The Western States Association of Tax Administrators (WSATA)
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Improving the Appeals Process

Wm. Gregory Turner
Vice President, Senior Tax Counsel

State Tax Administrative Reforms

The Best and Worst of State Tax Administration: COST Scorecard on Tax Appeals & Procedural Requirements **(December 2013)**

Major categories include: Independent Dispute Forum; Pay-to-Play; Equal Statute of Limitations and Interest Rates for Underpayments and Refunds; Ample Protest Period; Return Filing Burden; Transparency (new)

A significant driver for state administrative policy changes (see, *e.g.*, independent tax tribunals enacted in GA, IL, ME in 2012; PA in 2013; AL & LA in 2014)

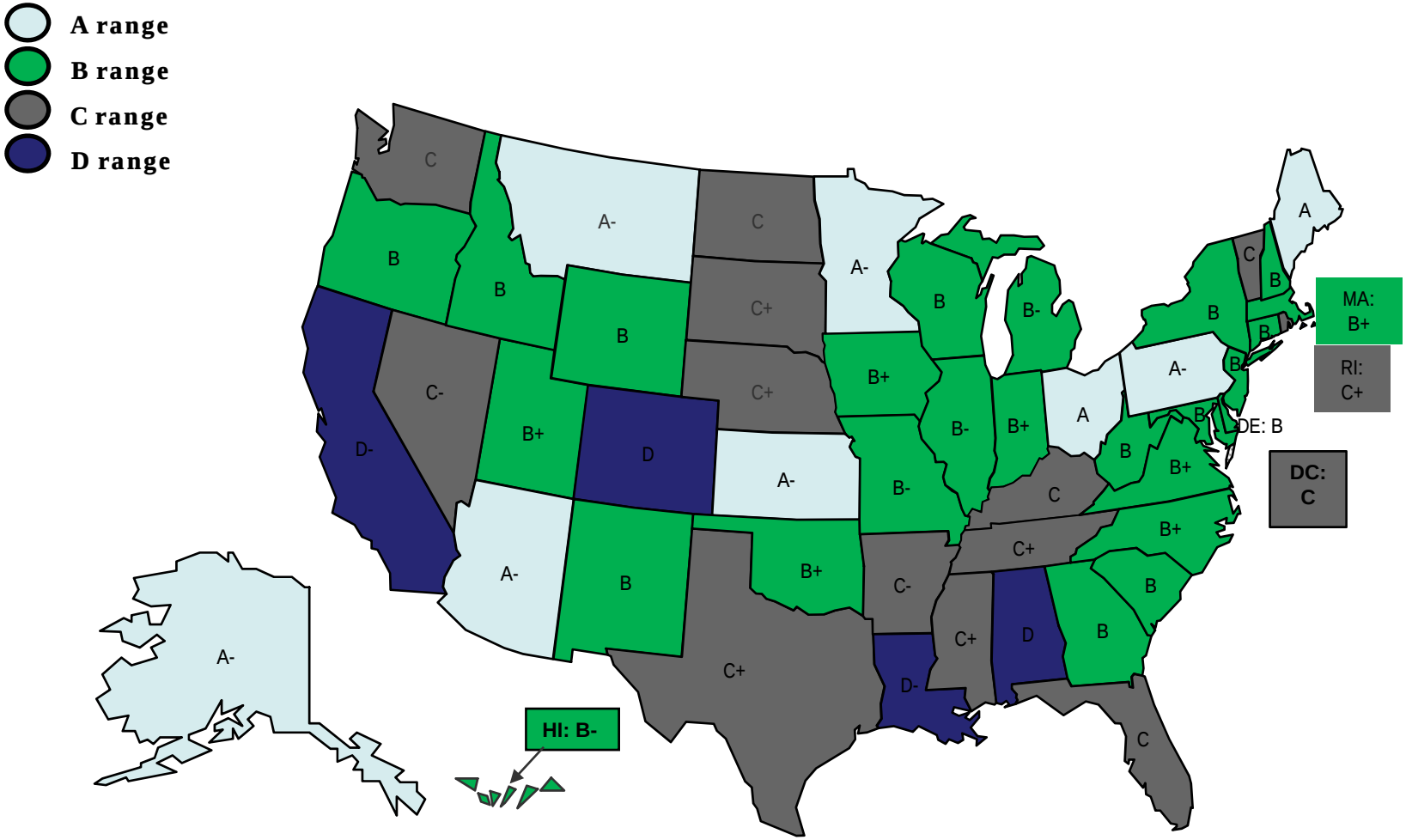
COST 2013
Administrative Scorecard

1. Independent tax dispute forum?
2. Pay-to-Play (bond or prepayment requirement)?
3. Even-handed statutes of limitations for refunds and assessments?
4. Equal interest rate applied to refunds and assessments?
5. Adequate appeal / protest period for assessments?
