NCSL SALT Task For
Meeting

Charleston, South Carolina

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2020 Legislative Initiatives to In
State Tax Compliance & Adminis

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Three Important 2020 Initiatives
Improve State Tax Administratio

- Improve Reporting of Federal Tax Adjustments to the St
  - General improvements to the process
  - Specific improvements related to new federal partnership au

- Provide Original and Extended State Tax Return Due Da
  One Month After Federal Due Dates

- Enact 30-Day Threshold before non-residents are subje
  (and if applicable local) income taxes – with reciprocity

Improve Reporting of Federa
Adjustments to the State

Background

- Bipartisan Budget Act of 2015 imposed new IRS Audit Procedures f
  partnerships and multi-member LLCs
  - Projected 10-year $9.3 billion revenue-raiser (federal alone)
- States incorporate the IRC "tax base" in their laws; however, state
  assessment/refund laws are separate from that of the IRC
  - Almost every state that imposes an individual and/or corporate income tax
    their federal adjustment reporting laws to account for the new federal aud
    procedures
- Unique opportunity to improve overall process for taxpayers to re
  changes to the states (and, as applicable, local governments)
- General improvements needed for all taxpayers:
  - Clear definition of Final Determination based on all issues for a tax year bei
    federal level
  - Provide all taxpayers with at least 180 days to report (interest still accrues u
  - Absent a waiver, limit changes after the state's general statute of limitatior
    and taxpayer to federal changes
  - Equal and clearly stated assessment/refund periods

Background Continued

- COST, AICPA, and other tax associations worked with the MTC
model legislation for reporting federal changes for all taxpaye
the issues with taxpayers reporting adjustments under the ne
partnership audit regime
  - MTC model: http://www.mtc.gov/getattachment/Uniformity/Adopte
Recommendations/Model-RAR-Statute.pdf.aspx?lang=en-US
- Specific issues addressed in the MTC Model for partnership ac
  - Adopts federal partnership representative procedure, allowing for a
choose a different state partnership representative
  - Allows election at federal level to differ at the state level
  - Addresses apportionment/allocation issues for partnerships to pay ta
not need to consider
  - Importantly, tiered partnership structures (partnerships owning othe
covered
- With federal audits likely starting in 2019/2020, states need t
conforming to the MTC Model ASAP

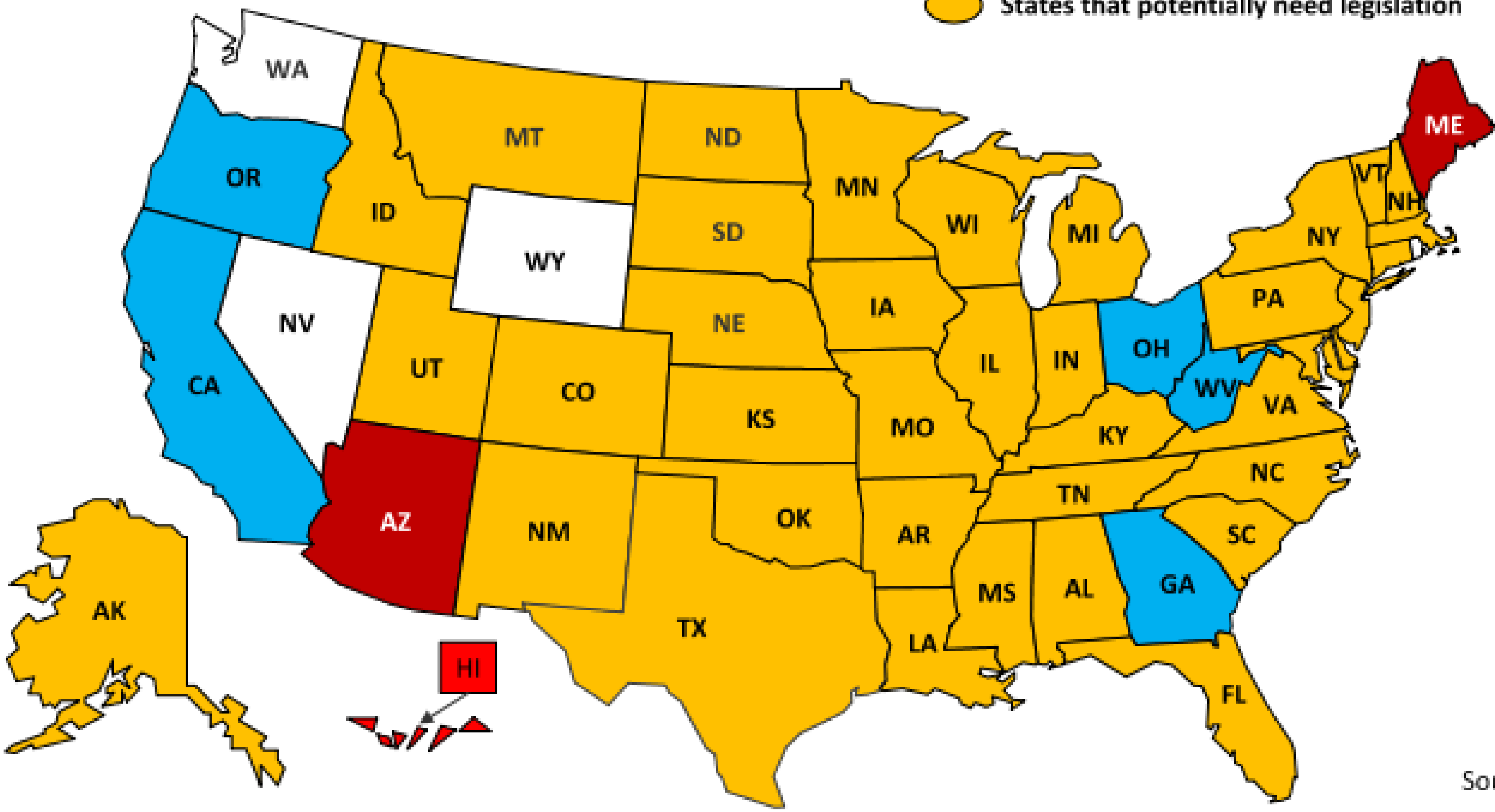
States Adopting MTC Model Partne
Audit Act

