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The Pandemic, Federal Policy, and the State Tax Landscape

Jared Walczak, Vice President of State Projects

STATE TAX REVENUES
OVERVIEW AND FEDERAL INTERACTIONS

- State and local combined tax revenue up 1% in 2020
  - State revenue: down 1% (-$11 billion)
  - Local revenue: up 6% (+$44 billion)
  - S+L combined revenue: up 2% (+$33 billion)
- American Rescue Plan Act fiscal relief: **$350 billion**
- **Utah up 6.5%, gets $1.38 billion state + $1.01 billion local**
- Sources of tax revenue stability—
  - Federal Reserve intervention to stabilize stock markets (capital gains *grew*)
  - PPP loans (saved jobs and businesses)
  - Enhanced and expanded UC benefits (taxable in some states, though with new exclusions)
  - Other aid to individuals and businesses, including checks to taxpayers

Aid Distribution Amounts and Formulas

Level of Government	Amount	Distribution Formula
State Governments	$195.3 billion	Share of National Unemployment with CARES Act Minimum Payment
Local Governments	$130.2 billion	Population (Counties) and CDBG Criteria (Cities)
Territories	$4.5 billion	Base Allocation plus Population
Tribal Governments	$20.0 billion	Treasury Determination

Source: American Rescue Plan Act.