6. Corporate filing burden: extensions, due dates, reporting of federal changes
7. Transparency of guidance (new for 2013)

COST 2013 Administrative Scorecard
Best & Worst States

	Indepen-dent Appeals Forum	Pay-to-Play	Even-handed Statute of Limit.	Equal Interest Rates	Ample Protest Period	Corp. return filing burden	Trans-parency	Other Issues	Total Points	Overall Grade
AK	0	1	0	0	0	1	1	0	3	A-
AZ	0	0	0	0	1	1	1	0	3	A-
MT	0	0	0	0	1	1	1	0	3	A-
UT	1	1	0	0	1	1	0	0	4	B+
ID	2	1	0	0	0	1	1	0	5	B
OR	0	1	0	0	1	1	1	1	5	B
NM	3	2	0	0	0	0	0	1	6	B
WY	0	1	0	2	2	n/a	1	0	6	B
HI	1	1	0	2	1	2	0	0	7	B-
WA	2	2	0	0	1	n/a	1	3	9	C
CO	3	2	0	1	1	1	1	2	11	D
CA	3	2	1	2	1	1	1	2	13	D-

COST 2013 Administrative Scorecard: Overall Grades



Independent State Tax Tribunals

COST Dispute Forum Recommendations Based on ABA Model State Administrative Tax Tribunal Act (with flexibility):

- Forum must be truly independent;
- Taxpayers must not be forced to pay an assessment or post 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 and local tax laws and concepts