As of October 9, 2019

States that have enacted legislation

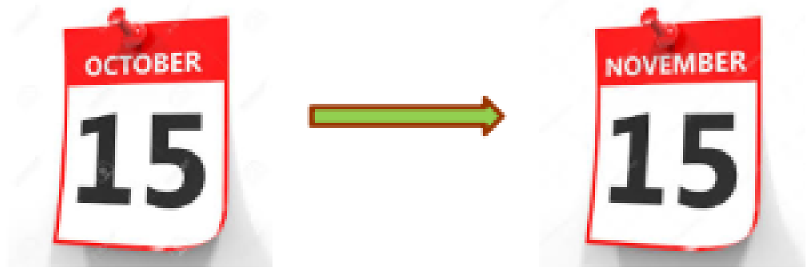
States that have enacted legislation, but r
more closely follow MTC Model

States that potentially need legislation



Provide Original and Exten
State Tax Return Due Dates a
One Month After Federal Due

Why an Additional Month is Needed for Stat
Tax Returns



State Return Completion Follows Federal Determination of Taxable Income

Let's face it – a taxpayer cannot generally file its state income tax return until it calculates its federal income tax liability. Ti
multijurisdictional businesses, to calculate a state's apportionment of income, tax credits, etc.

- In general, federal returns are filed at, or very near, the extended due date, and because the state returns often are
additional time is needed to submit a complete and accurate state return. TCJA implementation has only increased
taxpayers timely filing returns.

- State filing deadline an additional month after federal filing provides time for taxpayers and practitioners to accurat
apportionment.

- The legislation would ensure that the state has:
  - State tax return due dates at least one month after the federal tax return due date.
  - State tax return due dates automatically extended with the granting of a federal extension.
  - An automatic state extension that only requires attaching a copy of the federal extension with the state retur

- Without a one-month extension, taxpayers may need to file state returns using estimates and then file amended sta
compliance burdens for taxpayers, tax preparers, and tax administrators.

- Changing the filing deadline should not affect the tax payment deadline, and therefore, should have a minimal state

Suggested Legislation

Suggested Legislation

A state's law should **automatically provide that the state return original and extended due dates are the federal due dates** (*e.g.*, May 15, 2020 and November 16, 2020 for 2019 calendar year returns); or, at least one month after the original and extended due dates for a taxpayer's federal income tax retur

