

Taxpayers' Federation of Illinois

September 25, 2025

National State and Local Tax Update

Presenters:

Breen Schiller *Shareholder*



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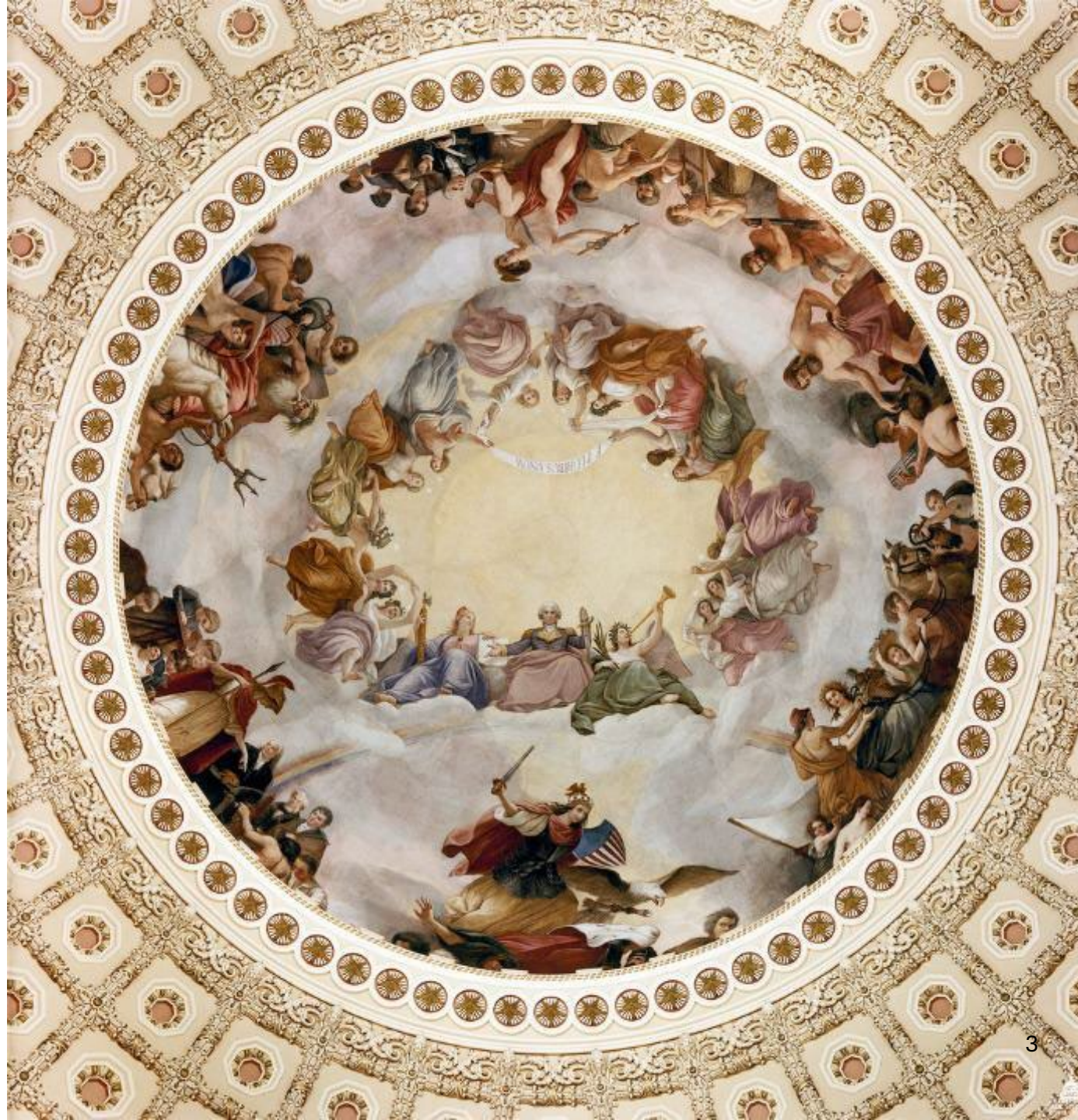


Agenda

2025 State Tax Legislation:

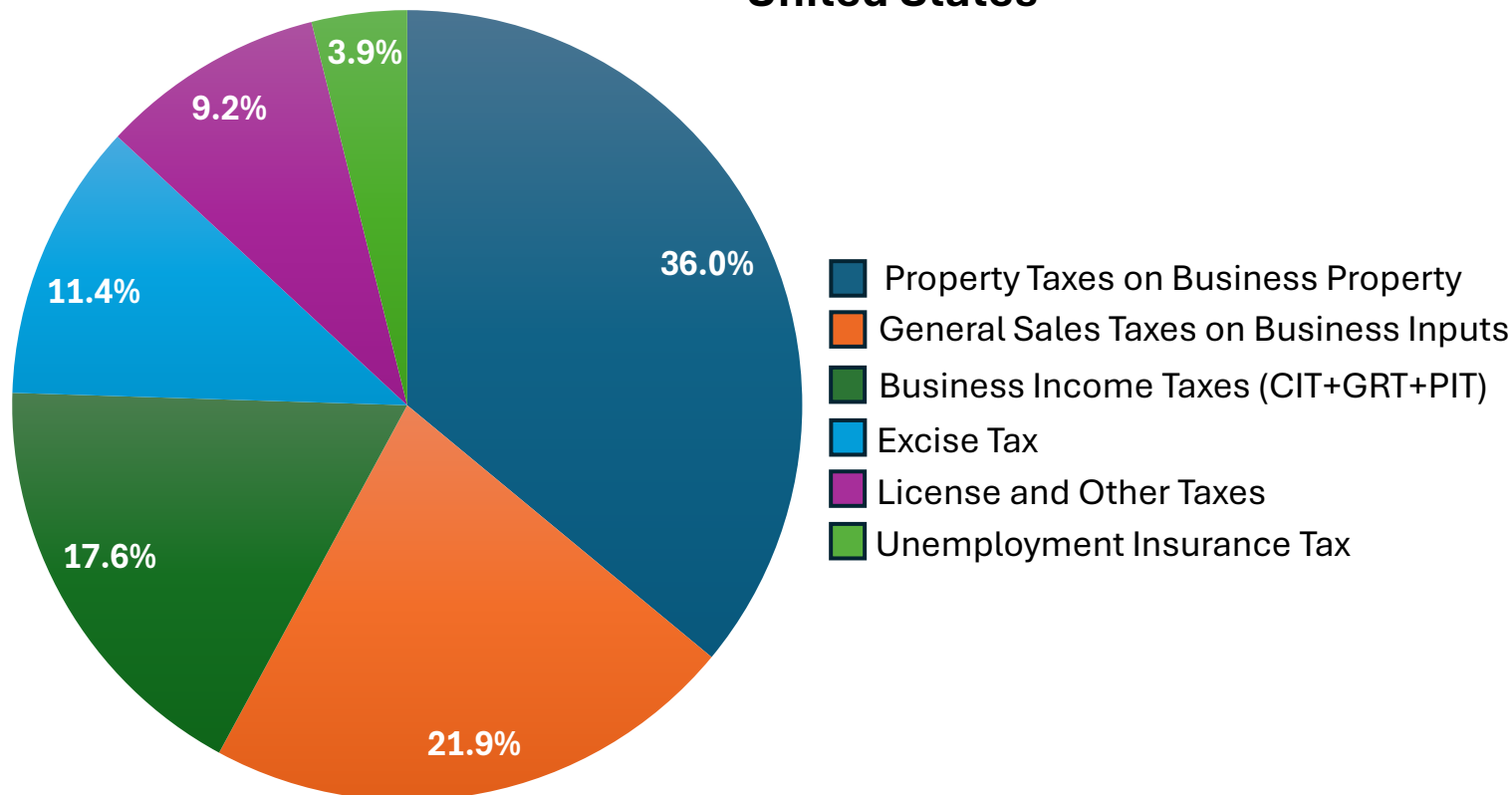
- Business Tax Burden Study FY23
- Impact of OBBBA
- State Taxation of Foreign Source Income
 - Mandatory Worldwide Combined Reporting
 - GILTI (NCTI) and Foreign Dividends
- Other Federal Activity
- Indirect Tax Base Expansion
- Potpourri of Tax Issues

Business Tax Burden Study



FY 2023 State and Local Business Tax Burden Study

**Composition of State and Local Business Taxes by Type, FY23
United States**



How Much Do Businesses Pay?

- Businesses paid more than \$1.09 trillion in U.S. state and local taxes in FY23, an increase of 3.7% from FY22
- State business taxes increased by 0.9% and local business taxes grew by 7.3%
- Total Business Income Taxes revenue decreased by 7.7%; however, Corporate Income Tax revenue increased by 1.7% in FY23
- In FY23, business tax revenue accounted for 44.7% of all state and local tax revenue

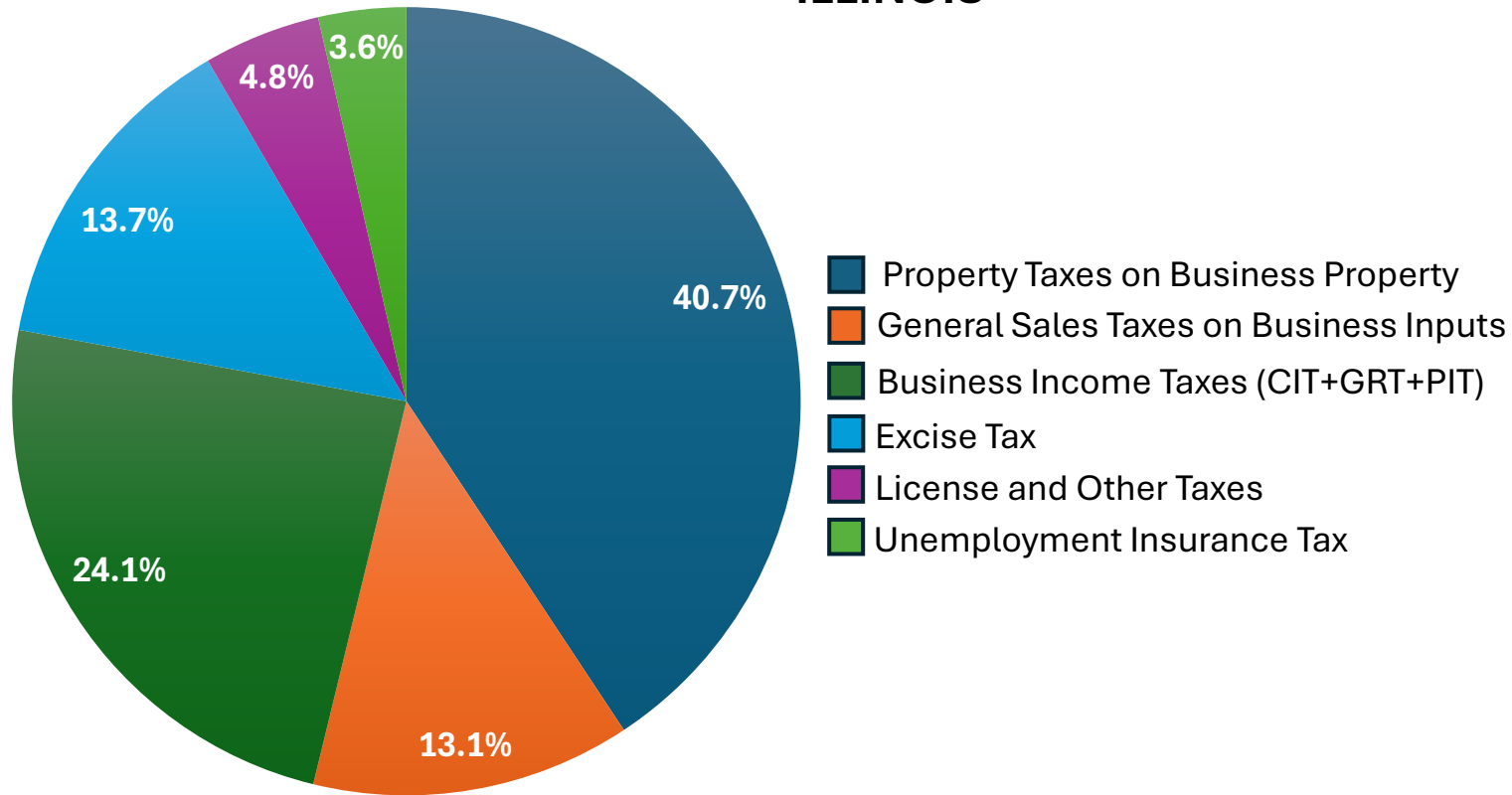
Note: Business income taxes include corporate income tax (CIT), gross receipts taxes (GRT), and individual income tax on business income (PIT).

