



# 90-Day Protest Period for All Stages of States' Tax Appeals Process

## Issue

There is a lack of uniformity of states' tax authorities' protest periods at all stages of the administrative appeals process, especially the period after the initial assessment, as well as for an appeal of the final decision to an independent tribunal or tax court. The duration of the initial protest period among the states varies and can range from 30 to 90 days. For a taxpayer doing business in multiple states, subjected to multiple states' assessments, it is burdensome to keep track of the different protest periods and respond to the assessments in a timely manner.

## Background

The states' tax authorities have tax appeal processes in place to attempt to resolve state controversies prior to litigation. One of the basic procedural provisions reflecting an effective and fair state tax appeals process is allowing adequate time for taxpayers to file a protest.

The first step in the administrative appeals process, in most states, is the state tax authority's issuance of an assessment with notification of a right to protest.

As detailed in the Appendix chart, currently, only 7 states (AR, NJ, NM, NY, OR, SC, and VA) grant taxpayers 90 days to submit a protest after the initial assessment. There are 13 states (AL, AK, CO, DC, GA, HI, MD, ND, RI, TN, UT, WA, and WY) that only provide a 30-days protest period for the initial appeal, 4 states (AZ, MT, NC, and NV) that have a 45-days protest period, and 27 states (CA, CT, DE, FL, IA, ID (63 days), IL, IN, KS, KY, LA, MA, ME, MI, MN, MO, MS, NE, NH, OH, OK, PA, SD, TX, VT, WI and WV) that have a 60-days protest period for the initial appeal.

As mentioned above, an effective and fair state tax appeals process allows adequate time for taxpayers to file a protest at each stage of the administrative appeals process; this is especially important for the period after the initial assessment and for appeals of any final decision to an independent tribunal or tax court. It is impractical and burdensome for a taxpayer doing business in multiple states and subjected to multiple states' assessments to keep track of the different protest periods and respond to the assessments in a timely manner. Having such a significant variance in window lengths creates risks for taxpayers who are unaware of individual state statutes.

The [2006 American Bar Association \(ABA\) Model State Administrative Tax Tribunal Act](#) (Model Act) recommends a uniform 90-day protest period for an appeal of the final decision to an independent tribunal. This proposal aligns with the 90-day limit for petitioning the U.S. Tax Court to review an Internal Revenue Service notice of deficiency.

[COST](#) also advocates for a 90-day protest period for the period after the initial assessment for an initial formal appeal, stating the following:

- Any protest period shorter than 90 days is unreasonable and could jeopardize a taxpayer’s ability to fully respond to a proposed assessment.
- A protest period of 90 days or longer is of increasing importance in a global economy where taxpayers must comply with the laws of numerous jurisdictions.

## **Importance to CPAs**

Granting taxpayers adequate time to file a protest after receiving a notice is a fundamental feature of a fair tax system. A 90-day protest period for all stages of the appeals process, up to and including appealing a final decision, is helpful for taxpayers and CPAs to assist in good and fair tax administration.

CPAs assist clients with state tax compliance and planning, including responding to state assessments. A 90-day protest period provides sufficient time for taxpayers and their CPAs to review the notice and prepare a proper petition to preserve pre-deprivation appeal rights. Anything shorter puts undue burdens on taxpayers and practitioners.

By granting adequate time for an appeal, the state taxing authority can benefit from receiving a quality response and supporting documents from the taxpayers and their CPAs, promoting efficient use of the state tax authority resources.

## **AICPA Position**

While the AICPA does not lobby directly at the state level, it supports efforts by state CPA societies who advocate for providing a protest period of 90 days in all stages of the administrative appeals process, especially the period after the initial assessment, and also for an appeal of the final decision to an independent tribunal or tax court.

## **AICPA Contacts**

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## **Links**

- [2006 ABA Model State Administrative Tax Tribunal Act](#)
- [COST Scorecard on State Tax Appeals and Procedural Requirements \(Dec. 2023\)](#)

