

A close-up photograph of a white, lined notebook resting on a dark wooden surface. The words "State & Local Income Tax" are written in large, bold, black cursive letters across several lines. A white marker with a black tip lies on the notebook page to the right of the text. In the background, a red string and a red stapler are partially visible.

State & Local Income Tax

STATE AND LOCAL TAX UPDATE 2023

McKONLY & ASBURY
CPAs & Business Advisors

INTRODUCTIONS



Lindsey Haney, CPA

- Senior Manager and SALT Leader

FIRM OVERVIEW

McKonly & Asbury is a team of CPAs and Business Advisors serving clients from our offices in Camp Hill, Lancaster, and Bloomsburg.

We provide **Advisory & Business Consulting, Audit & Assurance, Entrepreneurial Support & Client Accounting, Internal Audit, Professional Placement, and Tax** services to a variety of industries including:



Affordable Housing



Construction



Employee Benefit Plans



Family-Owned Business



Healthcare



Manufacturing & Distribution

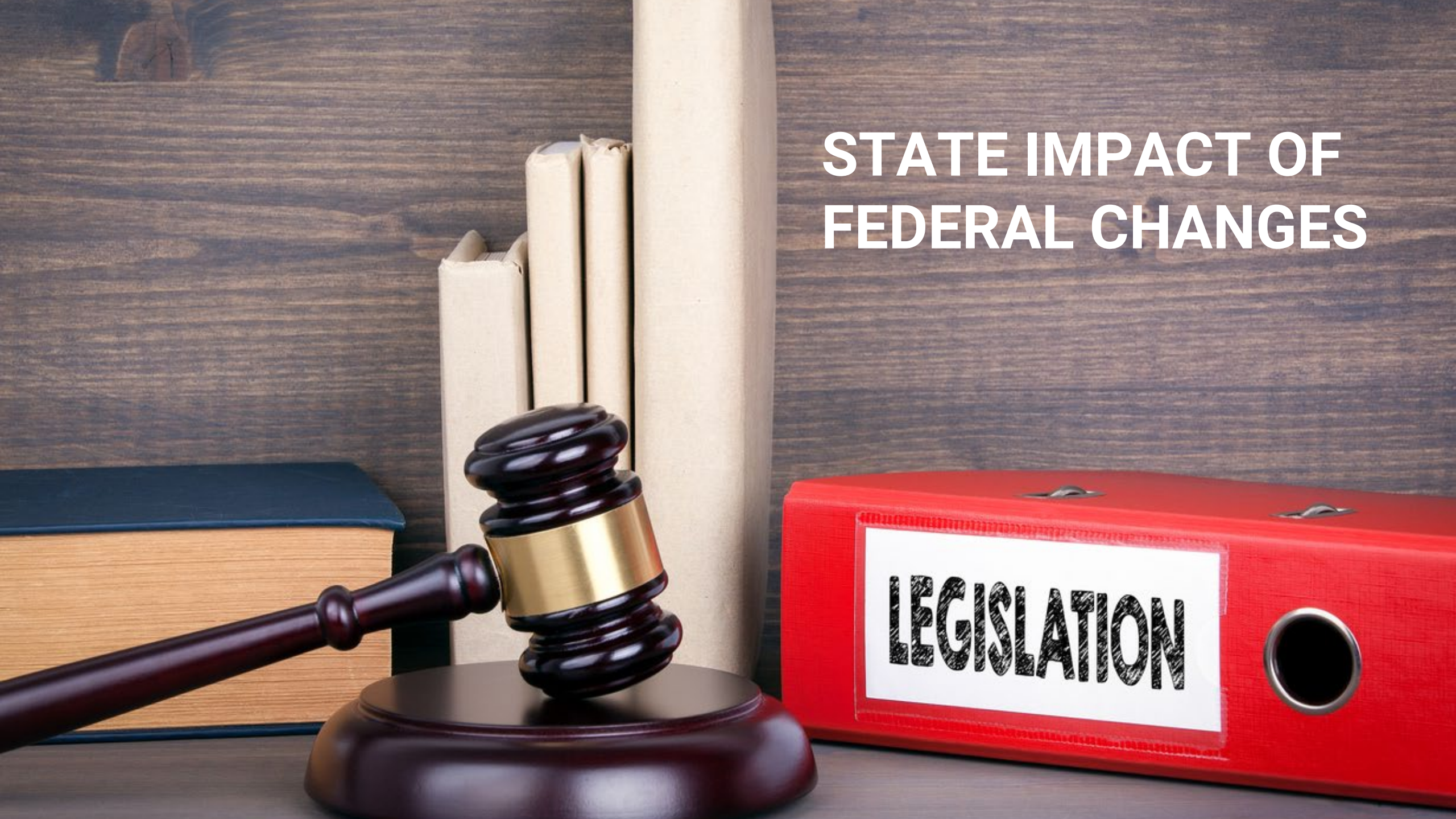


Nonprofits

AGENDA

- State Impact of Federal Changes
- Nexus Overview
- Trends in State Taxation and Recent Updates
- Pass-Through Entity (PTE) Taxes
- Pennsylvania Budget and State Compensation

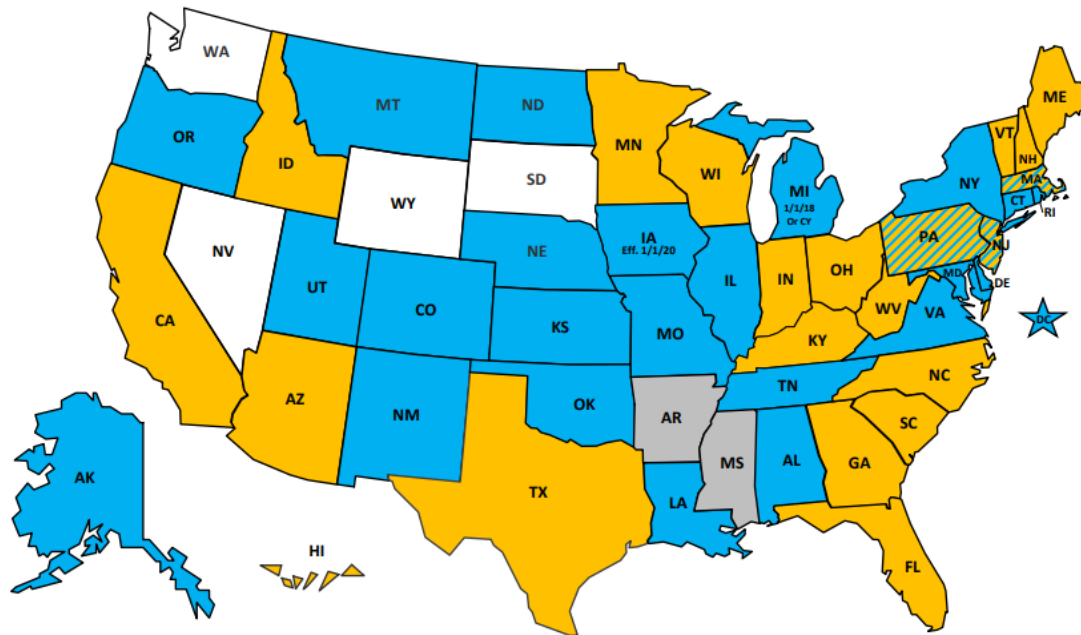
STATE IMPACT OF FEDERAL CHANGES



CONFORMITY TO FEDERAL CODE FIXED/ROLLING/SELECT

States' Conformity to the Internal Revenue Code (IRC) (as it relates to the computation of taxable income)