STATE TAX AUTHORITY

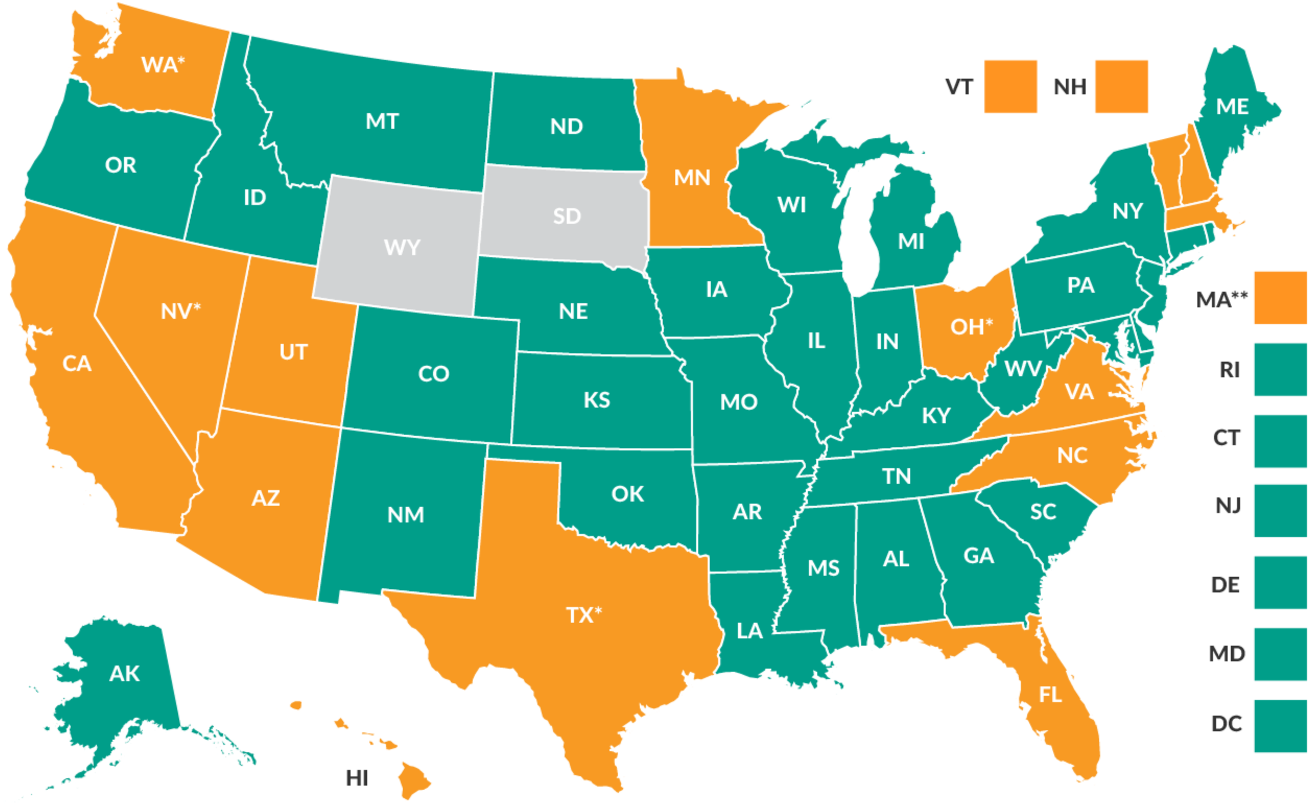
ARPA'S TAX CUT LIMITATION

- Three allowable sources: organic growth, offsetting revenue increases, and certain spending cuts
- Net tax cuts determined using FY 2019 revenue baseline
    - Includes inflation indexing
- 1% *de minimis* safe harbor
- Spending cut aggregation is at department level
- States responsible for their own revenue projections
- Facts-and-circumstances reconsideration anticipated
- IRC conformity safe harbor applies to "simply" conforming
- Continued questions under *Pennhurst* (ambiguity)

> *"(A) IN GENERAL.—A State or territory shall not use the funds provided under this section or transferred pursuant to section 603(c)(4) to either directly or indirectly offset a reduction in the net tax revenue of such State or territory resulting from a change in law, regulation, or administrative interpretation during the covered period that reduces any tax (by providing for a reduction in a rate, a rebate, a deduction, a credit, or otherwise) or delays the imposition of any tax or tax increase.*

State Tax Treatment of Forgiven PPP Loans

State Tax Treatment of Forgiven Paycheck Protection Program Loans, as of March 29, 2021



Forgiven PPP loans not taxed

Forgiven PPP loans taxed (either included in taxable income or expense deduction disallowed)