Source: *Total State and Local Business Taxes: State-by-State Estimates for FY23*, prepared by Ernst & Young for COST and STRI, December 2024



FY 2023 State and Local Business Tax Burden Study

Composition of State and Local Business Taxes by Type, FY23 ILLINOIS



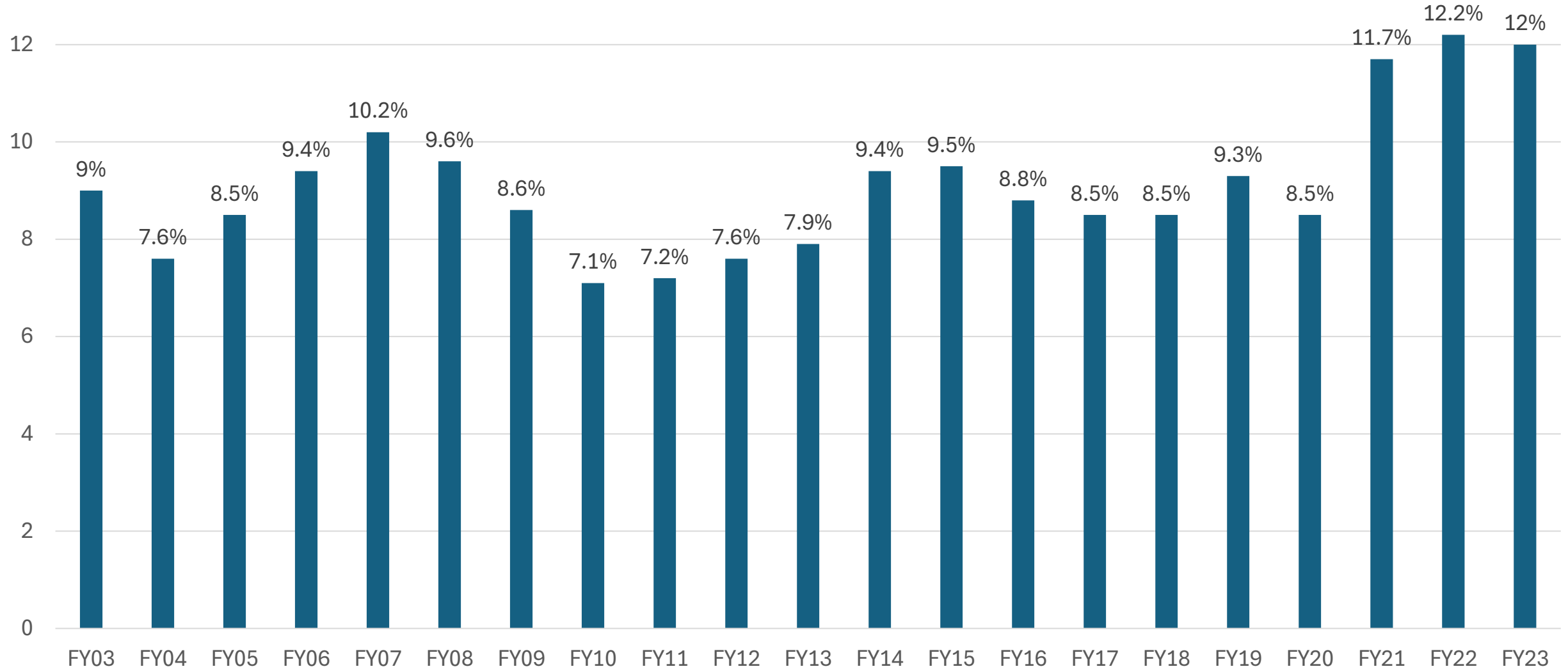
How Much Do Businesses Pay?

- Businesses paid more than \$51 billion in Illinois state and local taxes in FY23, an increase of 6.2% from FY22
- In FY23, business tax revenue accounted for 47.5% of all state and local tax revenue in Illinois

Note: Business income taxes include corporate income tax (CIT), gross receipts taxes (GRT), and individual income tax on business income (PIT).

Source: *Total State and Local Business Taxes: State-by-State Estimates for FY23*, prepared by Ernst & Young for COST and STRI, December 2024

Share Of CIT in Total State and Local Business Taxes, FY02 – FY23



Estimated “Excess” Business Property Taxes and Pyramided Sales Taxes on Business Inputs FY23

Amount the Largest State and Local Business Taxes Exceed Taxes Based on Deviation from Neutral Tax Design, FY23 (\$ billions)

	Estimated Business Tax Paid (EY)	Estimated Tax if Business Property Is Taxed at Homeowner ETR/ tax base; and SUT on Non- Pyramided Business Inputs	Excess Tax Based on Neutral Tax Design
Property Tax on Business Property	\$394.3	\$251.5	\$142.8
Sales Tax on Business Inputs	\$240.4	\$122.3	\$118.1
Total Selected Taxes	\$634.7	373.8	\$260.9

Source: Total State and Local Business Taxes: State-by-State Estimates for FY23, prepared by Ernst & Young for COST and STRI, December 2024

Ernst & Young LLP estimates based on data from the Bureau of Economic Analysis, the U.S. Census Bureau Annual Survey of State and Local Government Finances., and the Lincoln Institute of Land Policy/Minnesota Center for Fiscal Excellence 50-state property tax comparison study

See: Karl A. Frieden, “Wearing Blinders in the Debate Over Business’s ‘Fair Share’ of State Taxes”, *Tax Notes State*, April 8, 2024 ; and Karl A. Frieden, “The Boomerang Effect of the Business ‘Fair Share’ Tax Debate,” *Tax Notes State*, February 10, 2025

Impact of OBBA



Key CIT Provisions in OBBBA

Extend and expand TCJA business provisions (generally effective in 2025 (but GILTI/NCTI in 2026))

- Revive and make permanent 100% bonus depreciation for equipment – IRC § 168(k)
- Revive and make permanent domestic R & E expensing - IRC § 174
- Revive and make permanent interest expense limit tied to EBITDA - IRC § 163(j)
- Modify international tax rates/rules (including new 14% GILTI/NCTI ETR with no QBAI deduction) - IRC § 951A
- Changes to FDII

New business tax reductions (effective in 2025)

- Allow expensing of factories through 2028 - IRC § 168(n)

State CIT tax reductions

- For conforming states, these changes are generally favorable to businesses (other than the GILTI/NCTI change)

OBBBA—SALT Provisions Left on the Cutting Room Floor

Interstate Commerce Simplification Act--Changes to PL 86-272

- House version amended PL 86-272 to make clear that “solicitation” means “any business activity that facilitates the solicitation of orders even if that activity may also serve some independently valuable business function apart from solicitation”
- Was not included in the legislative text approved by the Senate parliamentarian

Mobile Workforce State Income Tax Simplification Act (S. 1443 by Senators Thune & Masto)

- Waives compliance obligations for nonresidents working fewer than 30 days in-state
- No amendment offered to include S. 1443 in OBBBA

Limitation of SALT deduction for corporations

Cap on state health care provider taxes

OBBBA's Net Controlled Foreign Corporation Tested Income (NCTI)

- The OBBBA makes changes to GILTI that exacerbate the differences between federal and state treatment of foreign source income (FSI), in a manner unfavorable to businesses
- At the federal level, OBBBA significantly broadens the potential FSI tax base by eliminating the QBAI deduction (that allowed a 10% return on tangible asset investment) and reducing the I.R.C. section 250 deduction from 50% to 40%
- However, for federal purposes, ***OBBBA offsets these unfavorable changes by increasing the Foreign Tax Credit (FTC) from 80% to 90%*** and revising the rules for the allocation of interest and research and development deductions in a manner that increases the availability of the FTC
- **After the OBBBA, state taxation of FSI (through conformity with NCTI) is increasingly divorced from both the goals and design of the federal approach that generally includes only low-taxed FSI in the CIT tax base**

Federal Grants to State and Local Governments

- Federal grants to state and local governments in 2023 totaled an estimated \$1.1 trillion, or about 4% of GDP
- **Federal grants have contributed 25% to 35% of all state revenues over the last 50 years with post-COVID grants averaging close to 35% of all state revenues**
- Federal grant outlays are concentrated in health care, income security, education, transportation, and community and regional development
 - Federal grants for Medicaid assistance make up about 60% of the total
- **OBBBA will result in substantial reductions in federal grants-in-aid or adversely impact other state revenues, potentially creating budget shortfalls for many states**
 - Most of the large Medicaid cuts are phased in after 2026

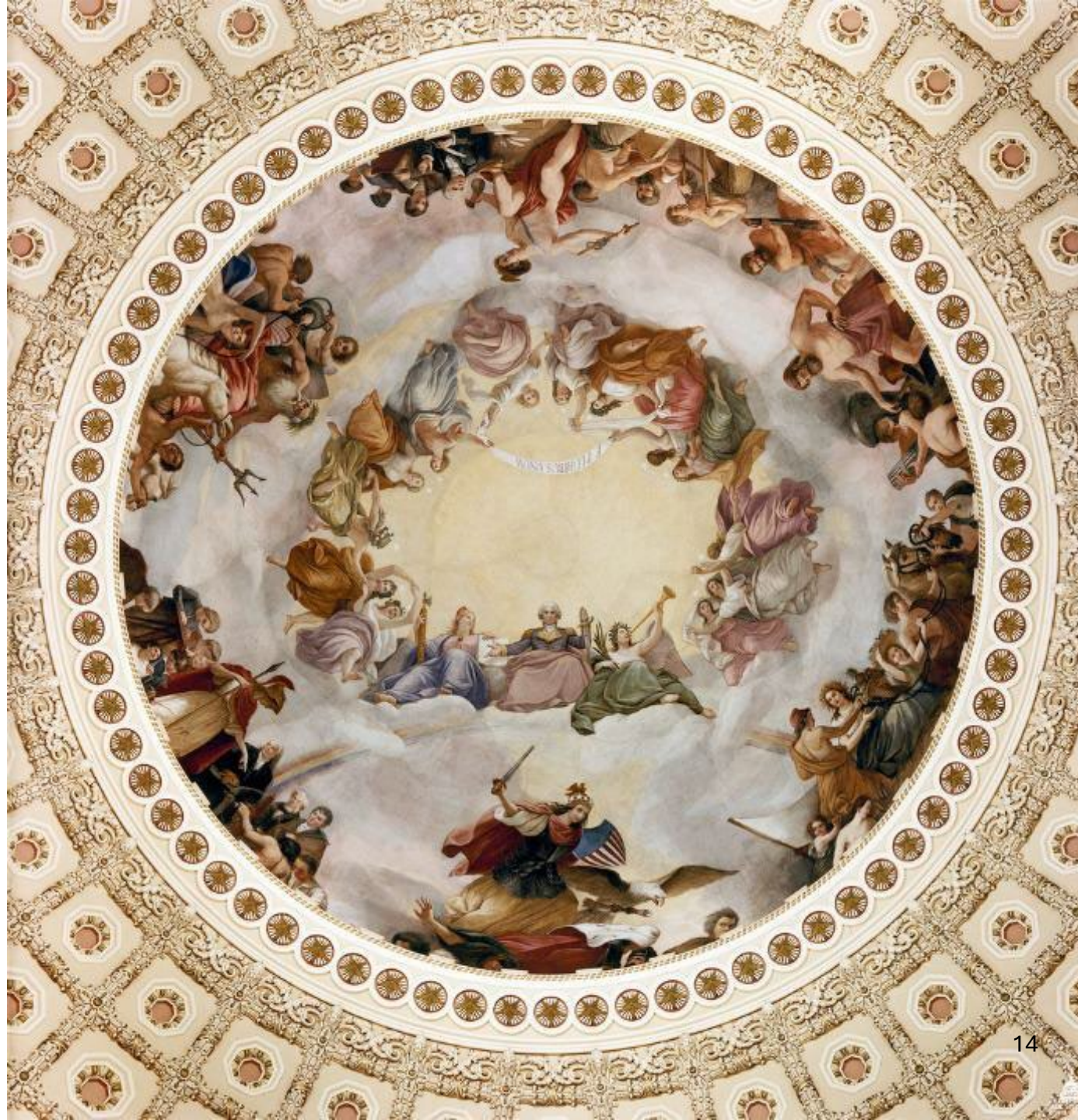
OBBBA's Potential Impact on State Revenues

Many states enacted tax cuts in recent years. With the enactment of federal funding cuts and tax code changes in OBBBA, many states are revising their previous revenue projections, and some are bracing for revenue shortfalls

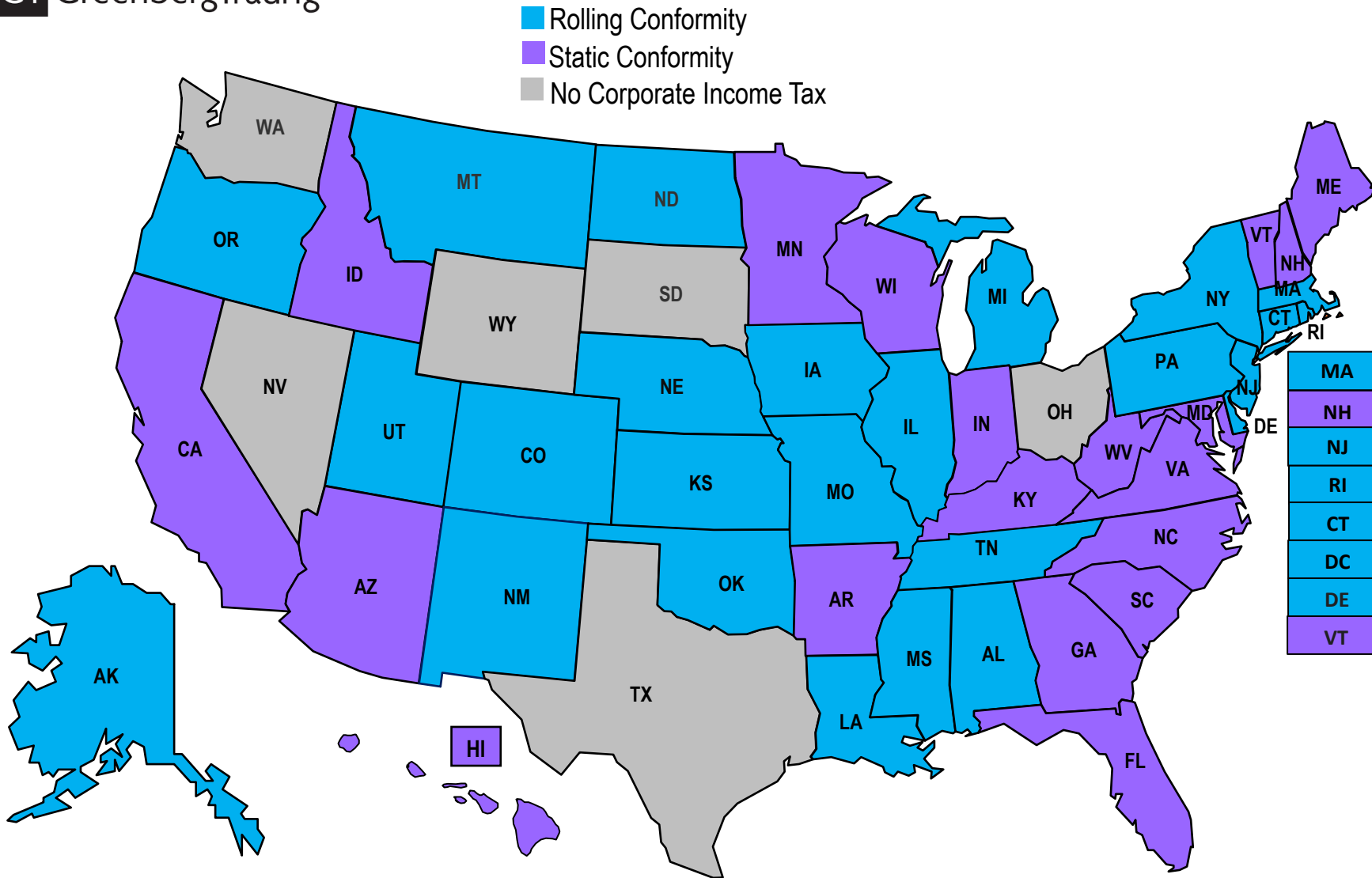
- **Colorado's** six-day special legislative session began August 21 to address an immediate approx. \$800 million hole in the State budget
- **Connecticut** Comptroller's July report projects increase in state expenditures and decrease in state revenues
- **Maryland** automatically decouples from IRC if IRC changes will decrease the State budget by at least \$5 million
- **New Jersey** Governor directs state agencies to immediately evaluate the impacts of OBBBA on their operations and budgets
- **Pennsylvania** IFO Budget Brief: Federal Tax Cut Reduces FY 25-26 CNIT Revenue
- **Rhode Island** budget enacted at the end of June specifically decoupled the State from IRC changes from H.R. 1
- **Virginia** (H.B. 1600: budget bill) paused its rolling conformity effective from Jan. 1, 2025, to Jan. 1, 2027
- **Oregon** State economists revised their May revenue projections to predict shortfall of \$888 million for the ongoing two-year budget cycle