As of May 17, 2023



- 24 states that automatically conform to the IRC as the IRC is amended. (Rolling Conformity):
AK, AL, CO, CT, DC, DE, IA, IL, KS, LA, MD, MI, MO, MT, ND, NE, NM, NY, OK, OR, RI, TN, UT, VA
- 18 states that conform to the IRC as of a specific date (Static or Fixed Conformity):
AZ, CA, FL, GA, HI, ID, IN, KY, ME, MN, NC, NH, OH, SC, TX, VT, WI, WV
- 3 states with rolling conformity rules for corporate and fixed conformity on some or all items for non-corporate taxpayers (MA, NJ, PA)
- 2 states lacking general conformity to the IRC (Specific Conformity) (AR, MS)
- 4 states with no personal or corporate income tax and conformity not applicable (NV, SD, WA, WY)



FEDERAL UPDATES: STATE TREATMENT

- Five-year amortization of R&E expenses – Section 174
- Bonus Depreciation phase out – reduction to 80% for 2023
- Section 179 Expensing
- Interest limitation 163(j)



STATE NEXUS

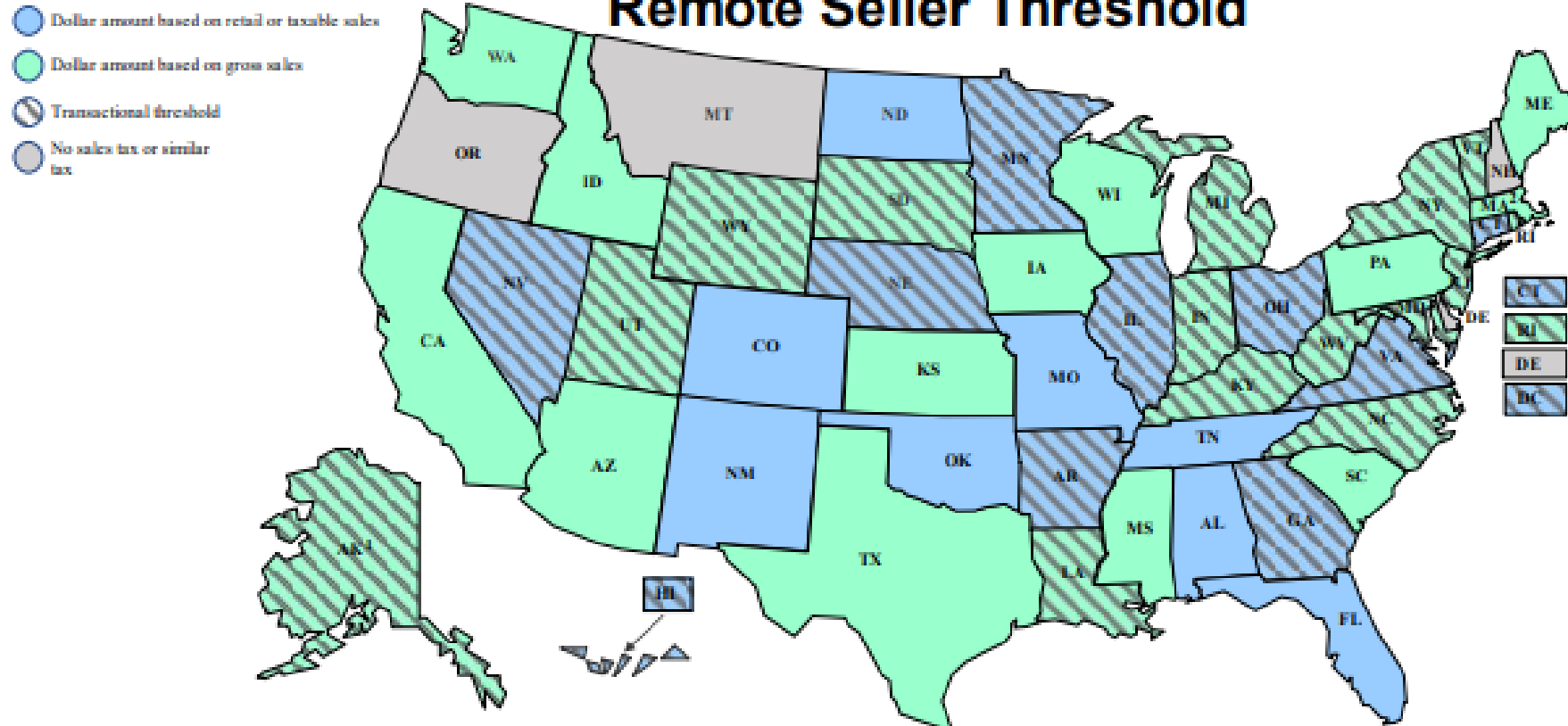
■ Types of Nexus

- Income Tax
- Excise Tax
- Sales Tax
- Business Registration

■ Wayfair – 5 years later

- Gross of Taxable Sales
- Sales and/or transaction threshold

Remote Seller Threshold



Disclaimer: This information should be used for general guidance and not relied upon for compliance.

Source: Council On State Taxation (COST)

¹ Data is based on local municipalities since Alaska does not have a state-wide sales tax

² Unless exclusively making sales for resale

INCOME TAX AFTER WAYFAIR

- P.L. 86-272 – only applies to INCOME taxes on sales of TPP
 - Gross Receipts Tax
 - Franchise Tax
- Many states and even localities use economic nexus for income and other taxes
 - Texas Franchise - \$500,000
 - Washington B&O - \$100,000
 - Oregon CAT - \$750,000
 - Locals – Philadelphia, Portland, San Francisco

WORKING FROM HOME

- Withholding
 - Reciprocity
- Income Tax
 - Nexus
 - Apportionment
- Sales Tax Nexus