State has no income tax

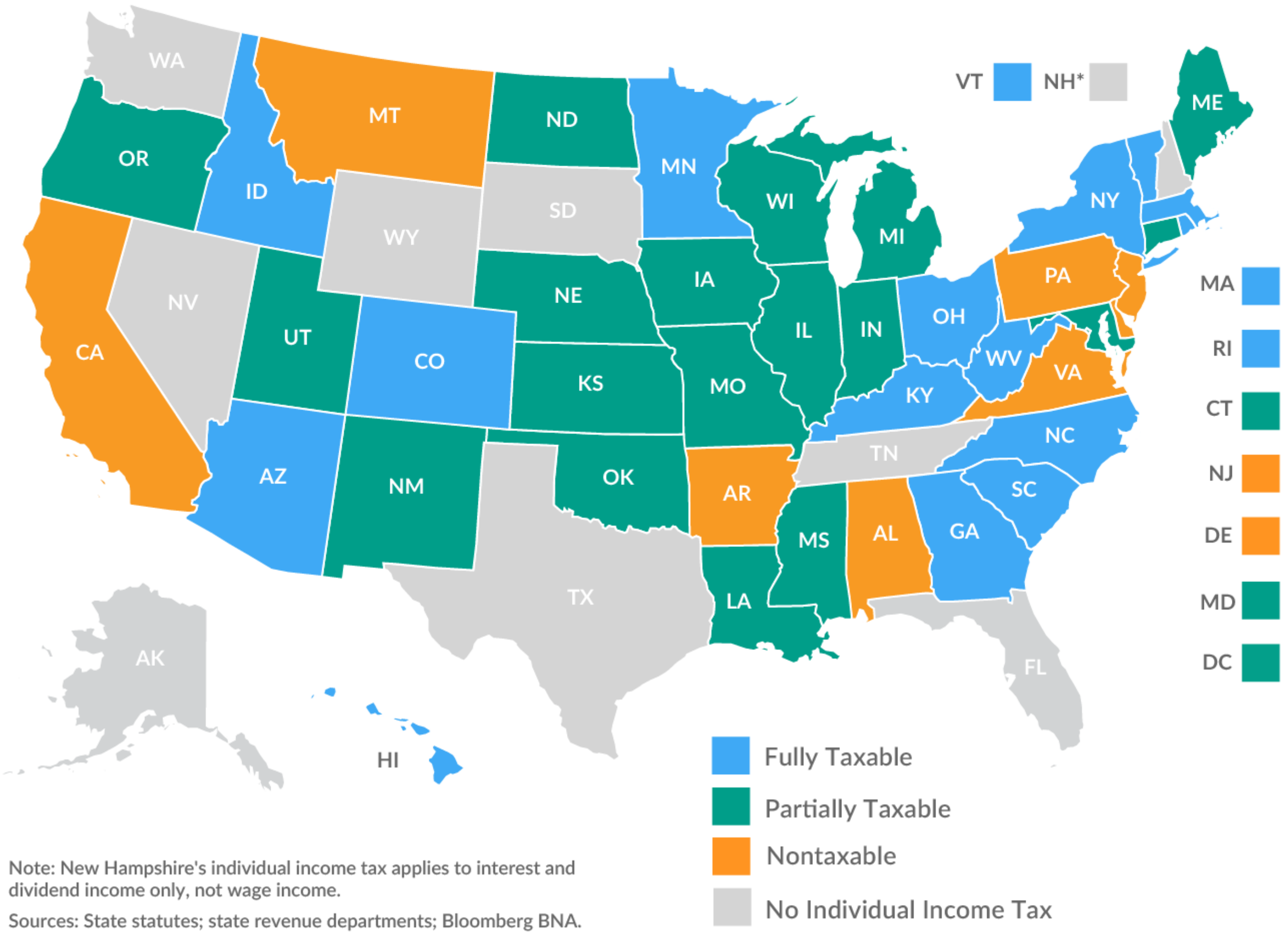
Notes: *Nevada, Texas, and Washington do not levy an individual income tax or a corporate income tax but do levy a GRT. Ohio imposes an individual income tax and a GRT. Texas and Nevada treat forgiven PPP loans as taxable gross revenue, while Ohio and Washington do not. In each of these states, there is no deduction for business expenses, consistent with gross receipts taxation.

**Massachusetts excludes forgiven PPP loans from taxable income under its corporate income tax, which uses rolling conformity, but not under its individual income tax, which uses pre-CARES Act static conformity.

Sources: Tax Foundation; state tax statutes, forms, and instructions; Bloomberg BNA.