MAPS— State Conformity with OBBBA:

- State CIT conformity to the IRC
- IRC § 174
- IRC § 168(k)
- IRC § 168(n)
- IRC § 163(j)



IRC Conformity – Draft



Arkansas: State only adopts certain provisions of IRC and IRC dates vary.

Maryland: Maryland is a rolling conformity state but because Maryland does not conform if State revenue impact is over \$5 million for a tax year, we list it as static.

Michigan: Taxpayers can elect to use IRC as of 1/1/2018.

New Jersey: Some IRC provisions are static.

Ohio: Ohio for other taxes is a static conformity state (e.g., municipal income tax).

Oregon: Static conformity for items not related to the computation of taxable income.

Pennsylvania: Status of rolling conformity currently subject to litigation.

Rhode Island: Rhode Island DOR has promulgated rules to preserve tax base, e.g., ADV 2025-18.

Texas: Texas is “technically” static with the IRC of 2007 for any IRC references.

Virginia: While Virginia is a rolling conformity state, because it decouples from the IRC if the revenue impact is over \$15 million, we list it as a static conformity state.

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

Source: Council On State Taxation (COST) – As of September 1, 2025

2025 State Conformity Legislation

Arizona H.B. 2688 *January 1, 2025*

California S.B. 711 *January 1, 2025*

Florida H.B. 7031 *January 1, 2025*

Georgia H.B. 290 *January 1, 2025*

Hawaii S.B. 1464 *December 31, 2024*

Idaho H.B. 3 *January 1, 2025*

Kentucky H.B. 775 *December 31, 2024*

Maine HP 2, LD 28 *December 31, 2024. Applies to tax years beginning on or after January 1, 2024, can also apply to earlier tax years if the federal tax code (as updated through December 31, 2024) specifies*

Ohio H.B. 14 *incorporates into Ohio income tax law changes made to the IRC since March 15, 2023, effective as of tax year 2024*

Rhode Island H.B. 5076 *(budget bill) forms a study group to study the impacts of the federal tax changes and issue report by October 31, 2025*

South Carolina S.B. 507 *December 31, 2024. If any federal tax provisions expiring at the end of 2024 are later extended by Congress in 2025 without changes, they will automatically be extended for South Carolina taxes*

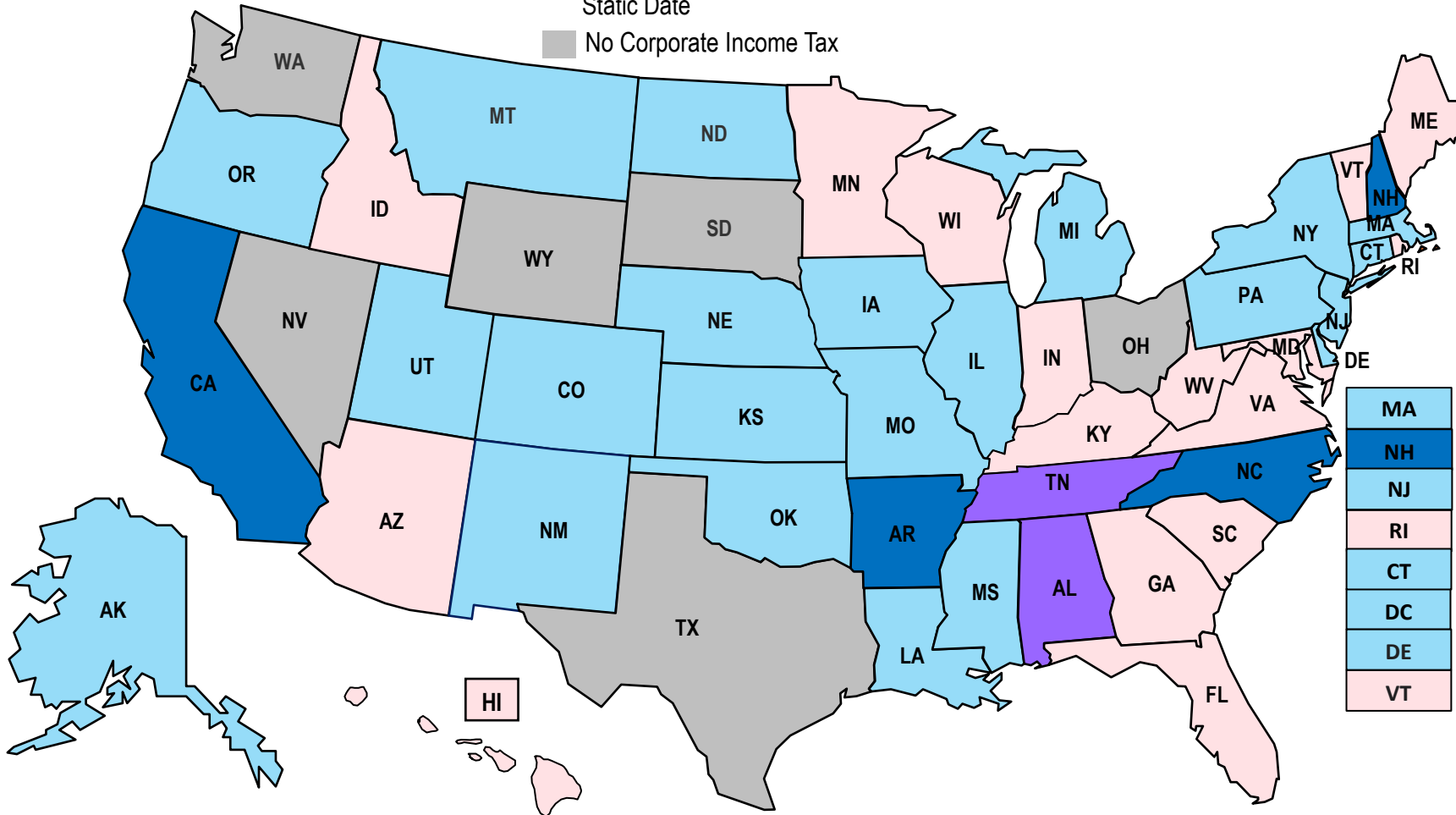
South Dakota H.B. 1028 *January 1, 2025*

West Virginia H.B. 2025 *conforms to any IRC amendments made between January 1, 2024, and December 31, 2024*

Vermont H.B. 493 *December 31, 2024*

State Conformity with OBBBA – Sec. 174 – **Draft**

- Rolling conformity – Coupled, Adopts Current Code
- Rolling Conformity – Previously Decoupled
- Static Conformity – Currently Decoupled, Adopts Code as of a Static Date
- Static Conformity – Previously Decoupled, Adopts Code as of a Static Date
- No Corporate Income Tax



Alabama: Alabama uses IRC § 174, as it existed in 2021.

Arkansas: Arkansas uses IRC § 174 as it existed on 1/12/2019.

California: California uses IRC § 174 as it existed on 1/1/2015.

Louisiana: For tax years beginning on or after 1/1/2025 a taxpayer may elect to deduct research and development expenses. The deduction cannot duplicate the amortization taken for federal purposes.

Maryland: Estimated impact over \$5 million, so Maryland is listed as currently decoupled.

Michigan: If taxpayers elect to use IRC as of 1/1/2018, they are decoupled.

Rhode Island: Rhode Island DOR issued ADV 2025-18 stating it decoupled from IRC § 174.

Tennessee: Tennessee uses I.R.C. § 174 as it existed immediately before the enactment of the Tax Cuts and Jobs Act of 2017..

Virginia: Virginia is a rolling conformity state but decouples on IRC tax changes greater than \$15 million.

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

Source: Council On State Taxation (COST) – As of September 1, 2025

-  No Corporate Income Tax
-  Rolling conformity – Decoupled, Adopts the Code But Not All or Portions of IRC §168
-  Rolling Conformity- Coupled, Adopts Current Code
-  Static – Currently Decoupled, Adopts Code as of a Specific Date
-  Static – Previously Decoupled, Adopts Code as of a Specific Date But Does Not Adopt All or Part of § 168

* The rolling conformity state has decoupled from IRC §168(k).

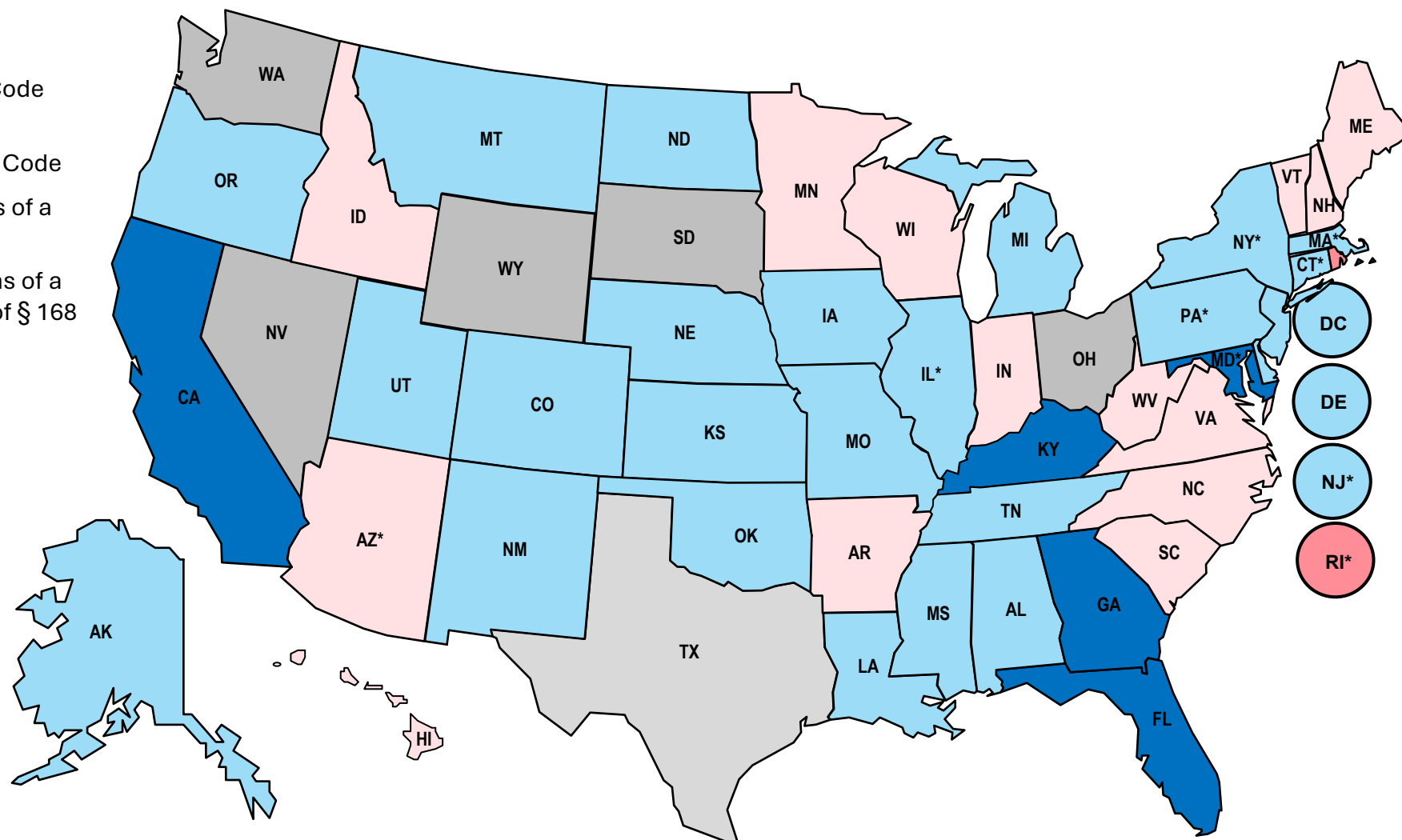
Alaska: Oil and gas companies are decoupled.