As of: September 6, 2024

**Appendix: States' Initial Protest Periods Duration and Start Dates**

<u>State</u>	<u>Protest Period (days)</u>	<u>Protest Period Start Date</u>	<u>Protest Period (days)</u>	<u># of States</u>
AL	30	Date of mailing of the notice	90	7
AK	30	Date of mailing of the notice	63	1
AR	90	Date of issuing the notice	60	26
AZ	45	Date of mailing of the notice	45	4
CA	60	Date of mailing of the notice	30	13
CO	30	Date of mailing of the notice		51
CT	60	Date of mailing of the notice		
DC	30	Date of issuing the notice		
DE	60	Date of mailing of the notice		
FL	60	Date of issuing the notice		
GA	30	Date of issuing the notice		
HI	30	Date of mailing of the notice		
IA	60	Date of mailing of the notice		
ID	63	Date of mailing of the notice		
IL	60	Date of issuing the notice		
IN	60	Date of mailing of the notice		
KS	60	Date of mailing of the notice		
KY	60	Date of issuing the notice		
LA	60	Date of issuing the notice		
MA	60	Date of issuing the notice		
MD	30	Date of mailing of the notice		
ME	60	Date of receipt of the notice		
MI	60	Date of receipt of the notice		
MN	60	Date of issuing the notice		
MO	60	Date of mailing of the notice		
MS	60	Date of mailing of the notice		
MT	45	Date of issuing the notice		
NC	45	Date of mailing of the notice		
ND	30	Date of issuing the notice		
NE	60	Date of mailing of the notice		
NH	60	Date of issuing the notice		
NJ	90	Date of issuing the notice		
NM	90	Date of issuing the notice		
NV	45	Date of issuing the notice		
NY	90	Date of mailing of the notice		
OH	60	Date of issuing the notice		
OK	60	Date of issuing the notice		
OR	90	Date of issuing the notice		
PA	60	Date of mailing of the notice		
RI	30	Date of mailing of the notice		
SC	90	Date of issuing the notice		
SD	60	Date of mailing of the notice		
TN	30	Date of issuing the notice		

<u>State</u>	<u>Protest Period (days)</u>	<u>Protest Period Start Date</u>
TX	60	Date of issuing the notice
UT	30	Date of issuing the notice
VT	60	Date of mailing of the notice
VA	90	Date of issuing the notice
WA	30	Date of mailing of the notice
WV	60	Date of issuing the notice
WI	60	Date of receipt of the notice
WY	30	Date of mailing of the notice

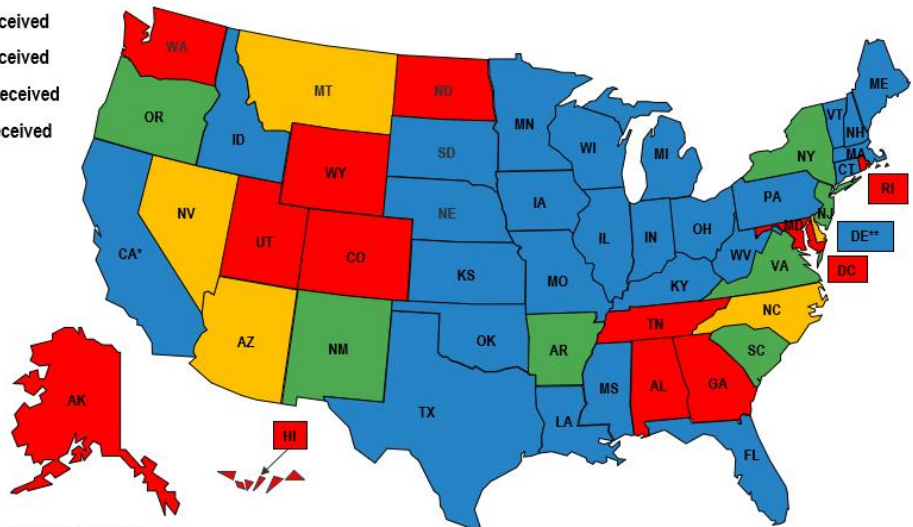


## 90-Day Appeal Period

- 30 days after assessment is issued/mailed/received
- 45 days after assessment is issued/mailed/received
- 60+ days after assessment is issued/mailed/received
- 90 days after assessment is issued/mailed/received

\*CA: 60 days after mailing of notice for income/franchise tax. CRTC §§ 19041(a), 19042. Petitions for redetermination must be filed within 30 days to appeal sales/use tax assessment. CRTC §6561. 90 days for denial of a refund claim; CRTC § 19324; 30 days for denial of protest; CRTC § 19045

\*\*DE: 30 days for withholding tax appeals



Disclaimer: This information should be used for general guidance and not relied upon for compliance  
Source: Council On State Taxation's (COST) State Tax Administration Scorecard, December 2023