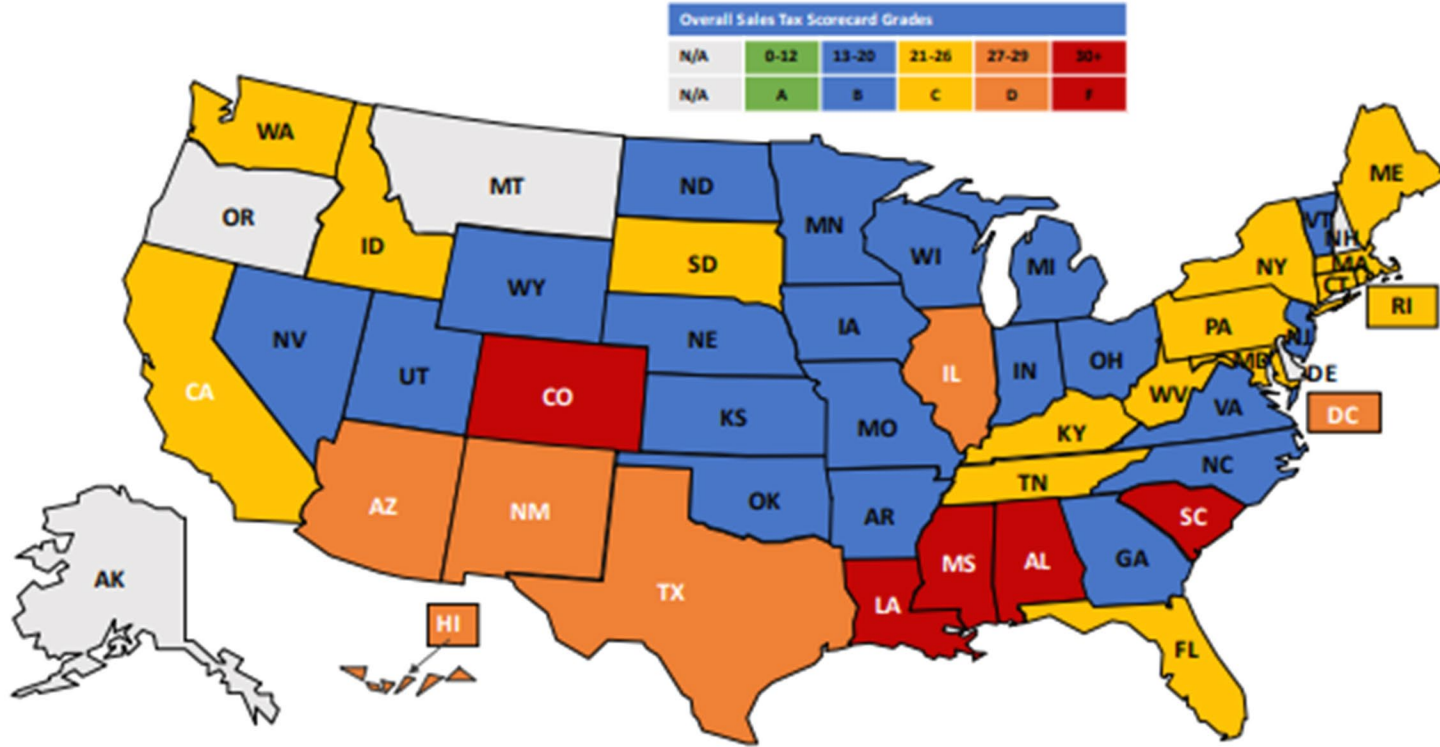
VOLUNTARY DISCLOSURE AGREEMENTS (VDA'S)

- Do you have a physical presence in the state?
- Do you have economic nexus in the state?
 - Nontaxable sales
 - State Sourcing
 - Market based
 - Cost of Performance
 - When did the state enact economic nexus?
 - When did you first hit the threshold?
 - Consider types of taxes
- The Voluntary Disclosure Process
- Going Forward

TRENDS IN STATE TAXATION



2022 COST Sales Tax Scorecard: Overall Grades



Note: Because Alaska has no statewide sales tax, it was not given an overall grade.

TRENDS IN STATE TAXATION – DATA AND DIGITAL

■ AZ

- Selling the right to use data, or rental of data is subject to tax

■ CO

- “Digital Goods” and “mainframe computer access” are taxable

■ MD

- Digital advertising gross revenue tax – taxpayers with >100 million gross revenue. There is litigation.
- Digital Products sales tax, includes SaaS – See Tip 29

■ TX

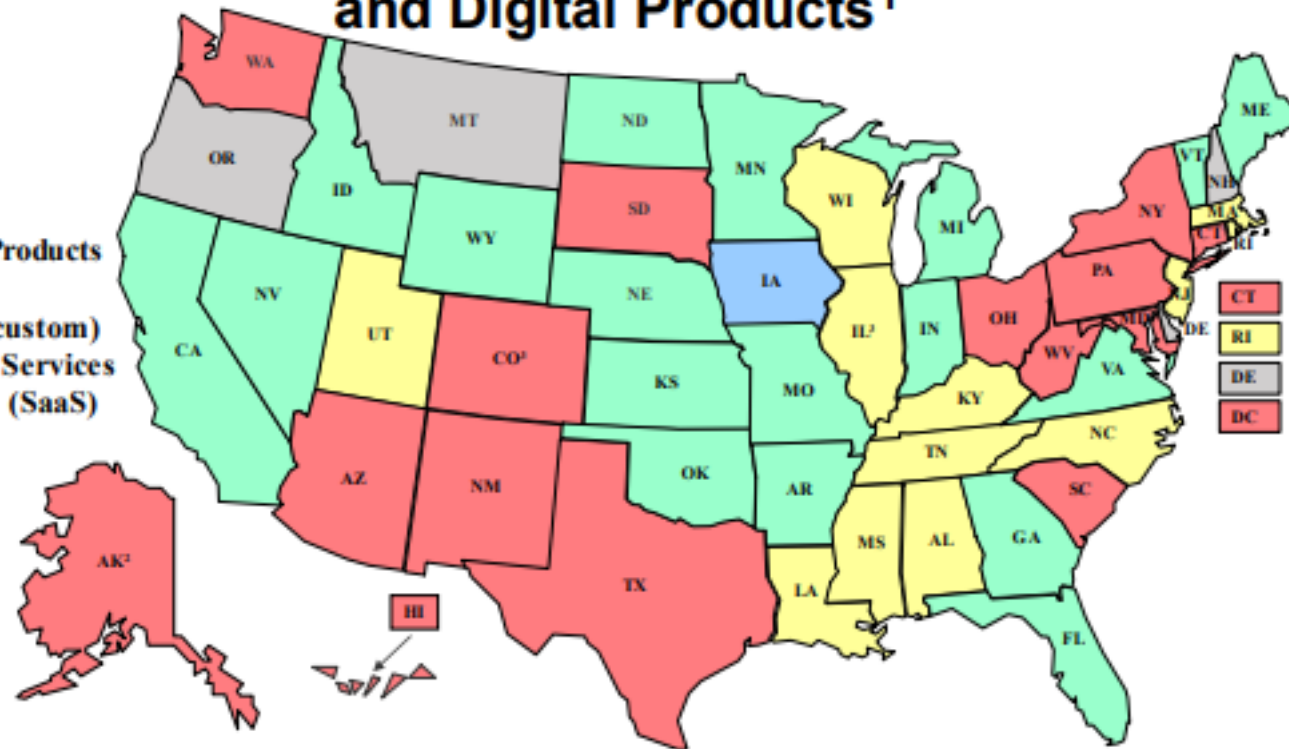
- Modified definition of taxable data processing services to exclude certain payment processing.