Arkansas: Adopts selective sections of the Code as of a specific date.

Maryland: Maryland is a rolling conformity state, but Maryland does not conform if State revenue impact is over \$5 million for a tax year, we list it as static.

Michigan: Taxpayers are decoupled if they elect to use IRC as of 1/1/2018.

Rhode Island: Rhode Island DOR has promulgated rules to preserve tax base, e.g., ADV 2025-18.



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

Source: Council On State Taxation (COST)
 (As of September 1, 2025)



State Conformity with OBBA – Sec. 168(k) – Draft

-  No Corporate Income Tax
-  Rolling conformity –Decoupled, Adopts the Current Code but Decouples from IRC §168(k)
-  Rolling Conformity – Coupled, Adopts Current Code
-  Static – Currently Decoupled, Adopts Code as of a Specific Date
-  Static – Previously Decoupled, Adopts Code as of a Specific Date But Specifically Decouples from IRC §168(k)

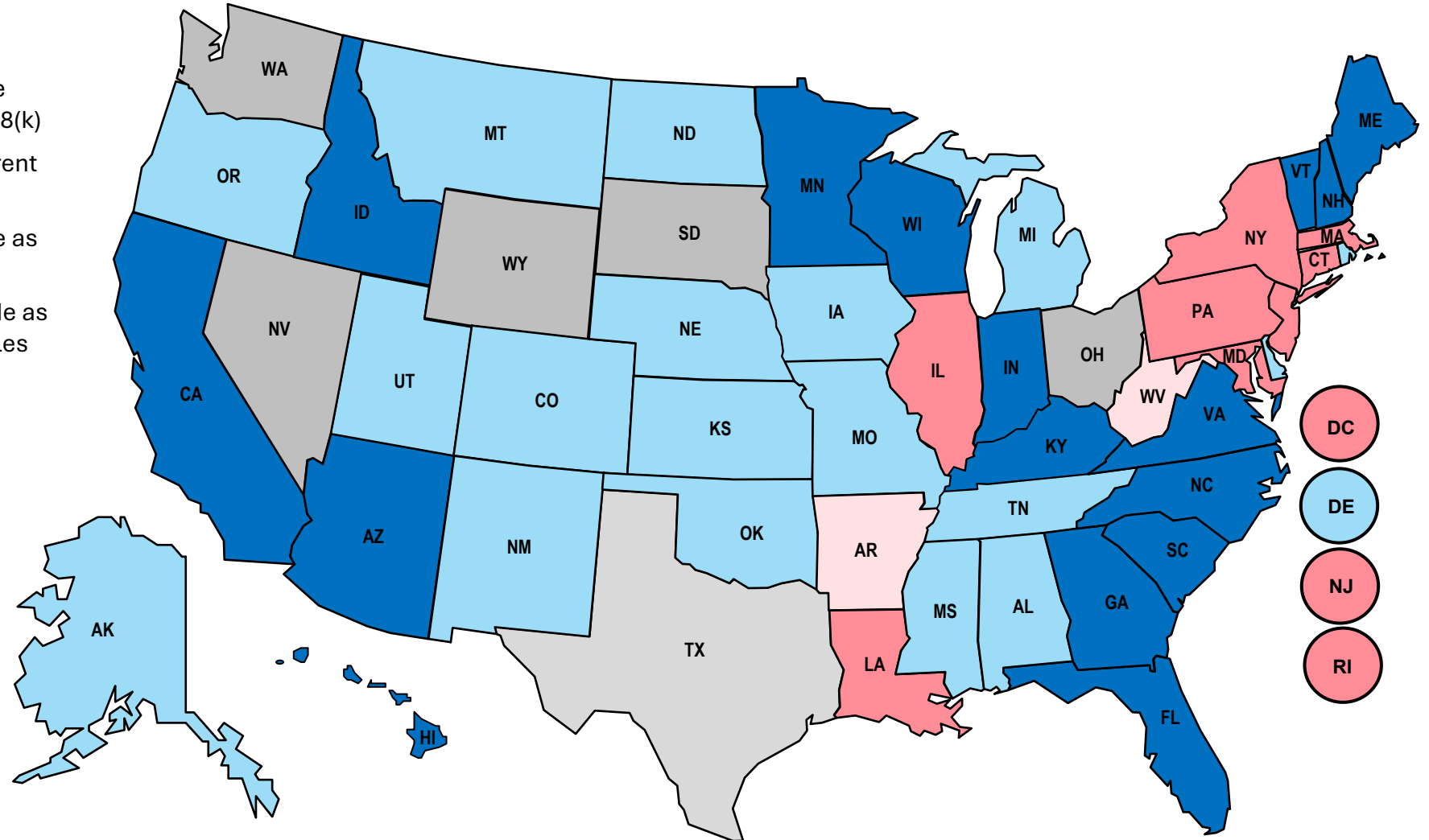
Alaska: Oil and gas companies which are decoupled.

Arkansas: State only adopts certain provisions of IRC and IRC dates vary. It is decoupled from IRC §168(k).

Louisiana: For qualified property placed in service after 1/1/2025 a taxpayer may elect to take bonus depreciation. If elected by the taxpayer, any depreciation claimed by the taxpayer may not duplicate any depreciation or bonus depreciation allowable on the taxpayer's federal income tax return for the taxable year.

Maryland: Maryland is rolling conformity state, but MD does not conform if State revenue impact is over \$5 million for a tax year.

Michigan: Taxpayers that elect to use IRC as of 1/1/2028 are decoupled.

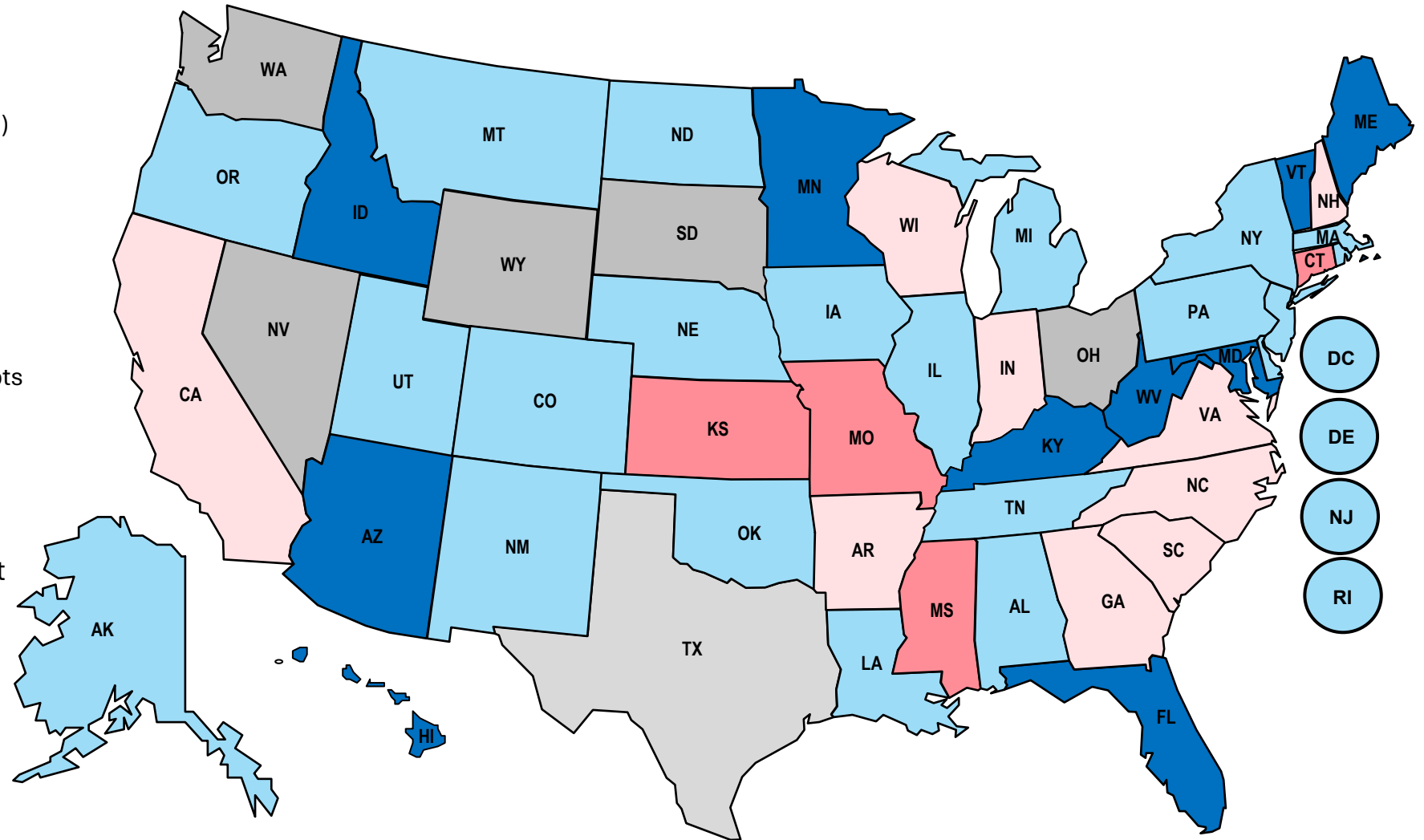


Disclaimer: This information should be used for general guidance and not relied upon for compliance.

Source: Council On State Taxation (COST)
(As of September 1, 2025)

State Conformity with OBBBA – Sec. 163(j) – Draft

-  No Corporate Income Tax
-  Rolling Conformity – Decoupled, Adopts Current Code, Decouples From IRC §163(j)
-  Rolling Conformity – Coupled, Adopts the Current Code
-  Static Conformity – Previously Decoupled, Adopts the IRC as of a Specific Date and Decouples from IRC § 163(j)
-  Static Conformity – Currently Coupled, Adopts IRC as of a Specific Date and Adopts IRC §163(j) as of that Date



Arkansas: Adopts selective sections of the Code as of a specific date. It conforms to IRC §163(j) as it was in effect on 1/1/2017.

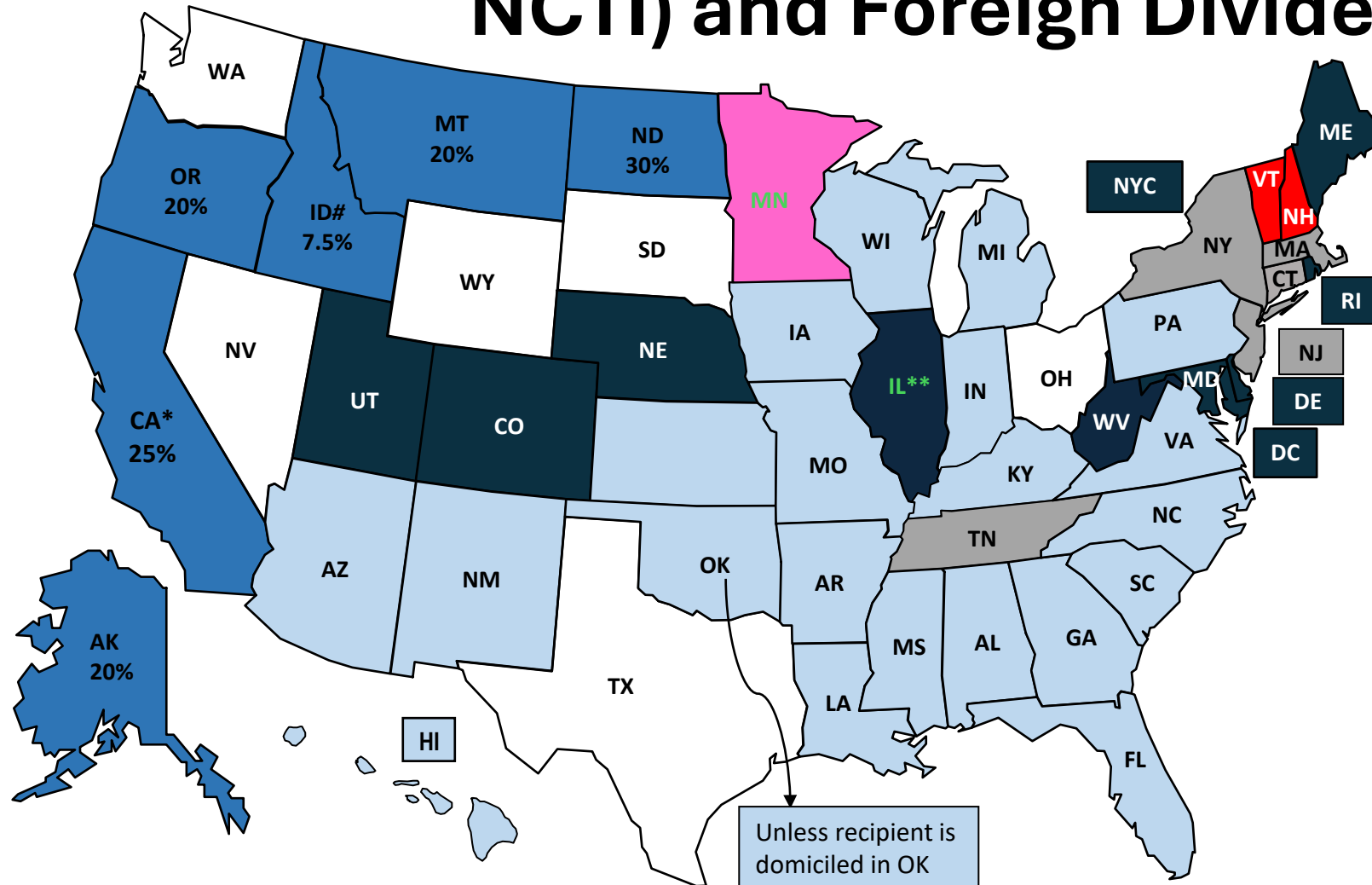
California: SB 711 pending in the California Assembly would revise the conformity date to 1/1/2025.

