



April 14, 2015

COST Congratulates Louisiana on Significant Improvement in State Tax Appeals and Administration

We are pleased to announce with Act 198 and Act 640 of 2014, signed into law by Governor Bobby Jindal on May 22 and June 12, 2014, respectively, Louisiana's grade on the COST Scorecard on Tax Appeals & Procedural Requirements improves from a "D-" to a "B-". The COST Scorecard seeks to objectively evaluate state statutes and rules regarding taxpayer access to an independent appeals process and selected procedural elements that impact taxpayers' perceptions of fairness and efficiency. For this reason, it is often called the COST "Due Process Scorecard," gauging government's provision of procedural due process for taxpayers.

Importantly, Act 640 provides that taxpayers may appeal assessments of local sales and use taxes to the Board of Tax Appeals *without* prepayment. This addresses one aspect of the COST Scorecard, which seeks to grant taxpayers access to an independent tribunal before having to pay a contested tax. The removal of the requirement to pay under protest and sue in local trial courts around the State is a significant improvement for taxpayers and helps level the playing field in local tax disputes.

In the independent dispute forum category of the COST Scorecard, Louisiana will still have one point assessed because of the Department of Revenue's ability to file suit in certain circumstances and thereby effectively bar taxpayer access to the Board of Tax Appeals (requiring the taxpayer to defend the suit in court). However, we are pleased that H.B. 338 of the 2015 Regular session has been filed; this bill seeks to expand taxpayer options to respond to a Revenue Department suit and enable additional cases to be brought before the board.

In the "pay-to-play" (prepayment) category, Louisiana improves by eliminating the prepayment requirement to appeal local sales tax assessments. Further, where the Department of Revenue files suit, payment is not required unless the Department prevails. However, in all cases, subsequent appeals (to the Court of Appeals) still require posting of a bond.

The enactment of Act 640 also brought improvements in Louisiana's transparency, providing for publication of Board of Tax Appeals opinions on its website. Further, we understand the Louisiana Department of Revenue has resumed issuing private letter rulings. We encourage them to promptly work through a process for resuming its publication (including its backlog) of redacted letter rulings. The sufficiency of publication in both areas will be analyzed in a future COST Scorecard.

Regarding taxpayers' filing burden, Act 198 makes an important improvement by providing taxpayers 180 days from the date of final determination of a federal adjustment for the filing of an amended state tax return – the time period recommended in COST's Scorecard. A key additional area of improvement, which we understand the Department of Revenue is working to achieve through regulation, would provide a definition of "final determination" triggering the

taxpayer's responsibility to file such an amended return. We strongly encourage the Revenue Department to promptly promulgate this regulation.

The rescoring also reflects determinations that 1) the 60-day period to protest a formal assessment by the Department of Revenue meets COST's requirement for a sufficient protest period; and 2) the statute allows recovery of attorney fees and costs to the prevailing party, not solely to the local tax collector.

In sum, the 2014 tax procedure and appeal reforms represent a big step forward for fairness in Louisiana's tax appeals process and administration – important components of a taxpayer and business-friendly environment.

We also welcome the additional reforms addressed in H.B. 338 of the 2015 session. This bill will help provide clarity in the notices sent to taxpayers concerning their appeal rights and will provide taxpayers with additional appeal options.

Appendix

Louisiana's December 2013 Scorecard Grading

	Independent Dispute Forum	Pay- to- Play	Even- handed Statute of Limitations	Equal Interest Rates	Ample Protest Period	Corporate Return Filing Burden	Trans- parency in Guidance & Rulings	Other Issues	Total Points	Overall Grade
LA	2	2	0	2	1	1	2	3	13	D-

Louisiana's Updated Grading (April 2015)

	Independent Dispute Forum	Pay- to- Play	Even- handed Statute of Limitations	Equal Interest Rates	Ample Protest Period	Corporate Return Filing Burden	Trans- parency in Guidance & Rulings	Other Issues	Total Points	Overall Grade
LA	1	1	0	2	0	1	0	2	7	B-

A	0 to 3 points
B	4 to 7 points
C	8 to 10 points
D	11 to 13 points
F	More than 13 points