Tax on Business Purchases of Software and Digital Products¹

- No select products
- 1 select product
- 2 select products
- All 3 select products
- No sales tax

Three Software/Digital Products Tax Types:

- Software (canned or custom)
- Data Processing/Info Services
- Software as a Service (SaaS)



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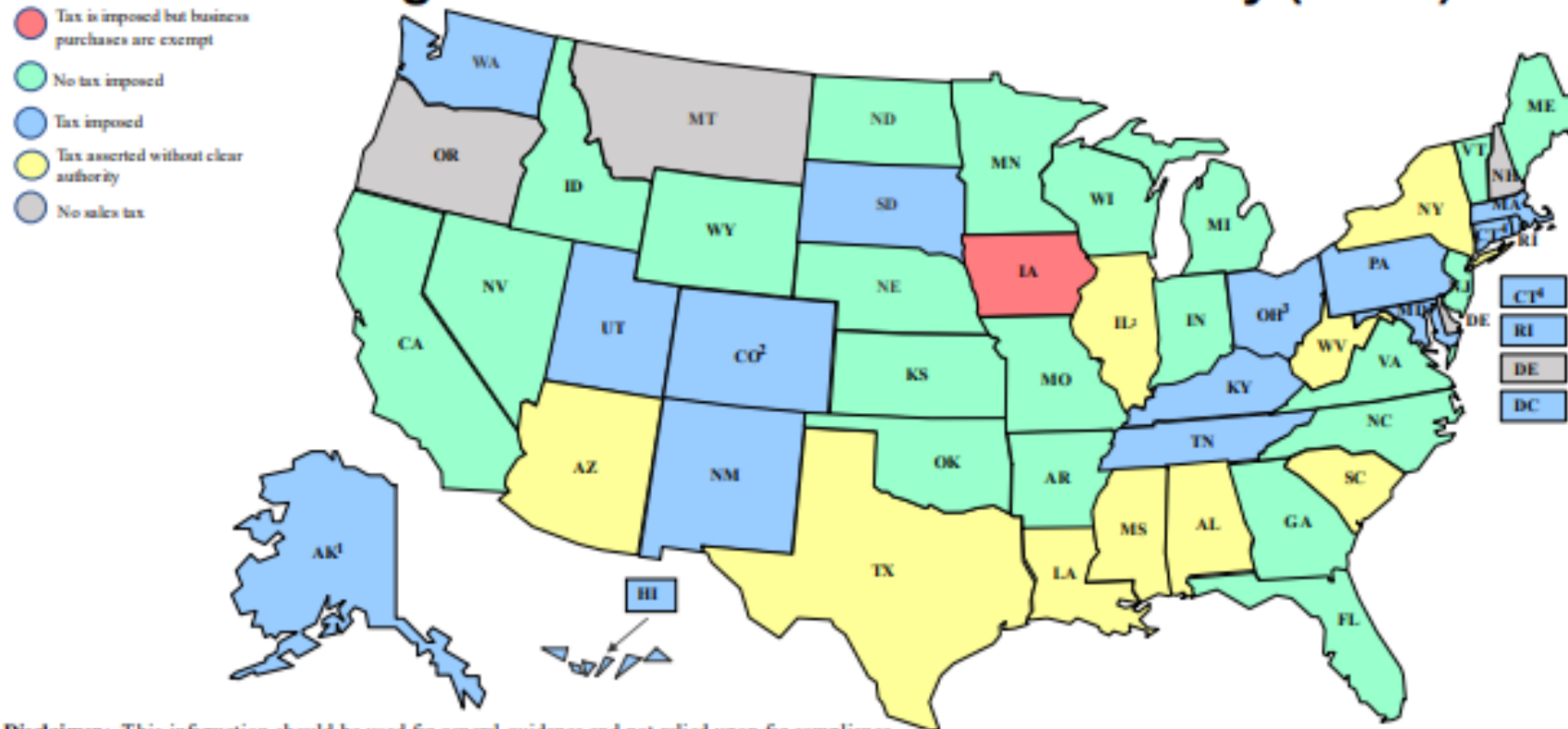
Source: Council On State Taxation (COST)

¹The Key indicates the number of software and digital product types subject to sales tax in the state - no state other than Iowa has a broad business exemption

²AK - Data is based on local municipalities since Alaska does not have a state-wide sales tax

³CO/IL - State and local tax bases differ, includes state or local tax on products

Tax on Digital Software Accessed Remotely (SaaS)



Disclaimer: This information should be used for general guidance and not relied upon for compliance.

Source: Council On State Taxation (COST)

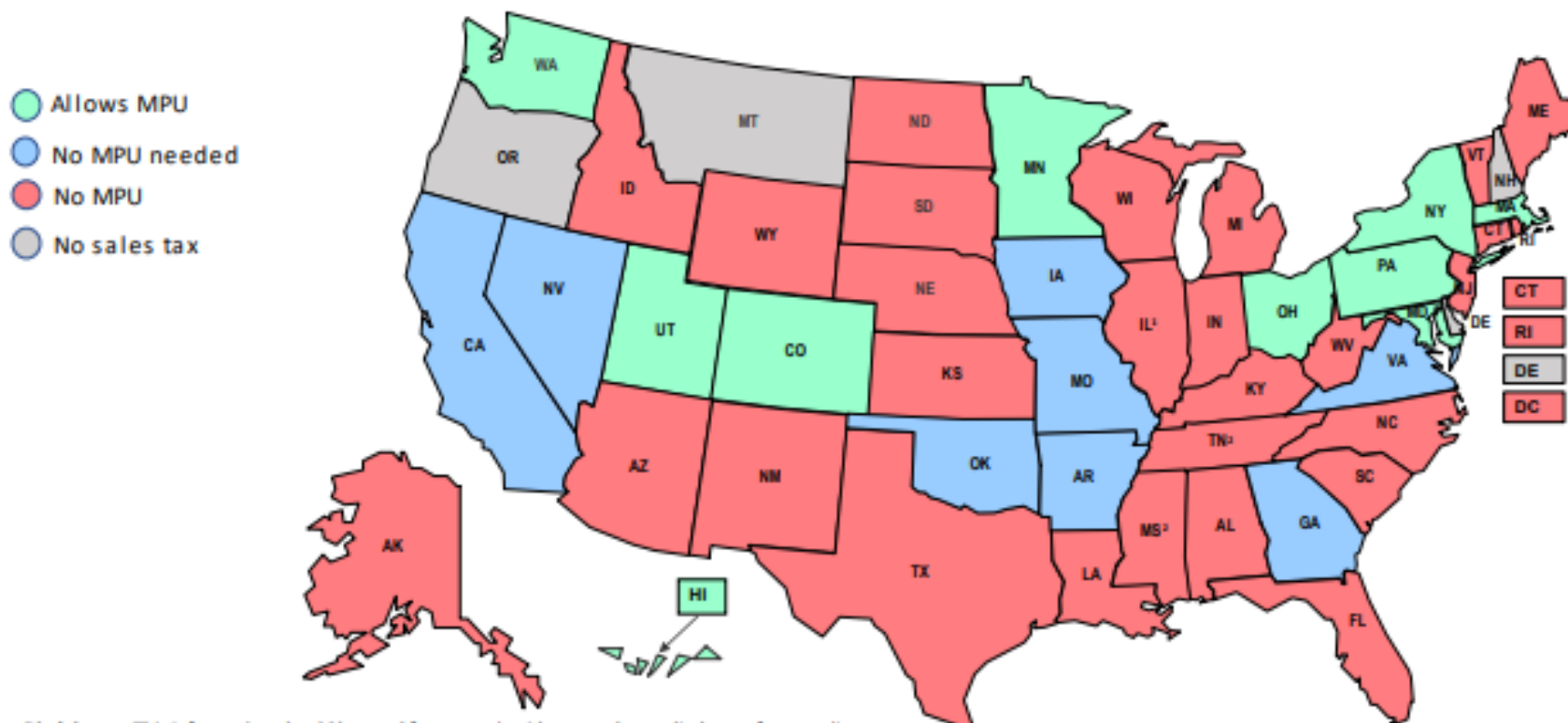
¹AK - Data is based on local municipalities since Alaska does not have a state-wide sales tax

²CO/IL - State does not impose a tax, but tax may be imposed by some localities

³OH - Tax only applies to businesses

⁴CT - Electronically delivered software is taxed at a 1% rate for businesses

Multiple Points of Use (MPU) Apportionment with Digital B2B Purchases



Disclaimer: This information should be used for general guidance and not relied upon for compliance.