Michigan: Would not apply if taxpayers elect to use IRC of 1/1/2018.

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

Source: Council On State Taxation (COST)
(As of September 1, 2025)

State Taxation of GILTI (now NCTI) and Foreign Dividends



Note: Both MN and IL lack factor representation of GILTI/NCTI

States taxing 5% of GILTI and/or foreign dividends (FDs)

States taxing more than 5% of GILTI or FDs:

7.5% - 30%

50% (based on the state's position)

States taxing both GILTI & FDs:

MN taxes 50% of GILTI & FDs

NH & VT tax 50% of GILTI & 100% FDs

States not taxing GILTI or FDs

No corporate income tax

*CA taxes 25% of foreign dividends.

**Effective 1/1/2025 Illinois taxes 50% of GILTI but allows a DRD for both foreign and domestic dividends.

Disclaimer: This map is based on the best available information, but several states do not have clear guidance on GILTI. Therefore, this information should be used for general guidance and not relied upon for compliance. **Source:** Council On State Taxation (COST): June 2025.

States' Efforts to Tax Foreign Source Income





- **CO** H.B. 1002 (Expansion of existing tax haven blacklist) ENACTED
- **MA** S.D. 2221/S.B. 2041 (create tax haven blacklist)
- **MN** H.F. 1533 (Define “tax haven”)

23

2025 Legislation

Mandatory Worldwide Combined Reporting, GILTI & Foreign Dividends

CONNECTICUT: H.B. 5968 and S.B. 922—proposed bills would make worldwide combined reporting mandatory rather than elective. HAWAII: H.B. 116 and S.B. 314, and H.B. 759 introduced to impose MWWCR; H.B. 759 also requires corporations to report all profits, losses, revenues, and inter-company transactions made and all taxes paid in other states and establishes a Corporate Tax Law Task Force. ILLINOIS: H.B. 2755 impose a 50% tax on GILTI and no factor representation. (ENACTED)	MARYLAND: H.B. 352, S.B. 321 – Governor's budget, calls for domestic combined reporting. Phase-in of a lower corporate income tax rate. (To Governor without combined reporting provision.) S.B. 33 authorizes a study of the business taxes including the imposition of combined reporting with a report due to the Legislature by December 15, 2026. H.B. 1014, S.B. 859 – <i>Fair Share for Maryland Act of 2025</i>, would impose MWWCR, business transportation fee, limit NOLs, and contains a throwback provision.	MASSACHUSETTS: S.D. 2221/S.B. 2041 would create a tax haven blacklist. H.D. 3390/H.B. 3110, S.D. 1684/S.B. 2033, spearheaded by a coalition that seeks to increase the share of GILTI that is taxed by Massachusetts from 5% to 50%. MAINE: L.D. 1939, H.P. 1298 based on the Model Statute for Worldwide Combined Reporting, requires corporations with over \$1 billion in gross revenues to file a combined return based on net profits and gross revenues from all global operations.	MINNESOTA: H.F. 1480, S.F. 3401 would implement MWWCR. H.F. 947 would provide a GILTI subtraction (currently taxed at 50%); increase the NOL deduction from 70% to 80%; increase the DRDs. H.F. 1533 would implement tax haven provisions and would treat GILTI and Subpart F income as a subtraction. H.F. 1649 would allow a 10-year worldwide combined filing election; provide that a unitary CFC is treated as a domestic entity. NEW HAMPSHIRE: H.B. 502 would enact mandatory worldwide combined reporting.	NEW YORK: Assemblymember Micah Lasher introduced <i>Multinational Earnings and Global Accountability for Corporations Act (MEGA Act)</i> to implement MWWCR, A.B. 6629. Senate companion bill was introduced by Sen. Liz Krueger, Chair of the Finance Committee, S.B. 7323. S.B. 953 and A.B. 1971 would tax 50% of GILTI up from 5%. No mention of factor representation. OREGON: S.B. 419 would enact mandatory worldwide combined reporting.
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Colorado

Following legislation was enacted during the special session convened August 21 to raise revenue to address a nearly \$800 million shortfall largely attributed to OBBBA

- H.B. 1 permanently extends a requirement for non-corporate business owners to add back their federal qualified business income deduction when calculating their Colorado taxes
- H.B. 2 expands Colorado's "tax haven" list to include Hong Kong, Ireland, Liechtenstein, the Netherlands, and Singapore. Disallows FDII deduction
- H.B. 3 repeals the reduced insurance premium tax rate for certain insurance companies that have a regional home office in Colorado
- H.B. 4 allows insurance companies and C corporations to prepay their taxes earlier at an up to 20% discount through the sale of tax credits by the State Treasurer through the 2033 tax year: the State will pay back a dollar for every 80 cents it takes in taxes
- H.B. 5 eliminates the State "vendor fee"



MetroPCS v. Lakewood: The Colorado Supreme Court unanimously upheld the lower court's ruling that the city's decision to expand the tax from utility companies to cellular service providers violated the Taxpayer's Bill of Rights (TABOR)

Pennsylvania

Online Petition Center Launched on March 18, 2025

Tax Omnibus Legislation (H.B. 1610):

- Mandatory Unitary Combined Reporting
- Allow DOR to Designate Tax Havens
- Accelerate CNIT Rate Reduction

Other Noteworthy Legislation:

- NOL Transferability for Biotech and Tech Start Ups (H.B. 1129)
- Repeal of Accelerated Sales Tax Prepayment (H.B. 1316)
- Digital Advertising Tax (H.B. 1678)
- False Claims Act (H.B. 1697)
- Sales and Use Tax Refund Process (H.B. 1551 & H.B. 1552)
- Wireless Equipment Sales Tax Exemption Clarification (H.B. 1503)
- Increase the R& D Credit (S.B. 792)
- Transit Funding Package: Ride Hailing (S.B. 795); Vehicle Rental and Lease (S.B. 796, H.B. 1524)
- Sales Tax Exemptions for School Supplies (H.B. 1596); for PA-made Steel (S.B. 949, H.B. 1749)
- Repeal of the Business GRT (H.B. 1582)
- Colorado-Style Retail Delivery Fee (Sen. Tim Kearney)
- Property Tax Elimination (H.B. 1649, S.B. 929, S.B. 962)



Other Recent Federal Activity



Federal “Common Cents Act” Legislation

U.S. Treasury - announced several months ago it would stop minting the penny (June 2025) – net savings around \$60 million – over 200 billion of pennies still in supply chain

S. 1525 and H.R. 3074 have been introduced and are currently in committee:

- Eliminate the production of pennies starting in 2026
- Provide rounding rules to nearest 5 cents for cash transactions based on “total transaction” amount (which includes taxes)

Amounts ending in 1, 2, 6, or 7 cents would be rounded down

Amounts ending in 3, 4, 8, or 9 cents would be rounded up

- Pennies would still be both legal tender and a legal denomination

NCSL, SSUTA, and FTA are examining the state sales tax implications of halting the production of the penny

COST is also formulating a policy position that rounding should not alter the state’s sales tax collection (up or down) and/or require extensive POS changes

U.S. Data on Imposition of Tariffs

Figure 1a. Tariffs Revenue as a Share of Total Federal Receipts, 1798-2023

Percentage



Council of Economic Advisers

Sources: White House Historical Tables; Census - Historical Statistics of the United States; CEA calculations.

Note: The data for years prior to 1940 does not match current fiscal year convention.

As of June 20, 2024 at 12:00pm.

Executive Branch Tariff Authority

- The President (executive branch) has the following authority to impose and adjust tariffs without approval from Congress:
 - ***International Emergency Powers Act (IEEPA) of 1977:*** President has broad authority to regulate economic transactions following declaration of a national emergency, enactment timeline is immediate (this is used for most current tariffs issued by President Trump) – *This is the Tariff power Pres. Trump has used and his use of it is currently on appeal at SCOTUS.*
 - **Section 201 of the Trade Act of 1974:** Allows duties and other trade measures if International Trade Commission finds imports cause/threaten “serious injury” to a U.S. industry, enactment timeline is up to 6 – 9 months
 - **Section 301 of the Trade Act of 1974:** President can impose tariffs if USTR finds a trading partner is engaging in practices that burden/restrict U.S. commerce, enactment timeline is up to 18 months
 - **Section 232 of the Trade Act of 1962:** President can adjust import duties if Department of Commerce finds certain products threaten U.S. national security, enactment timeline is 9 – 12 months
 - **Section 338 of the Tariff Act of 1930:** President can increase tariffs up to 50% or block imports if a trading partner is discriminating against U.S. goods or commerce, enactment timeline is potentially immediate

Tariffs Impact on SALT

- Tariffs are generally part of the COGS, so tariffs will increase sales price and/or gross receipts
- Purchasers using/consuming imported products themselves are encouraged to be the importer of record to directly pay the tariff (tax) to Customs
- Impact on tariffs to each state's economy is still an unknown
- Increased prices due to tariffs will put some businesses over the economic nexus thresholds states have with their sales, GRT, and corporate income taxes
- Property taxes also impacted with increased inventory costs and states using RCNLD indexing increasing cost base for lumber, steel, etc.
- Corporate income tax transfer pricing agreements may need adjusted to deal with tariffs

Expansion of Indirect Tax Base



Proposed and Actual Expansion of Indirect Tax Base

- In the past few years, many states have proposed expanding the indirect tax base to include non-traditional transactions and services, while considering more targeted taxes aimed at industries

Broad sales tax base expansion

- Indiana
- Louisiana
- Maryland
- Minnesota
- Missouri
- Nebraska
- South Dakota
- West Virginia
- Virginia
- Washington

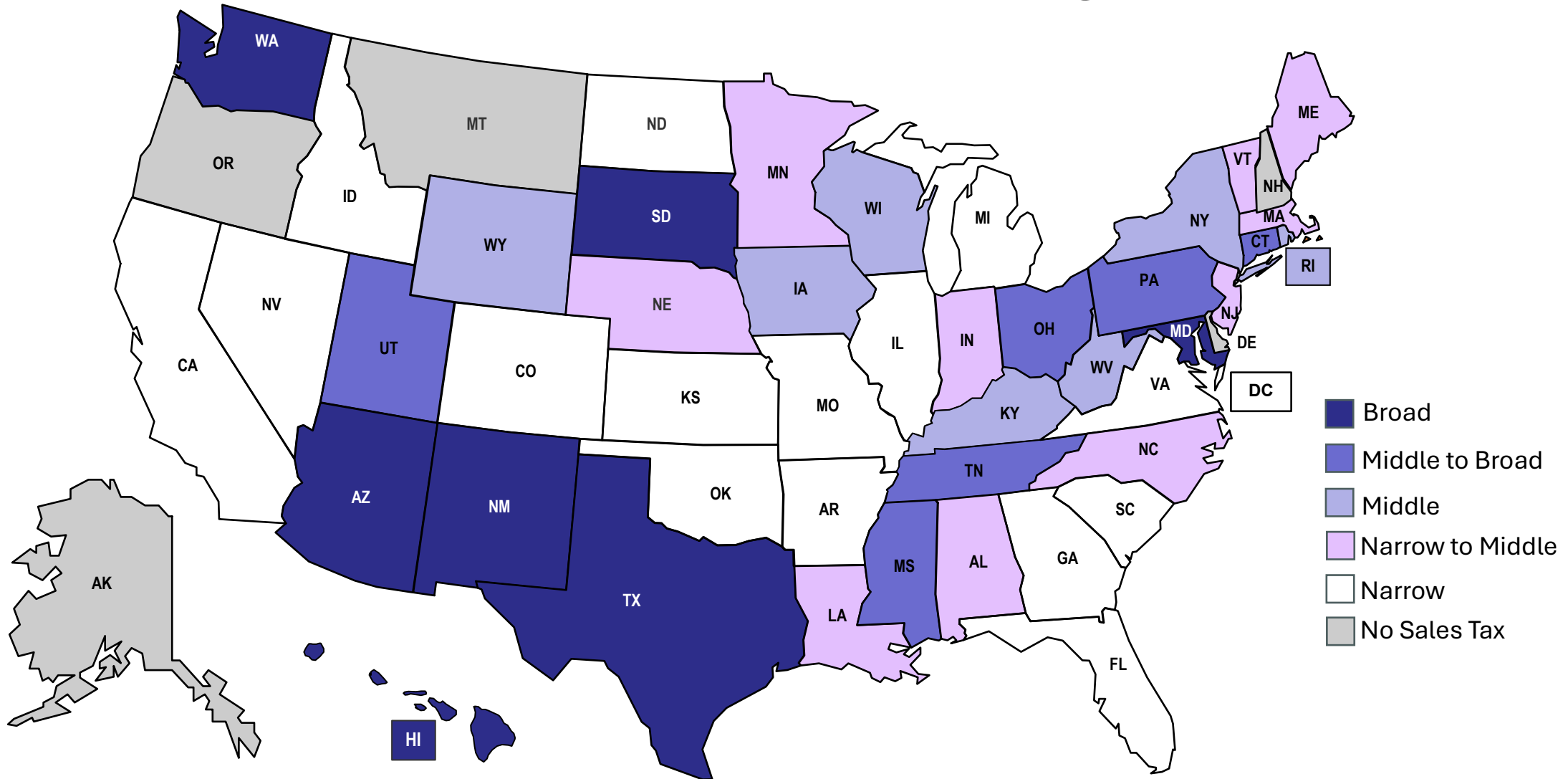
Digital services tax

- Maryland (effective 2022)
- California
- Hawaii
- Massachusetts
- Michigan
- Minnesota
- Montana
- Nebraska
- New York
- Nevada
- Rhode Island
- Tennessee
- Washington (effective 10/1/25)