6 States – Tax Courts / 22 State Independent Tax Tribunals

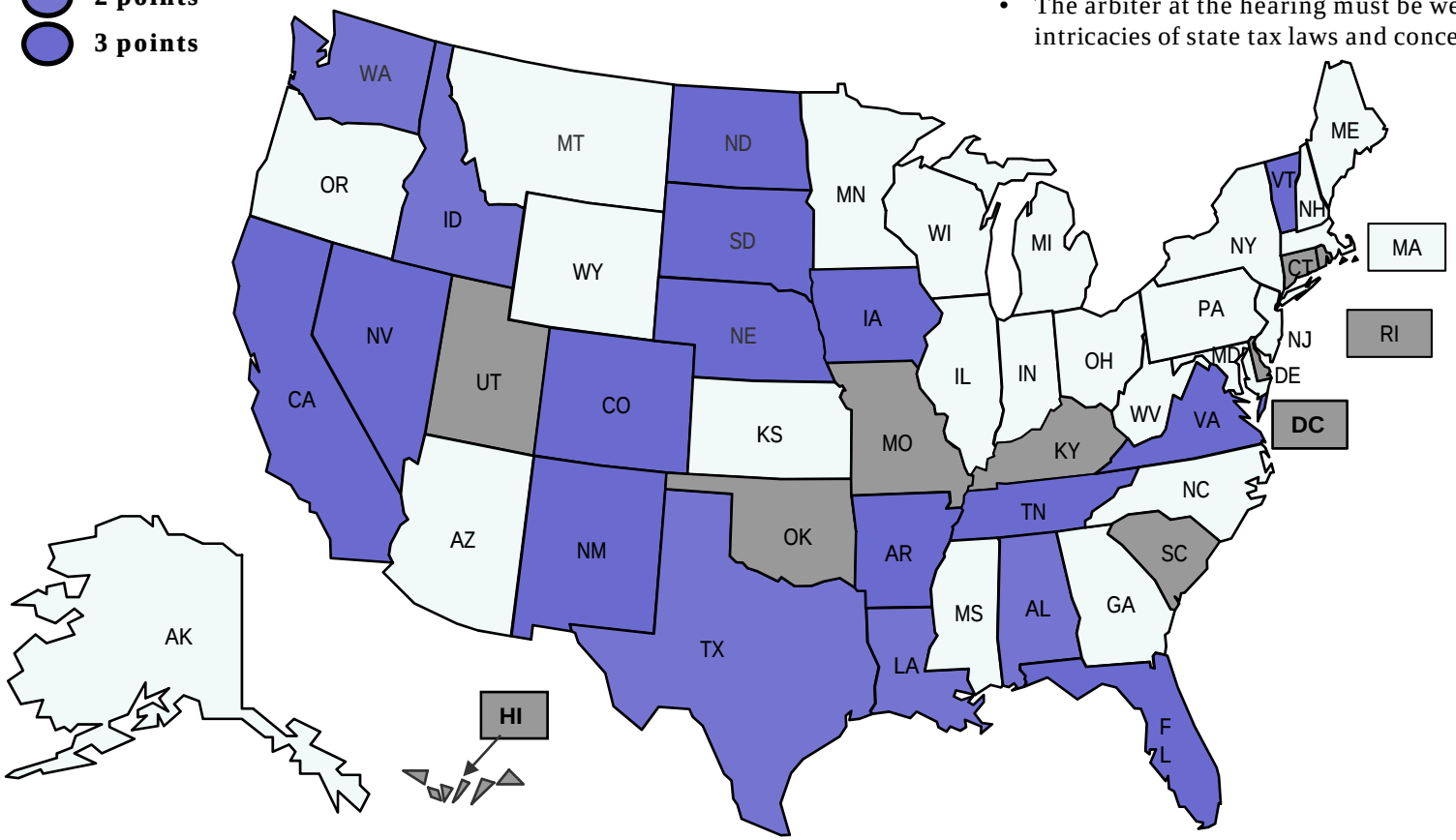
COST Administrative Scorecard – Independent Dispute Forums

Points assessed for factors demonstrating a lack of independent tribunal

- 0 points
- 1 point
- 2 points
- 3 points

Elements of an effective and independent state tax appeals process considered:

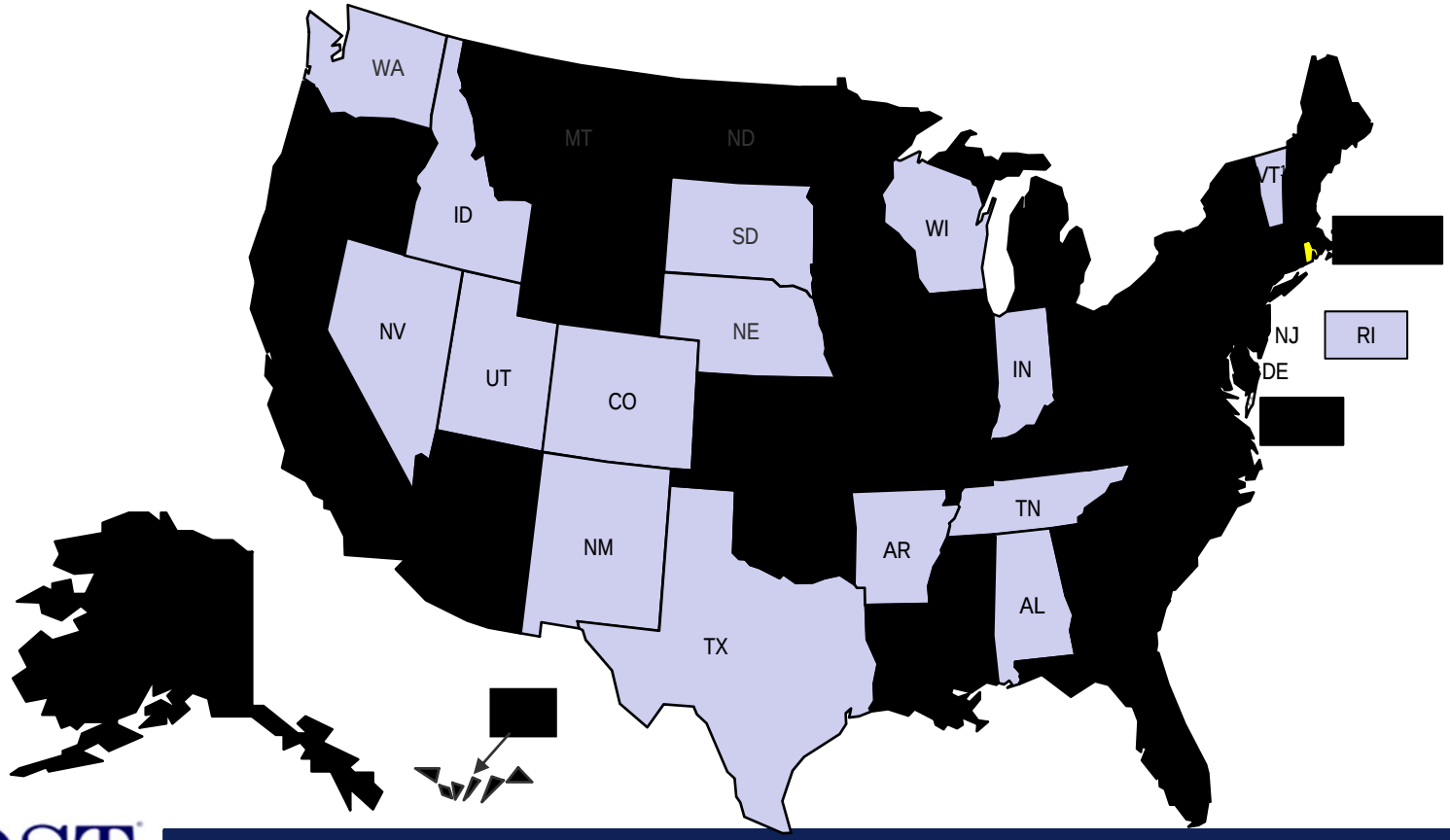
- The appeals forum must be truly independent;
- Taxpayers must not be forced to pay or post a bond prior to an independent hearing and resolution of a dispute;
- The record for further appeals must be established before an independent body; and
- The arbiter at the hearing must be well-versed in the intricacies of state tax laws and concepts.



COST Administrative Scorecard – Pay to Play States

- **State has a Bond or Prepayment Requirement to Appeal**
- **No Bond or Prepayment Requirement for Administrative/First Appeal, but payment required for further judicial appeal.**
- **State does not have a Bond or Prepayment Requirement**

[1]VT: No for corporate income taxes. Payment required for sales and use taxes.



Case Study: Pennsylvania

- 2010 Score: D
- 2013 Score: A-
- Improvements:
  - HB 761 (2012) & HB 465 (2013)
  - Brought independence to Board of Finance & Revenue
  - Equalized interest rates and refund statute; Clarified & improved RAR filing requirements; automatic state extension

Case Study: Georgia

- 2010 Score: C-
- 2013 Score: B
- Improvements:
  - HB 100 (2012)
  - Enacted the Georgia Tax Tribunal; eliminated “Pay-to-Play”; Requires tax expertise of judges; Other reforms

Case Study: New Mexico

- 2010 Score: D
- 2013 Score: B
- Improvements:
  - HB 299 (2013)
  - Extended protest period from 30 to 90 days; 180 days for filing of RAR changes; new def. of “final determination”; equalized interest on refunds.