Source: Council On State Taxation (COST)

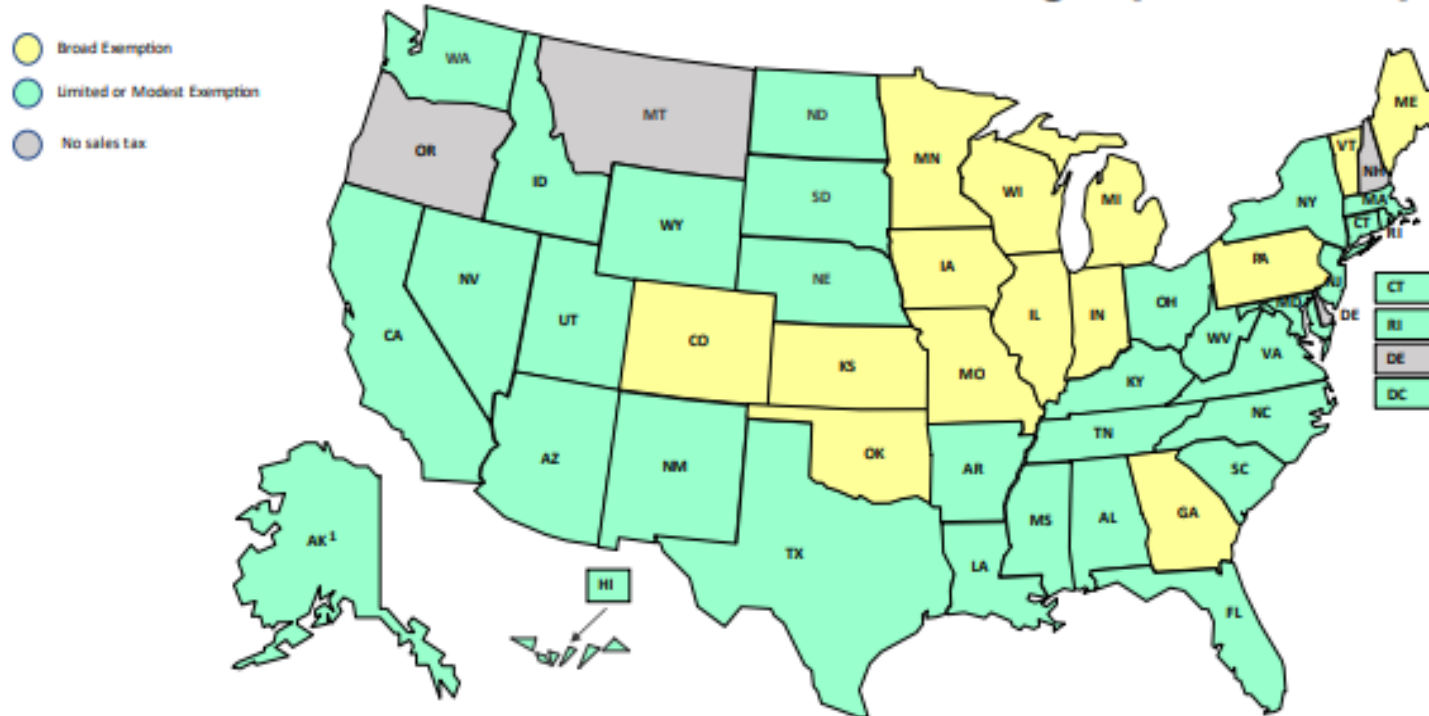
¹ IL - MPU allowed in Chicago

² TN - MPU is allowed for SaaS.

³ MS - MPU may be allowed on case-by-case basis

MANUFACTURING EXEMPTIONS

Breadth of States' Manufacturing Inputs Exemption



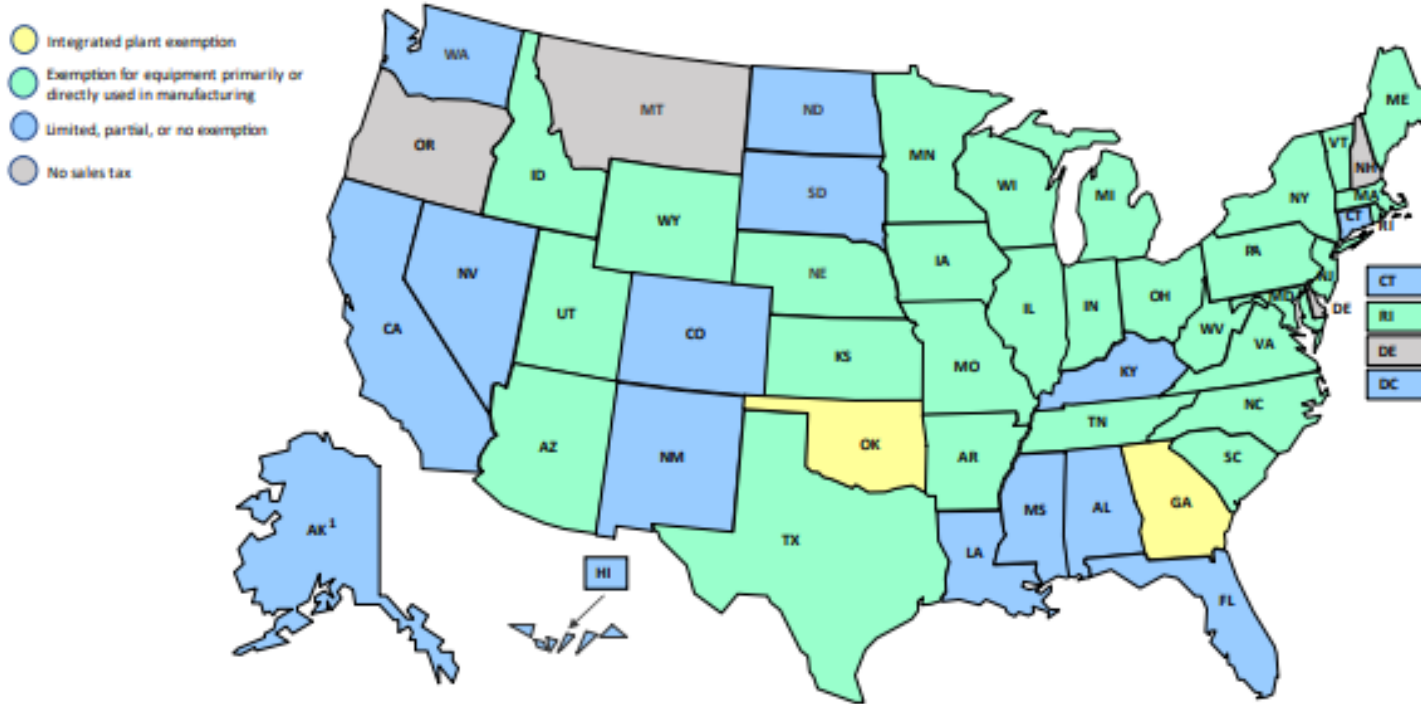
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MANUFACTURING EXEMPTIONS