Retail delivery fee

- Colorado (effective July 1, 2023) – 29 cents
- Minnesota (effective July 1, 2024) – 50 cents
- Connecticut
- Hawaii
- Illinois
- Indiana (county option)
- Maryland
- Mississippi
- Nebraska
- New York
- Tennessee
- Utah
- Vermont
- Washington

State Sales Tax Systems: Narrow, Middle, and Broad Sales Tax Bases on Digital Products



Source: Preliminary MTC Survey Results (2023)

State Sales Tax Systems Scorecard: Tax on Software

Tax on Prewritten Software (Including Electronic Delivery)

- ☒ Tax is imposed but business purchases (“commercial enterprises”) are exempt in Iowa
- ☒ Tax imposed both in tangible form and when delivered electronically
- ☒ Tax imposed in tangible form but not if delivered electronically
- ☐ No sales tax

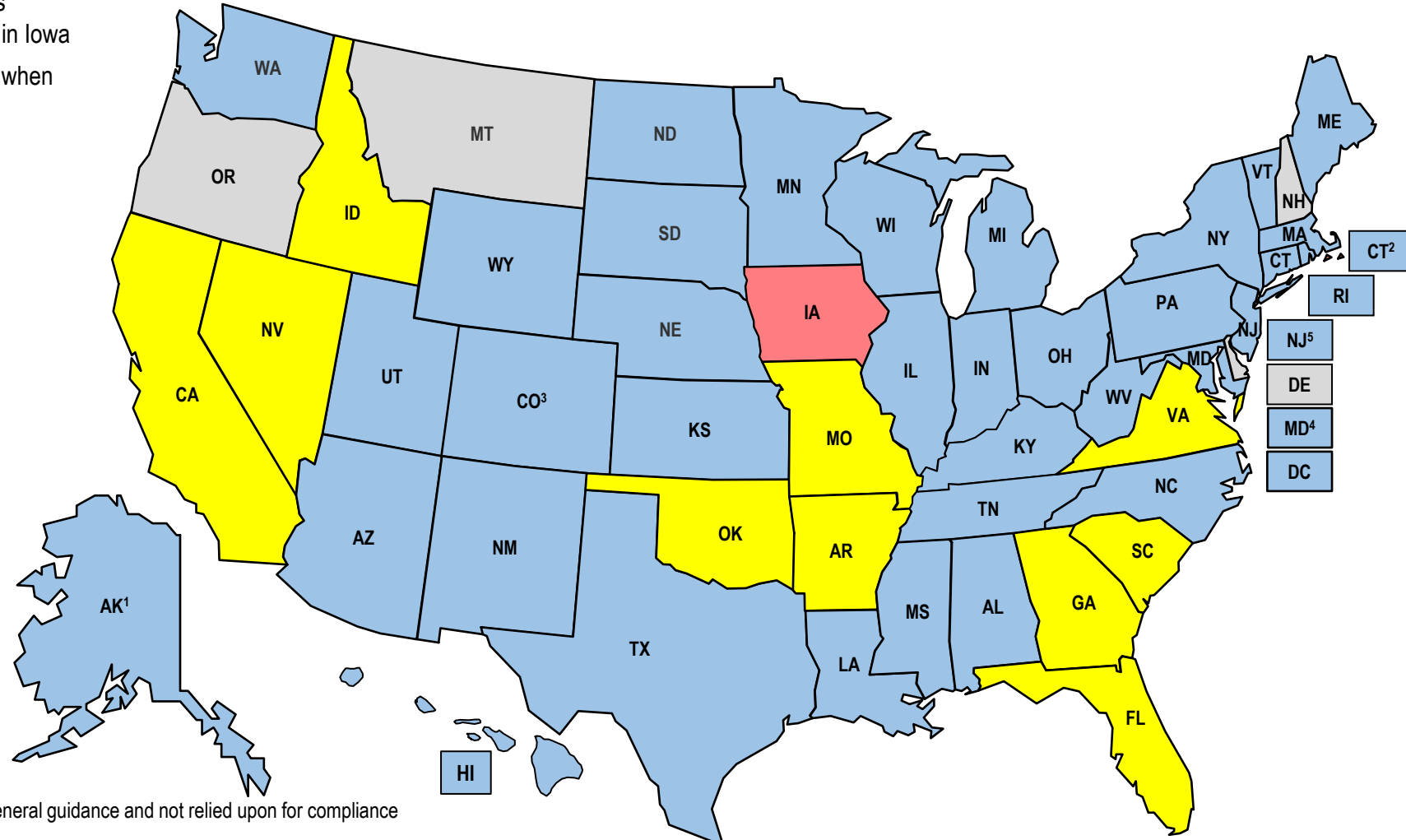
¹AK: Data is based on local municipalities since Alaska does not have a statewide sales tax

²CT: Software delivered electronically is taxed at a 1% rate for businesses

³CO: State and local tax bases differ – tax imposed by some localities on electronic delivery

⁴MD: Some business purchases of electronically delivered software are exempt

⁵NJ: All software is taxable; however, business purchases of electronically delivered software is exempt



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

Source: Council On State Taxation (COST)

State Sales Tax Systems Scorecard: Tax on Software

Tax on Digital Software Accessed Remotely (SaaS)

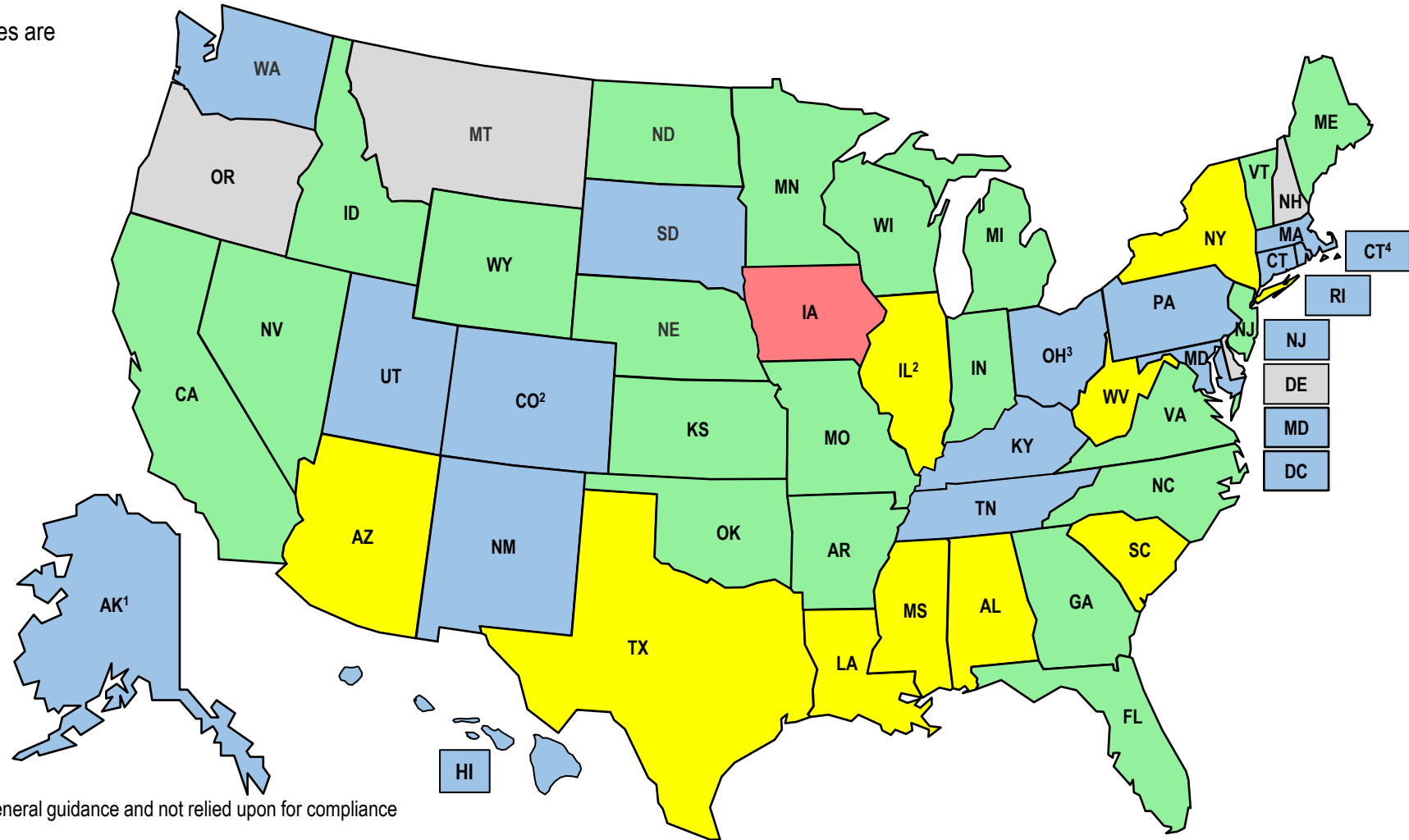
- Tax is imposed but business purchases are exempt in Iowa
- No tax imposed
- Tax imposed
- Tax asserted without clear authority
- No sales tax

¹AK: Data is based on local municipalities since Alaska does not have a statewide 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



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

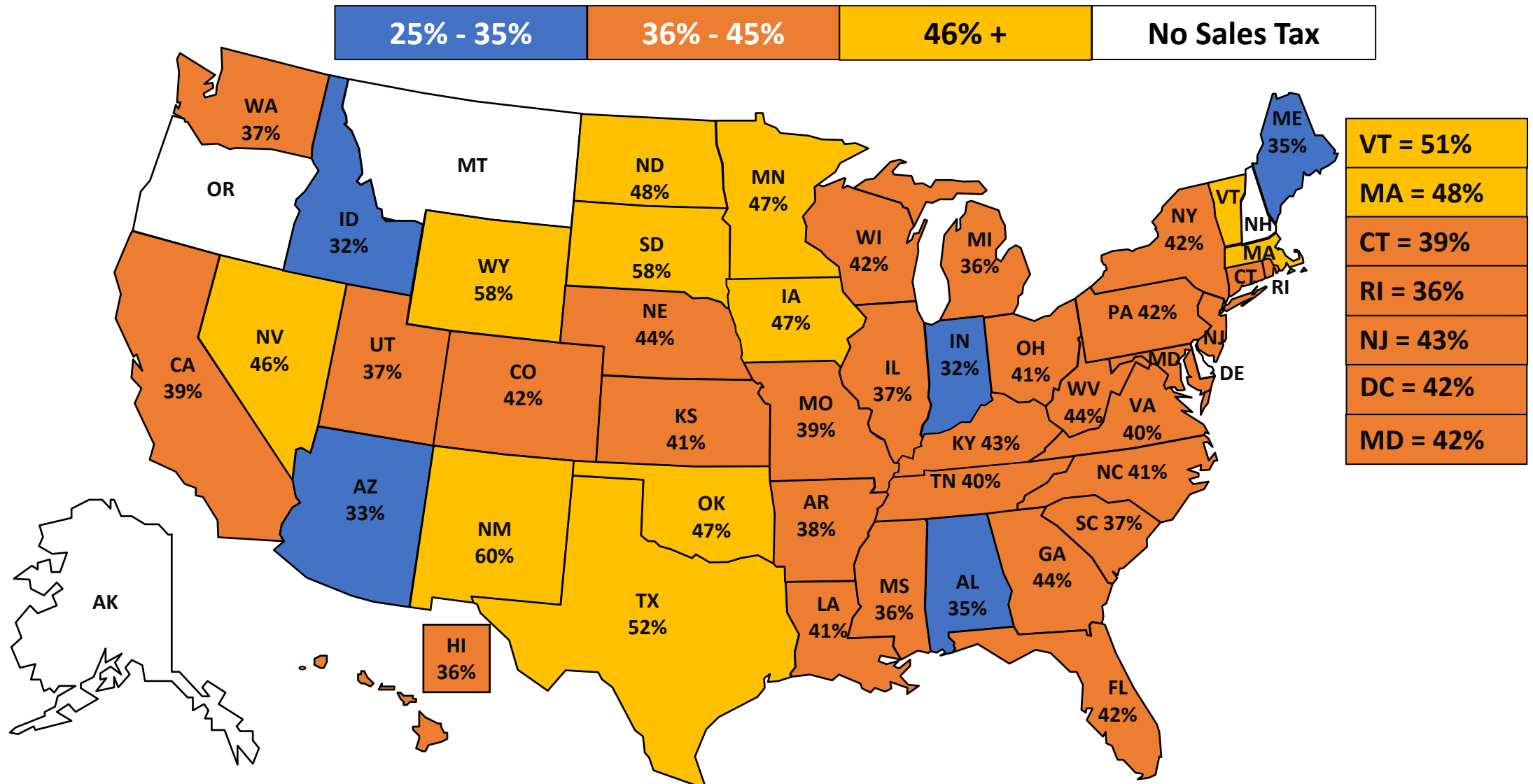
Source: Council On State Taxation (COST)

The Sales Taxation of Digital Business Inputs

- **Key finding of 2022 COST study:** the sales taxation of business purchases of digital products (e.g. digital business inputs) is not just commonplace, but the overwhelming norm among states that tax software and digital products. The COST study researched six categories of software and digital products
 - Canned software (including electronic delivery)
 - Custom software
 - Digital software accessed remotely (SaaS)
 - Digital information services
 - Data processing services
 - Specified digital products (video, audio, books)
- **In each of the six categories of software and digital products, over 90% of the taxing states include both business and consumer purchases in the sales tax base**
- **Currently only one state (Iowa) has a broad exemption for business purchases of software and digital products**, and several other states have narrow exemptions or rate reductions

Business Inputs Make Up 42% of All State and Local Sales Taxes

Business Inputs Share of Total Sales Tax Collected



The Impact of Imposing Sales Taxes on Business Inputs, study prepared by Ernst & Young LLP for the State Tax Research Institute and the Council On State Taxation (May 2019)

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

Who Needs Laws to Expand the Tax Base?