State Tax Treatment of Unemployment Compensation Benefits Received in 2020

As of March 29, 2021

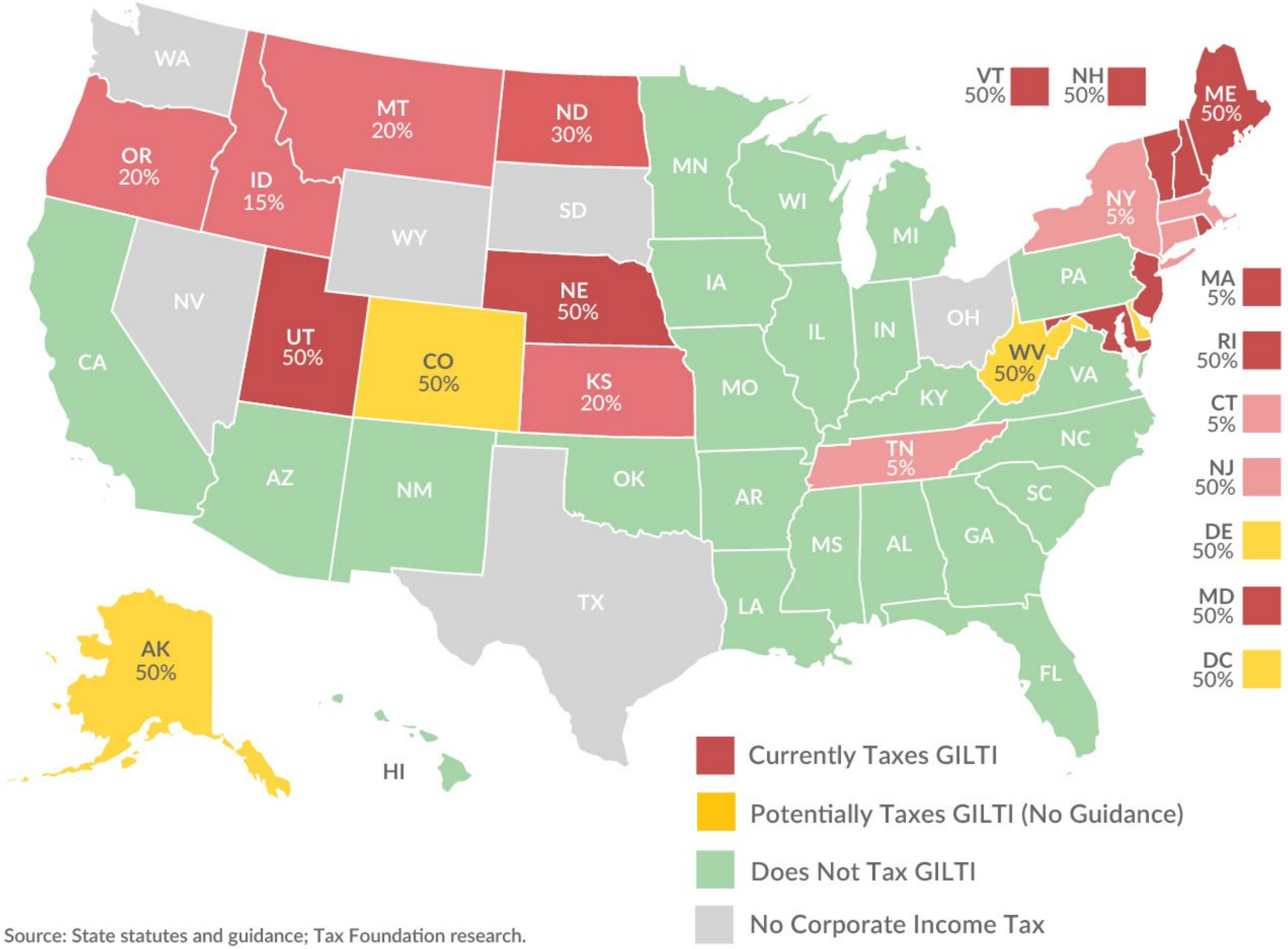


Note: New Hampshire's individual income tax applies to interest and dividend income only, not wage income.

Sources: State statutes; state revenue departments; Bloomberg BNA.

State Taxation of GILTI

State Taxation of Global Intangible Low-Taxed Income, as of April 1, 2021



Source: State statutes and guidance; Tax Foundation research.

Which states are the most friendly to mobile workers and their employers?

