office of State Administrative Hearings where the matter is heard by an administrative law judge who is independent of the DOR. O.C.G.A. § 50-13-12. That decision can then be appealed to superior court.

<sup>9</sup> There are several alternatives to contesting the matter without paying the tax. First, payment can be avoided in the appeal directly to superior court under O.C.G.A. §48-2-59 if taxpayer owns real estate within the state equal to the tax or posts a bond. Second, tax is not required to be paid if the taxpayer selects the appeal route through the Office of State Administrative hearings as noted in footnote 6. Third, the taxpayer can provide an "affidavit of illegality" to a levying officer of the DOR who is then required to file the matter in the superior court and the matter will be adjudicated without payment of the tax.

<sup>10</sup> The 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.

<sup>11</sup> In contrast, interest on refunds does not accrue until 45 days after a refund claim is filed. MCL 209.30(3). Although the statute governing tax refunds provides that the declaration of an overpayment on a return constitutes a

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claim for refund MCL 209.30(2), the Dept ignores the statute and requires a separate refund claim in order to commence the running of interest.

<sup>12</sup> If a TP is granted an extension of time within which to file the federal income tax return for any taxable year, the filing of a copy of the (federal) request for extension together with a tentative (state) return and payment of an estimated tax by the due date (the last day of the 4th mo after the end of the TP's tax year) will automatically extend the due date for filing of the final return for an equivalent period plus 60 days.

<sup>13</sup> MI provides an opportunity for Informal Conference before the Hearings Division within the Department of Treasury under MCL 205.21(2)(c) There is no record made. MCL 205.21(2)(d). An appeal from a determination made following an Informal Conference is subject to de novo review in either the MI Tax Tribunal or the MI Court of Claims where a record is made. MCL 205.22(1).

<sup>14</sup> Independent hearings are available in MI through a proceeding in the MI Tax Tribunal or the MI Court of Claims MCL 205.22(1). The TP is not required to prepay the contested amount of a final assessment prior to a Tax Tribunal appeal, but is required to prepay the amount of an assessment prior to an appeal through the MI Court of Claims. Amounts must be paid under protest prior to proceeding in the Court of Claims. MCL 205.22(2). Uncontested amount must be paid.

<sup>15</sup> Interest on an underpayment accrues from the date the tax was due. Interest on an overpayment of income tax accrues from a date 45 days after the latest of the following: (1) The date the return was filed. (2) The date the return was due to be filed. (3) The date of the overpayment. Interest on an overpayment of franchise tax begins to accrue after 90 days instead of 45 days.

<sup>16</sup> The ALJs are independent as they are elected by the General Assembly; strictly speaking they are non-Judicial; even though they are referred to as Administrative Law Judges, all are lawyers, and they are part of the Administrative Law Court, from a constitutional law perspective they are part of the Executive Branch, not the Judicial branch.

<sup>17</sup> Judicial 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. RCW 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.

<sup>18</sup> While prepayment is not a jurisdictional prerequisite to filing a notice of appeal with the BTA, filing such an appeal does not stay collection, effectively requiring the taxpayer to pay the amount due unless arrangements for a stay can be negotiated with the DOR. See WAC 458-20-100(8) ("A taxpayer filing an appeal with the board of tax appeals must pay the tax by the due date, unless arrangements are made with the department for a stay of collection under RCW 82.32.200.") Prepayment is a jurisdictional prerequisite to filing a refund suit in Superior Court. See RCW 82.32.180.