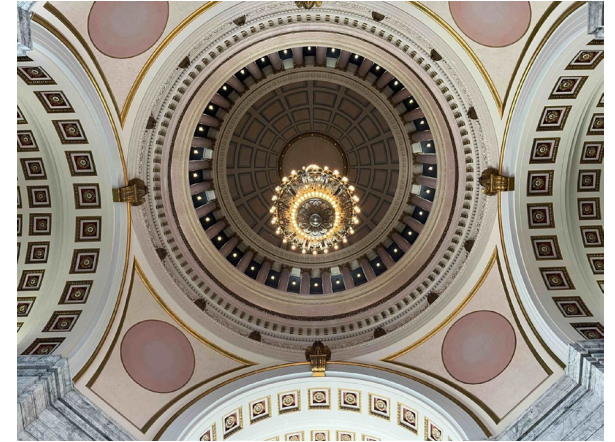
Texas' Updated Data Processing Services Rule

- Texas Comptroller Rule §3.330 was effective April 2, 2025
- According to the Comptroller's office, the amendments were intended to bring clarity to taxing online marketplaces in Texas
- "Data processing services" now broadly include "the computerized entry, retrieval, search, compilation, manipulation, or storage of data or information"
- **The rule provides definitions and examples to help marketplace providers understand what qualifies as taxable data processing**
- This past session, the Texas Legislature introduced H.B. 1681 to exempt marketplace providers, which COST and others supported to eliminate some taxation imposed on business inputs. Unfortunately, the bill didn't make it out of the Committee
- Texas will elect a new Comptroller in November 2026



Washington – Tax Omnibus Legislation ENACTED

- H.B. 2081 dealing with B&O tax rate changes and the B&O advanced computing surcharge
- S.B. 5814 extends the retail sales tax to select services that are mostly, if not exclusively, purchased by businesses
- H.B. 2015 dealing with local option taxes
- H.B. 2020 dealing with payment card processors
- S.B. 5167 dealing with waived penalties for voluntary disclosure



The Sales Taxation of Digital Products

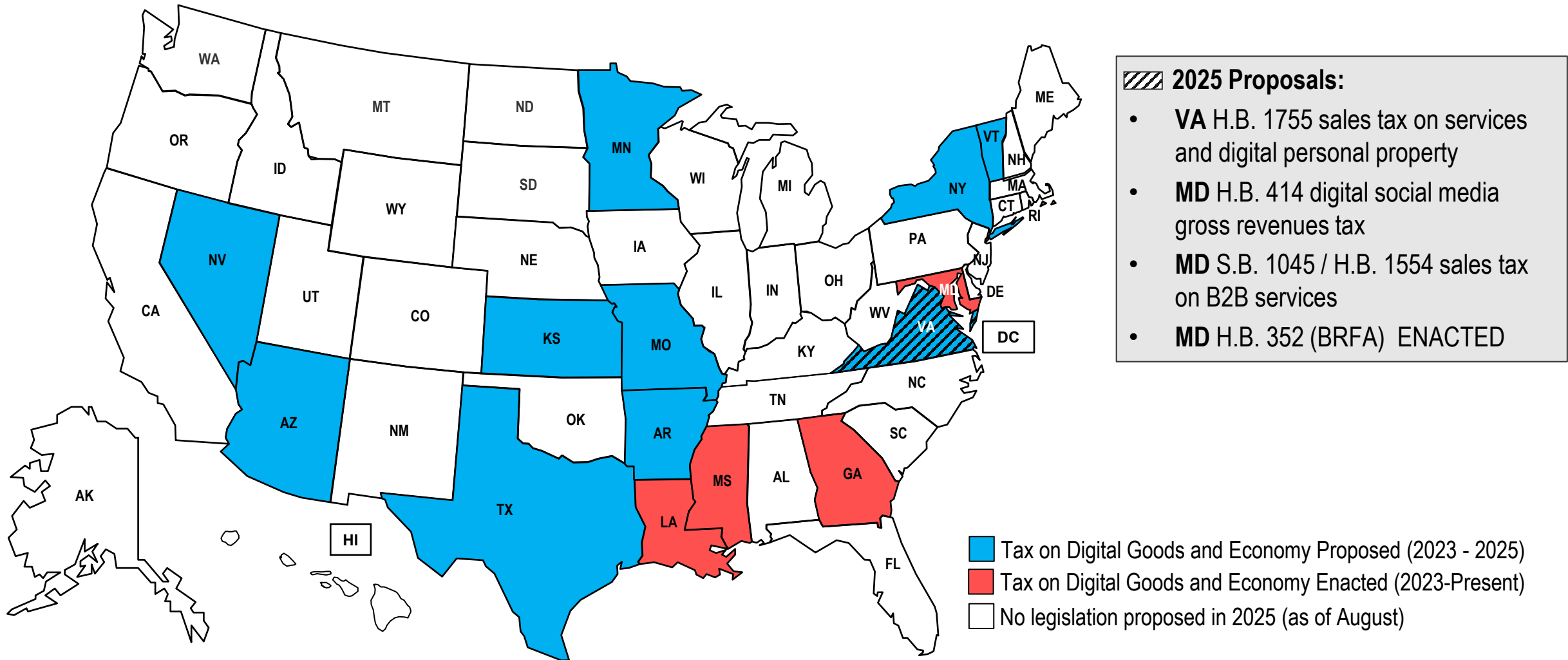
MTC, SSUTA, and NCSL have projects to address the sales taxation of digital products

MTC – project started in June 2021, initiated by Washington DOR, and the MTC is working on putting forth a white paper to address digital products and bundling issues associated with taxing those products. COST/Other business interest are pushing for B2B exemption and ITFA compliance.

SSUTA – recently initiated a SLAC workgroup to look at potentially adding new definitions to address digital products, such as SaaS. The SSUTA bundling rules will also be reviewed. Current focus is on digital audio-visual works and providing states with a uniform definition to exclude “live education/training presentations.”

NCSL – NCSL State and Local Task Force approved a white paper put forth by NCSL staff working with the business community and others that highlights issues state legislators should consider when considering expanding their sales tax base to tax digital products

Taxation of Digital Products and Economy 2023 - 2025



Disclaimer: This information should be used for general guidance and not relied upon for compliance
Source: Council On State Taxation (COST)

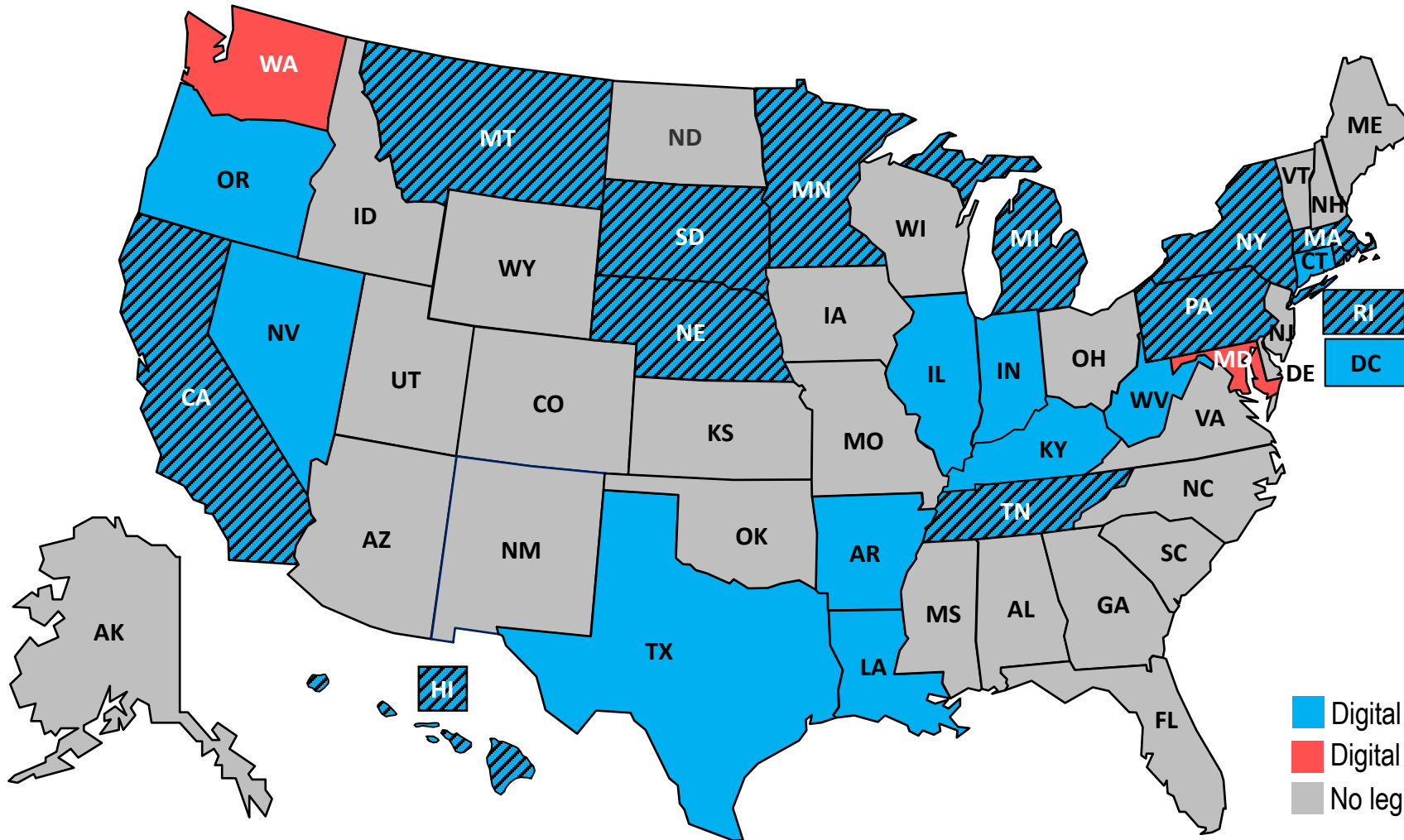
Proposed Taxes on Digital Advertising Services and Data

Proposals across half the states since 2023 would establish new regimes imposing taxes on “Big Tech” that would impact companies that utilize their services

Three categories of digital platform/advertising tax proposals:

- **Digital advertising services** (including as a proxy for digital barter transactions)
 - Tax on apportioned gross revenue from digital advertising services
- **Social media advertising**
 - Tax imposed on social media companies’ gross revenue advertising services or number of users
 - Maryland
- **“Data mining” services**
 - Tax on companies selling personal information or data, akin to a severance tax

State Digital Advertising Services and Data Mining Tax Proposals (2020 – 2025)



2025 Proposals:

- CA A.B. 796
- HI H.B. 1458
- MA SD 1090, HD 1009, HD 3914, HD 3665, HD 1130, SD 844, HD 1695, HD 3138
- MI H.B. 4142
- MN S.F. 3197, S.F. 2374
- MT S.B. 192
- NE Proposed amendment to impose sales tax on ads
- NY S.B. 173, A.B. 3582, S.B. 4778
- PA Sponsor Memo (Friedler (D-184))
- RI H. 5076
- SD H.B. 1191, H.B. 1138
- TN S.B. 270, H.B. 218
- WA H.B. 1887, S.B. 5814 (Enacted)

- Digital Ad/Data Tax Proposed (2020 – Present)
- Digital Ad/Data Tax Enacted
- No legislation proposed

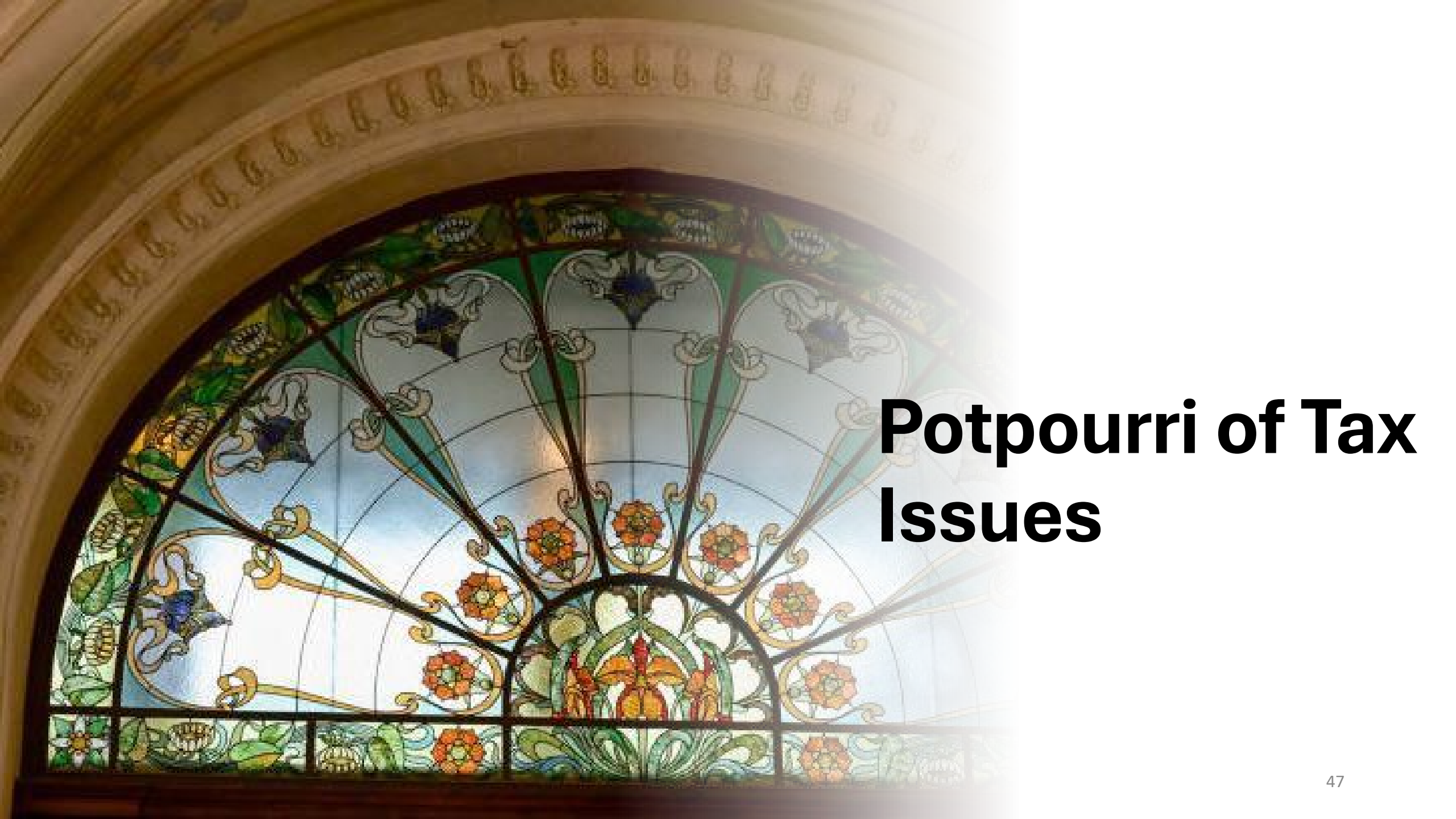
Source: Council On State Taxation research. Proposals include both digital services taxes (DSTs) and their sales tax equivalents
 Disclaimer: This information should be used for general guidance and not relied upon for compliance