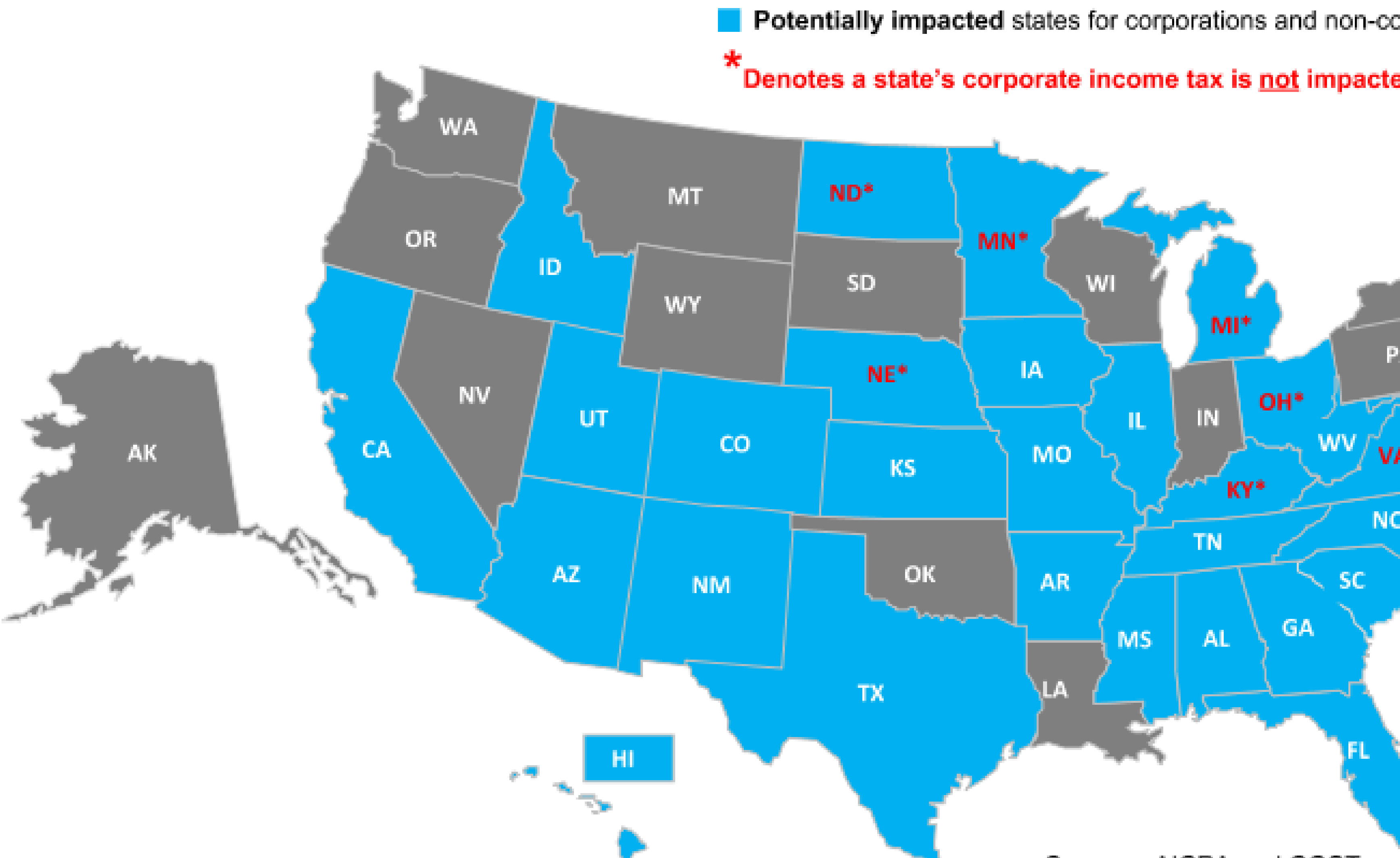
As applicable, **interest and penalties for late *payment* of the tax may still apply (unless taxpayer com estimated payment requirements).**

Model Legislation –

1) For tax years beginning on or after January 1, 2019, calendar year and fiscal year [taxpayer] return than one month after the due date established under the Federal Internal Revenue Code, including a granted by the Internal Revenue Service.

2) No penalty due to late filing shall be incurred by a taxpayer granted a federal extension if its state than one month after the period of time specified in the Federal extension. The [taxpayer] does not [revenue director] for an extension of time within which to file the taxpayer's state return.

States that Potentially Need Legislat
One-Month Filing Extension



Sources: AICPA and COST

Enact 30-Day Threshold Before Non-Res
Subject to State (And If Applicable Loca
Taxes – With Reciprocity Provisi

Background on Issues with States' Lack of Uniform T when Taxing Non-Residents

States have widely varied and inconsistent requirements for:

- **Employees** to file personal income tax returns when traveling to a nonresident state for ter
- **Employers** to withhold income tax on employees who travel outside of their state residenc periods
- **Unnecessary Tax Swap & Burden** with income tax credits provided by employee's resident resident states

U.S. House has passed legislation, "Mobile Workforce State Income Tax Simplification Act," t 115th), but the U.S. Senate has not moved it – present bills for 116th Congress are H.R. 4796 &

As a result of inaction, move to state-by-state enactment effort

General Description of Model State Model Legislation:

- Employees earning wages/compensation not subject to tax unless in a non-resident state if exceed limit, all earnings subject to tax from first day in the state
- Similar bills – exclusions for professional athletes, entertainers, speakers, and if applicable employees
- To encourage other states to adopt – it is suggested the states have a reciprocity provisio safe harbor based on another state having a similar law

When is a nonresident employer sub withholding?