Breadth of States' Manufacturing Equipment Exemption



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Source: Council On State Taxation (COST)

¹AK - Data is based on local municipalities since Alaska does not have a state -wide sales tax

STATE TAX UPDATES

- Repeal of the corporate franchise (capital stock tax) in Oklahoma takes effect July 1.
- Taxes on newly legalized sales of cannabis products in Maryland and Minnesota take effect July 1.
- Trend of income tax and sales tax rate reductions.
- Removal of transaction threshold for sales tax economic nexus.

PTE TAXES



PASS-THROUGH ENTITY (PTE) TAXES

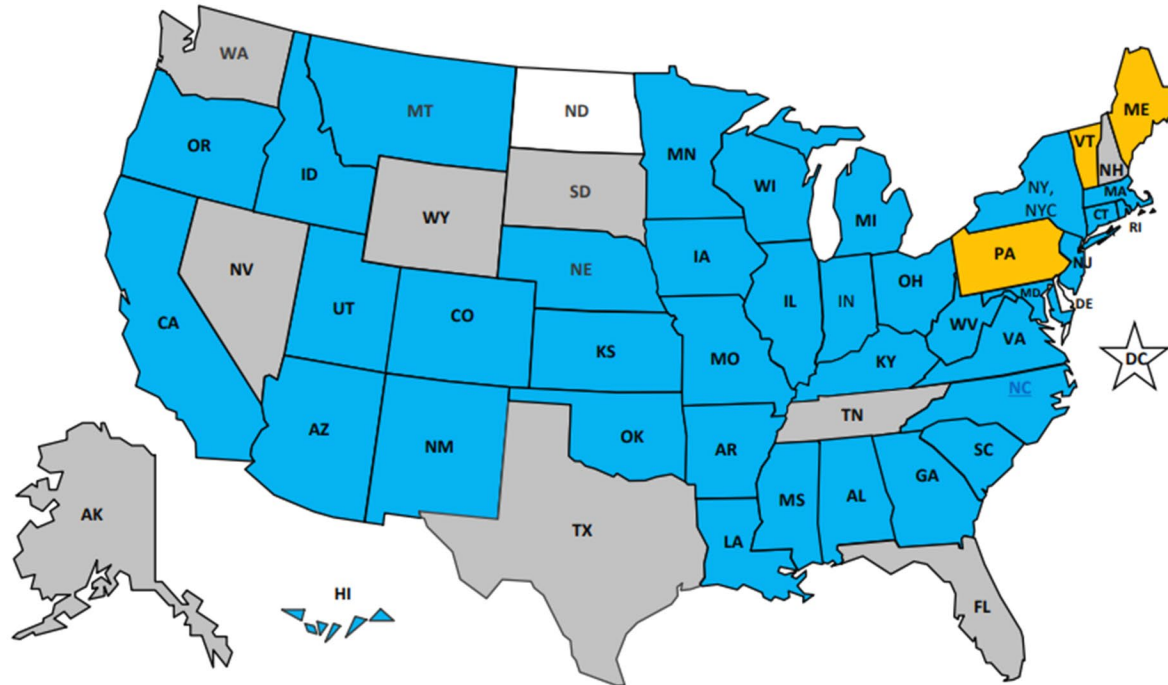
- Background: TCJA limited state and local taxes individuals could deduct for federal income tax purposes to \$10,000.
- On November 9, 2020, the IRS issued Notice 2020-75, giving its blessing for states to enact PTE taxes as a workaround to the SALT limitation.

WHAT IS PTE (PASS-THROUGH ENTITY) TAX AND HOW DOES IT WORK?

- A state tax calculated and paid at the entity level of a Pass-through Entity (i.e. Partnership or S Corp) on behalf of the shareholders/partners
- Currently 36 states have a form of PTE tax
 - Including CA, OH, KY, MA, MD, NJ, and NY (and New York City)
 - Pennsylvania only has a Bill in the Senate for PTE tax as of May 5th
 - Also, a proposal to allow a resident credit for other state PTE taxes
 - PA has indicated previously only S Corporation shareholders would be allowed a residential credit
- Most are elective
 - Connecticut is mandatory until 2024

States with Enacted or Proposed Pass-Through Entity (PTE) Level Tax

As of June 13, 2023



● 36 states (& 1 locality) that enacted a PTE tax since TCJA SALT deduction limitation, effective for 2021 (or earlier) unless noted:

[AL](#), [AR¹](#), [AZ¹](#), [CA](#), [CO³](#), [CT⁴](#), [HI²](#), [GA¹](#), [IA¹](#), [ID](#), [IL](#), [IN¹](#), [KS¹](#), [KY¹](#) (& [KY](#)), [LA](#), [MA](#), [MI](#), [MD](#), [MN](#), [MO¹](#), [MS¹](#), [MT²](#), [NC¹](#), [NE³](#), [NJ](#), [NM¹](#), [NY](#), [OH¹](#), [OK](#), [OR](#), [RI](#), [SC](#), [UT¹](#), [VA](#), [WI](#), [WV¹](#), and [NYC¹](#)

¹ Effective in 2022

² Effective in 2023 or later

³ Retroactive to 2018

⁴ Mandatory 2018-2023, elective starting 2024

● 3 states with proposed PTE tax bills:

ME - [LD 1891](#) introduced

PA - [SB 659](#) referred to Finance

VT - [SB45](#) passed Senate, in House

● 9 states with no owner-level personal income tax on PTE income:

AK, FL, NH, NV, SD, TN, TX, WA, WY

○ 3 states with an owner-level personal income tax on PTE income that have not yet proposed or enacted PTE taxes:

DC, DE, and ND

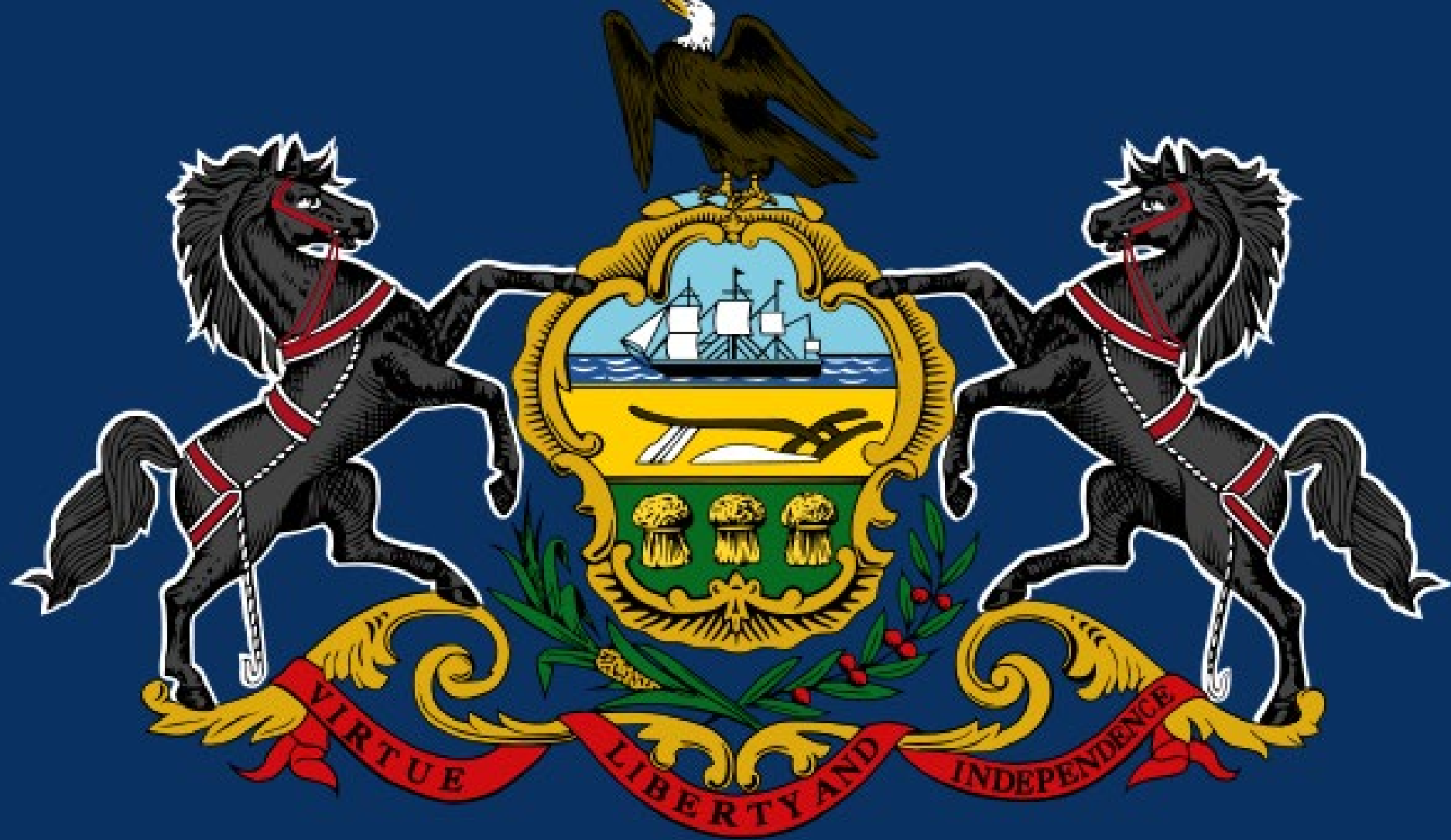


PTE CONSIDERATIONS

- Mandatory vs. Elective
 - If elective, revocable or irrevocable
 - If elective, deadline to elect
- Annual Election or one time?
- Eligible Partners & Residents/Nonresidents
- Rate of PTE tax (can be higher than individual bracket)
- Estimated payments required
- Allowable resident credit/credit for taxes paid to other states

PTE CONSIDERATIONS - CONTINUED

- Some rely on owner credit, others exclude the income
 - Can credit be carried forward?
- Will credit for taxes paid in other states be allowed at individual level if it is a PTE tax?
 - Some states with PTE say they will allow if other state's tax is "substantially similar" – what does this mean?
 - Even for partners/shareholders in a non-tax jurisdiction (FL, TX), the indirect federal benefit of the tax deduction remains.
- Some automatically end when SALT cap is phased out (after 2025)



PENNSYLVANIA UPDATES & BUDGET

GOVERNOR SHAPIRO'S BUDGET

2023-2024 Proposed Budget General Fund Expenditures: \$44.397B

- Prioritizes public safety, reduces PSP reliance on Motor License Fund, and builds capacity for road and bridge projects
- Invests in all levels of education
- Increases minimum wage to \$15 per hour on January 1, 2024
- Eliminates the GRT and SUT on wireless cellphone services – this amounts to about 11% of every cell phone bill
- Refundable personal income tax credits for filling critical, credentialed positions for up to three years
- Continues the planned decrease in Corporate Net Income Tax rate to 8.49% in tax year 2024, with a path to 4.99%

EXPANDING THE PROPERTY TAX AND RENT REBATE PROGRAM

Governor Shapiro's budget proposes an expansion to the current Property Tax and Rent Rebate Program and provides much needed relief to Pennsylvania's older residents living at home.

This budget proposes:

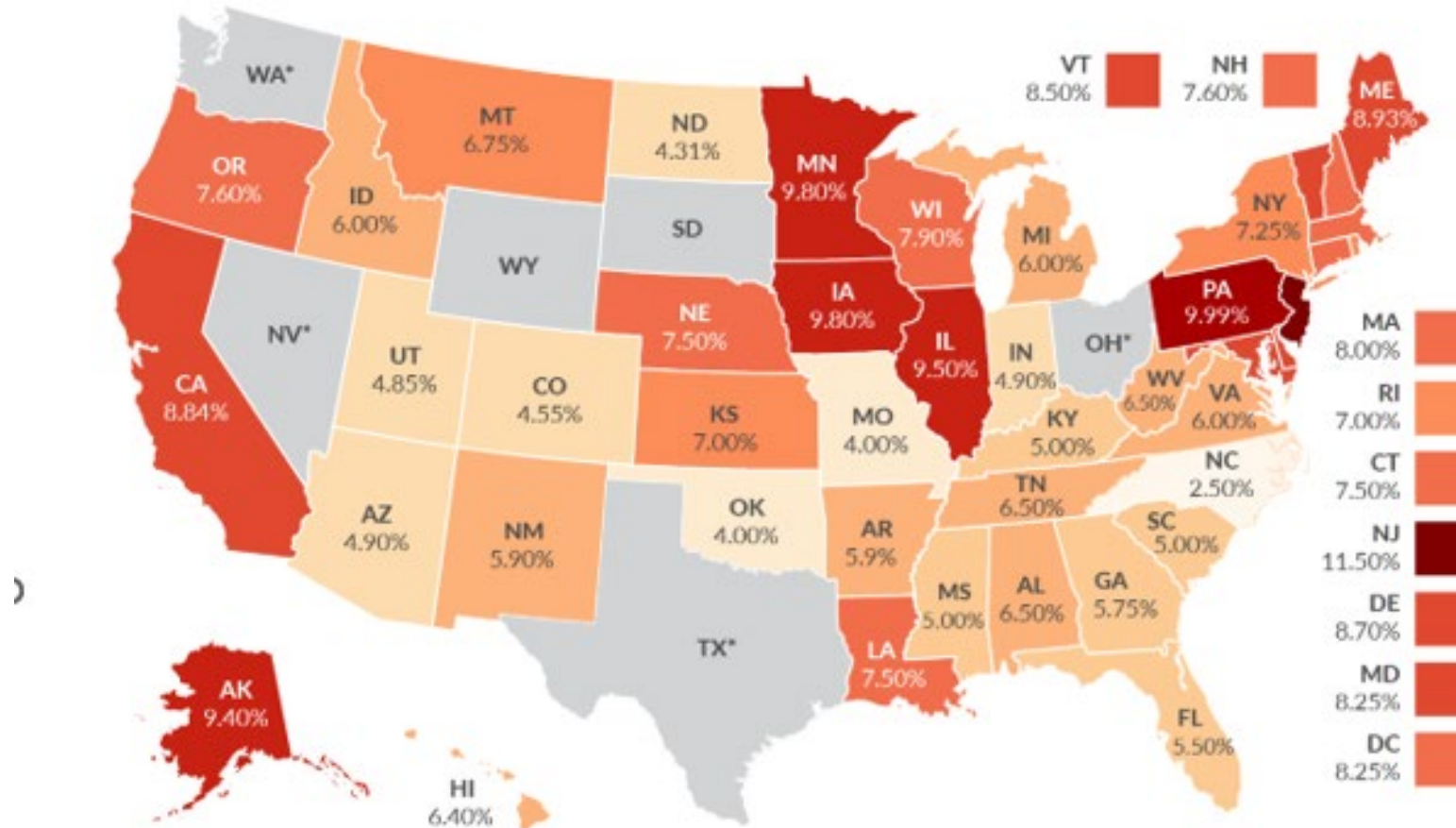
- Increasing the income cap for homeowners from \$35,000 to \$45,000.
- Increasing the income cap for renters from \$15,000 to \$45,000 to match the cap for homeowners.
- Allowing the maximum income threshold to grow with inflation beginning in 2024.
- Increasing the rebate caps to a maximum rebate of \$1,000 from the current cap of \$650.
- All of these changes would allow an additional 173,000 individuals to receive assistance, while increasing assistance to the 398,000 individuals that already benefit from the program.

EXPANSION OF MYPATH

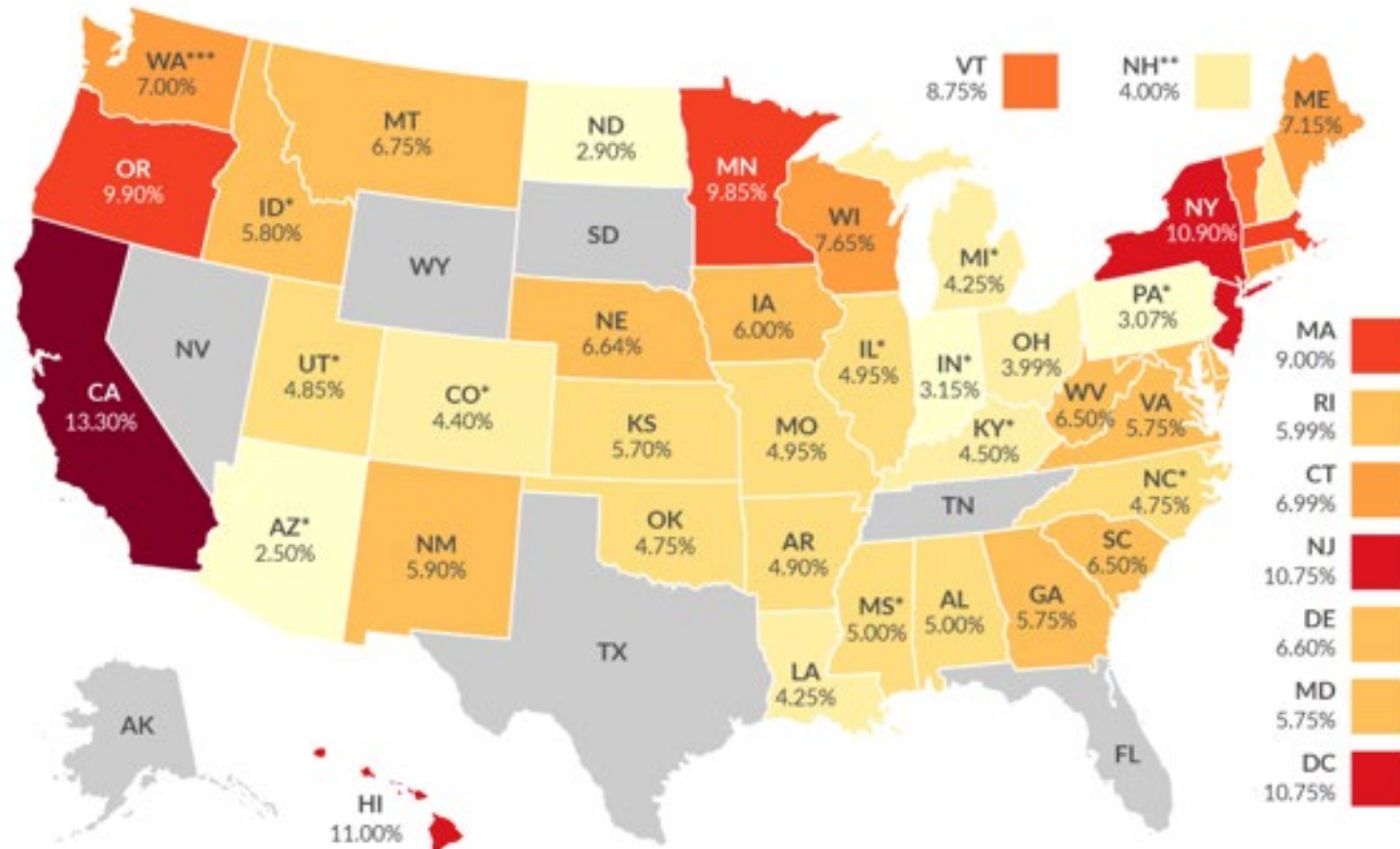
- Etides, the current online filing system is being retired and switched to MyPath
- Starting in July 2023 the online application for the Research & Development Tax Credit will be moved to MyPath
- A new service to file a Use Tax Return will be available
- A new service to Request a Corporate Lien Certificate will be available
- Changes to the MyPath sign up process
- Changes to third-party access for client accounts – the client does not have to have an account, but if they do the third-party will have the option to request access
- Online Business Entity Registration (PA-100) available

How High are Corporate Income Tax Rates in Your State?

Top State Marginal Corporate Income Tax Rates as of July 1, 2022



Top Marginal State Individual Income Tax Rates (as of January 3, 2023)



CONTACT



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JULY 20 WEBINAR

The Opportunities and Challenges Facing FQHCs Webinar

This session will be an interactive dialogue with McKonly & Asbury's Janice Snyder, Partner and Director of Assurance Services and Kady Faller, Manager along with Chief Operations/financial Officer at PA CHC, Julie Korick.



Register Today!

Visit us online at **www.macpas.com** for more information.