The Debate and Litigation over DSTs

- **Update on the state and federal court cases in Maryland**
 - Refund applications in Maryland state court
 - The Internet Tax Freedom Act “discrimination” argument
 - Commerce clause violation arguments
 - August 15: Fourth Circuit rules tax pass-through restriction unconstitutional
- **Different Justifications for DSTs**
 - “Fair Share” argument
 - ‘Proxy’ for digital barter transactions
 - Akin to a severance tax on data mining
 - The ‘Social regulatory’ theory
 - “Everyone else in the world is enacting DSTs

2025 Proposed Legislation Sales Tax Base Expansion, Digital Tax, and Retail Delivery Fee

Sales Tax Increase/Base Expansion	Digital Tax	Retail Delivery Fee
Indiana H.B. 1229 – repeal property taxes and expand sales tax base to more services Indiana H.B. 1345 – eliminate income tax and increase sales tax rate Maryland H.B.1554 / S.B. 1045 – impose a 2.5% tax on B2B services currently not subject to sales tax Minnesota – Gov. Walz’s proposal to lower the State sales tax rate by 0.075%; add sales taxes to legal, financial and accounting services and increasing a surcharge on some health insurance plans Missouri SJR 7 – prohibit tax on real property instead allow a sales tax on the sale of real property Missouri SJR 32 – sales and use tax rate limitation, impose tax on lobbying services, repeal Constitutional prohibition on new sales taxes on transactions Nebraska LB 169 – expand sales tax base South Dakota S.B. 121 – increase South Dakota’s sales and use tax rate to offset property tax relief Washington S.B. 5814 – expand sales tax base to B2B transactions (ENACTED)	California A.B. 796 – new social media advertising gross receipts tax (Tabled) Hawaii H.B. 1458 – direct the Department of Taxation to apply the State’s corporate income tax to advertising revenue earned by major social media platforms if the revenue is derived from content created in, or from audiences located in Hawaii Maryland H.B. 414 – proposed tax on social media companies Maryland H.B. 352 (BRFA) – 3% tax on sales of information technology and data services (ENACTED) Massachusetts H.3089, H.3126, H.3208, S.2004, etc. – tax on revenue derived from digital ads Minnesota S.F. 3197 – new excise tax on social media businesses Montana S.B. 192 – bill on digital advertising tax New York A.B. 7805 – tax on gross revenue derived from digital ads Pennsylvania H.B. 1678 – GRT on digital ad services Rhode Island H. 5067 - Gov. McKee’s budget proposal includes MD style tax on ad services Washington H.B. 1887– data broker severance tax	Colorado Initiatives 8, 25; H.B. 25-1144, S.B. 25-139 – repeal Minnesota H.F. 5; H.F. 1774; S.F. 41, H.F. 1104; S.F. 878; S.F. 2033, H.F. 2438, S.F. 2082 – repeal, restrict Connecticut S.B. 1447 – 28 cent fee Connecticut H.B. 6316 – 25 cent fee on businesses with > \$1million in sales Hawaii S.B. 1124 – 50 cent fee Illinois H.B. 3438 Indiana H.B. 1461 – county option 50c - \$1 Maryland H.B. 352, S.B. 321 – 75 cent fee Michigan (legislation pending) Mississippi H.B. 530 – 30 cent fee Pennsylvania revenue estimate requested by Sen Kearney (D-26) Tennessee S.B. 703, H.B. 736 – Study bills (ENACTED) Vermont S.B. 75, H.B. 426 – 30 cent fee Washington S.B. 5161, H.B. 1227 – Study bills (ENACTED)



Potpourri of Tax Issues

2025 Legislation

False Claims Act – State Taxes

- 2025 **proposed** legislation *with no tax bar*:
 - **California S.B. 799** – Would allow claims to be filed if the damages exceed \$200,000, or the taxable income, gross receipts, or total sales of the individual or entity against whom the action is brought exceeds \$500,000 per year
 - **Michigan H.B. 4327** – Would allow claims to be filed if the net income or sales of the person the action is brought against exceeds \$1,000,000 per year and the damages exceed \$350,000. The Attorney General is required to consult with the State Treasurer before proceeding with the action
 - **Pennsylvania S.B. 38, H.B. 1697** – Would create the Pennsylvania False Claims Act and does not provide for an explicit exclusion for state and local taxes

2025 Legislation: Miscellaneous

Extension of R&D Tax Credits:

TEXAS: S.B. 2206 creates a franchise tax credit for certain R&D expenses and repeals the existing R&D credit; repeals the sales tax exemption for certain property used in R&D activities. (ENACTED)

Independent Tax Tribunal:

KENTUCKY: H.B. 650 would abolish the Kentucky Board of Tax Appeals and create an independent state-level tax tribunal (the Kentucky Tax Tribunal) in the executive branch

Corporate Income Tax Disclosure:

ARIZONA: H.B. 2365 would require publicly traded corporations to file a far-reaching corporate disclosure statement that would be considered public record and made available to the public in a searchable database

MINNESOTA: H.F. 162/S.F. 2780 would require the Commissioner of Revenue to post on a website corporate franchise tax return information of corporations with \$250 million or more in aggregate gross sales or receipts in a taxable year

Pay Ratio Surtax:

FEDERAL: H.B. 5019 (DeSaulnier (D-CA)) adjust the rate of income tax of a publicly traded corporation based on the ratio of compensation of the corporations' highest paid employee to the median compensation of all the corporations' employees

MINNESOTA: H.F. 1041, S.F. 1936

NEW YORK: S.B. 323

Payroll Tax Surtax:

WASHINGTON: Seattle voters on February 11 approved Proposition 1A, it would impose a new payroll expense tax on employers doing business in Seattle, calculated as 5% on the total amount of annual compensation paid to any employee in Seattle above \$1 million

Expansion of BPOL Deduction:

VIRGINIA: H.B. 1743—Virginia's current business, professional and occupational license tax (BPOL) is a gross receipts tax imposed at the local level. Currently, the tax allows a deduction from gross receipts for any receipts attributable to business conducted in another state or foreign country in which the taxpayer is liable for an income tax but not in states where the taxpayer is liable for a gross receipts tax or taxes imposed in lieu of an income tax. H.B. 1743 would create a study group to examine correcting that discrepancy (ENACTED)

2025 Legislation: Miscellaneous

Appeal and Protest Period:

ALABAMA H.B. 505 extends the appeal period from 30 days to 60 days for tax assessments (ENACTED)

GEORGIA: S.B. 141 would extend the appeal and protest period from 30 days to 45 days for tax assessments. The bill would also provide that if a federal adjustment results from filing an amended federal return, a federal refund claim, or an administrative adjustment request, the final determination date is the day on which the amended return, refund claim, administrative adjustment request, or other similar report is filed (ENACTED)

OREGON: S.B. 799 would establish uniform statute of limitations and 90-day appeal timetable across all taxes administered by the Department

Net Operating Loss:

ARKANSAS: H.B. 1538 would allow Arkansas corporate taxpayers to carryforward their NOLs from 10 years to 20 years

OREGON: H.B. 3713 would remove the 15-year limitation on the carryforward of net operating losses by corporate excise taxpayers; and limit the net operation loss deduction to 95 percent of taxable income in a tax year

PENNSYLVANIA: H. 1129 would create a Net Operating Loss transfer program to allow certain technology businesses to transfer their NOLs to other taxpayers

VIRGINIA: H.B. 2681 would study and make recommendations to simplify Virginia NOL calculations

Data Broker Taxes:

MARYLAND: H.B. 1089/S.B. 904 would have created a data broker registry and the imposition of a data broker gross income tax

WASHINGTON: H.B. 1887 proposed the creation of a data broker registry and the imposition of a monthly data broker severance tax

Throwback and Throwout:

ALASKA: S.B. 113, COP to market-based sourcing, SSF for digitized businesses, and throwout

ARKANSAS: H.B. 1500, would repeal throwback

MARYLAND: S.B. 859, the Fair Share for Maryland Act, MWWCR, NOL carryforward limitation, business transportation fee, and a throwback provision.

OKLAHOMA: S.B. 299, would repeal throwback

OREGON: H.B. 2115 would repeal throwback

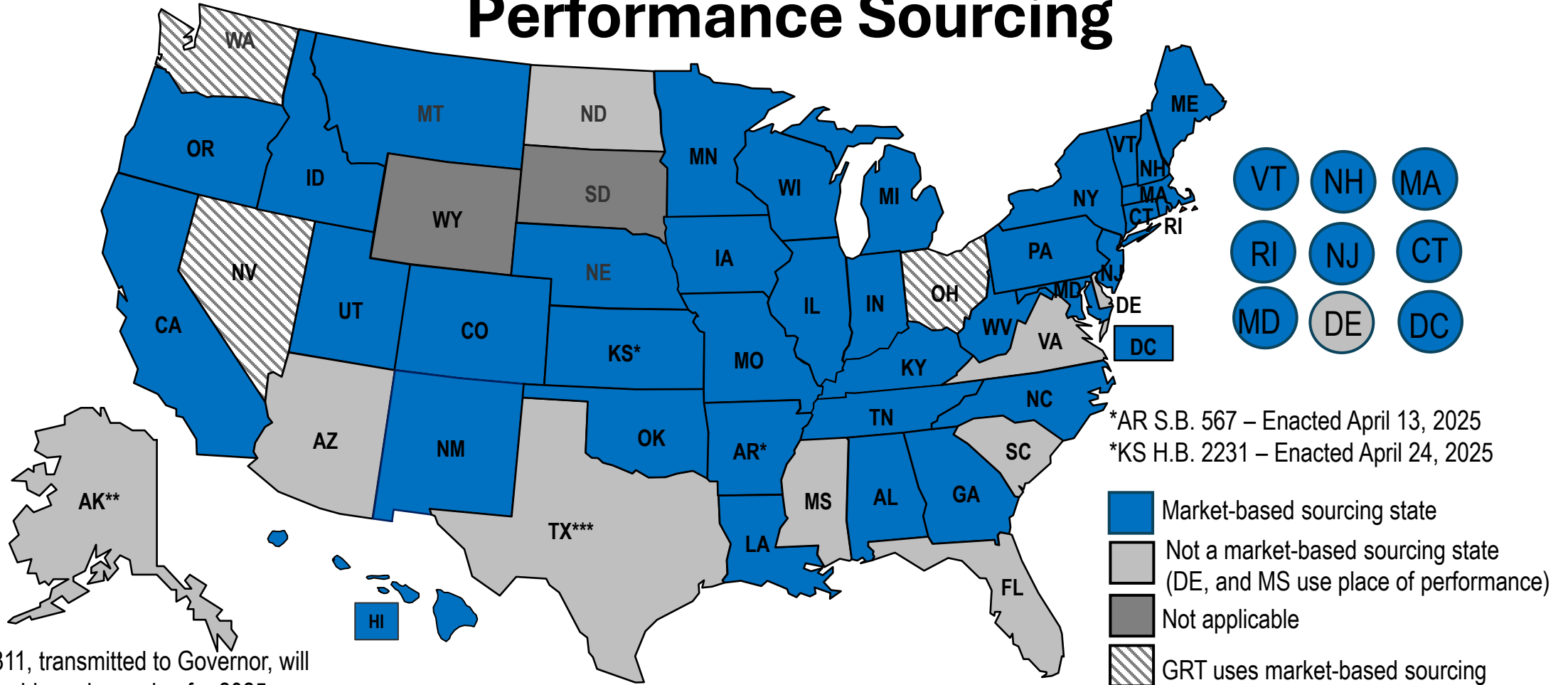
Repeal of Collection Allowance Credit:

SOUTH DAKOTA: H.B. 1037 (ENACTED)

COST's Proactive Legislative Issues

- One Month Extension Beyond the Federal Extended Due Date for Filing Corporate Income Tax Returns
- 30-Day Safe Harbor for Nonresident Traveling Employees
- Reporting of Federal Adjustments (RAR)
- Minimum 90-Day Appeal Period After Assessment (or Denial of Refund)
- SSUTA – Partial or Full Conformity

Market-Based Sourcing vs. Cost of Performance Sourcing





Thank you!

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