Important note: These don't necessarily align with an *employee's* fil

Nonresident em withholding **on t travel within th**

Nonresident em withholding **afte threshold**

HI and AZ: 60 da

IL: 30 days (enac

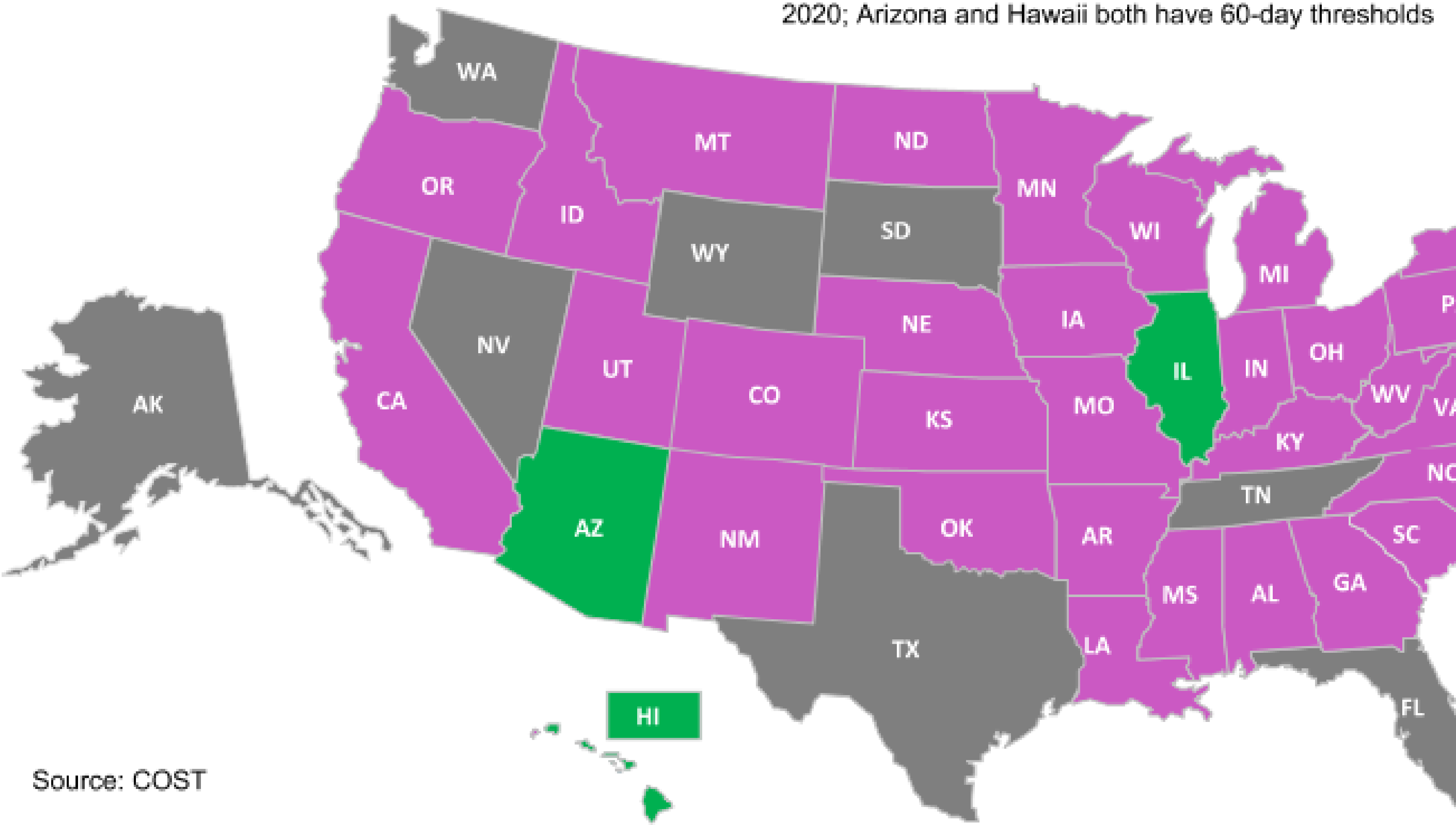
No general state

Please note that this map only covers withholding. Many states have different standards for imposing tax on nonresidents (that is, the employee may owe tax even
where the employer is not required to withhold). The map does not include reciprocal
agreements. Also note that 21 states provide exemptions for nonresidents performing

States that Should Consider Legislation
a 30-Day Threshold

Impacted: states potentially lacking a clear minimum 30-
for personal income tax imposition for non-resident worke

Resolved: Illinois enacted 30-day threshold for tax years
2020; Arizona and Hawaii both have 60-day thresholds



Source: COST

Questions?

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