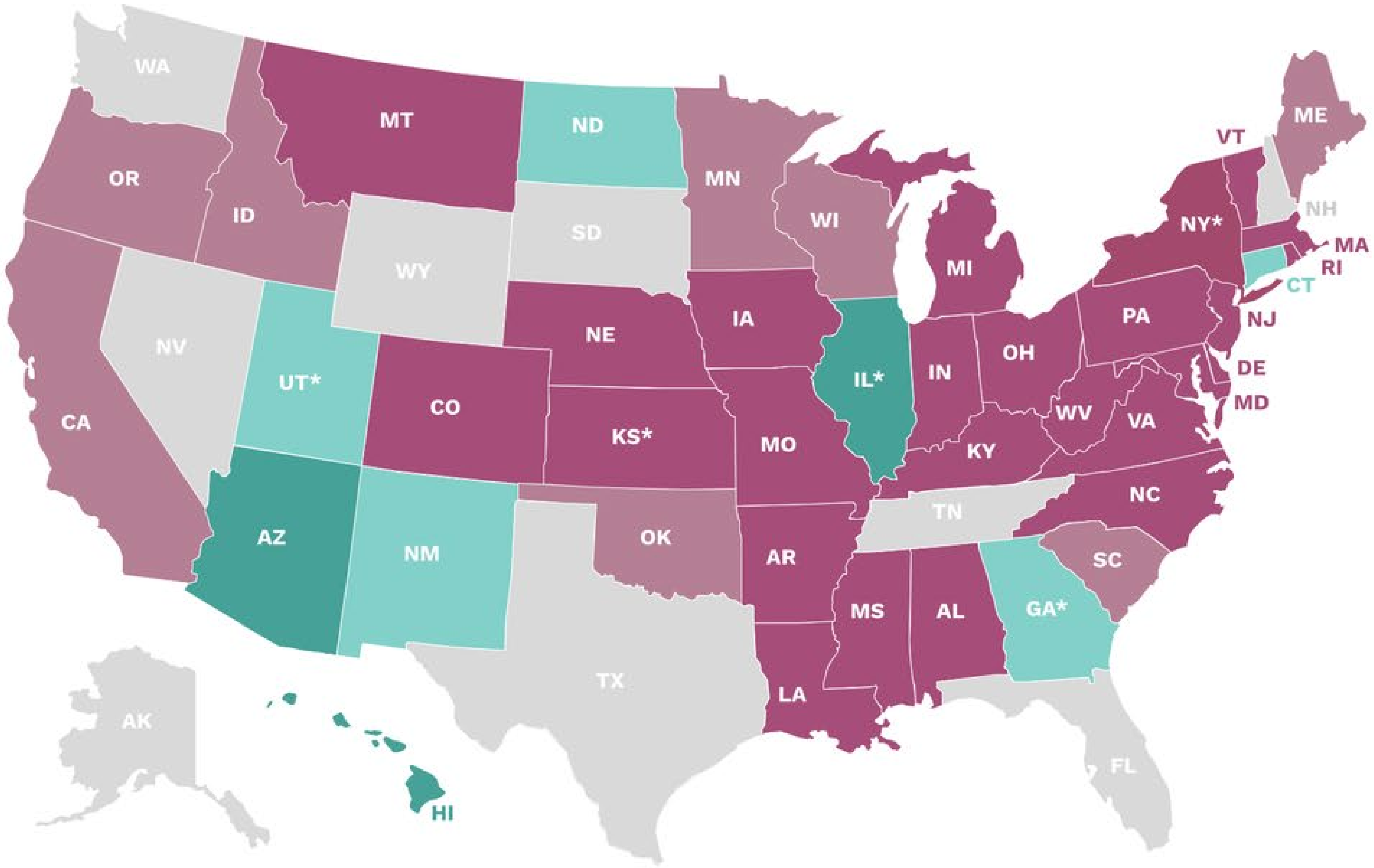
Very Friendly. State allows employees to work within the state for 30 or more days before employer is subject to withholding (AZ, HI, IL).

Moderately Friendly. State allows employees to work in the state between 15 and 29 days before employer is subject to withholding (CT, GA*, NM, ND), or has other accommodating provisions (UT*).

Unfriendly. State only allows employees to work in the state between 2 and 14 days before employer is subject to withholding (ME), or has a wage-based threshold (CA, ID, MN, OK, OR, WI).

Very Unfriendly. State requires employer withholding on first day an employee works within the state (24 states), or requires an individual to file on first day even if employer isn't required to withhold on first day (NY).

Not applicable. No state income tax.

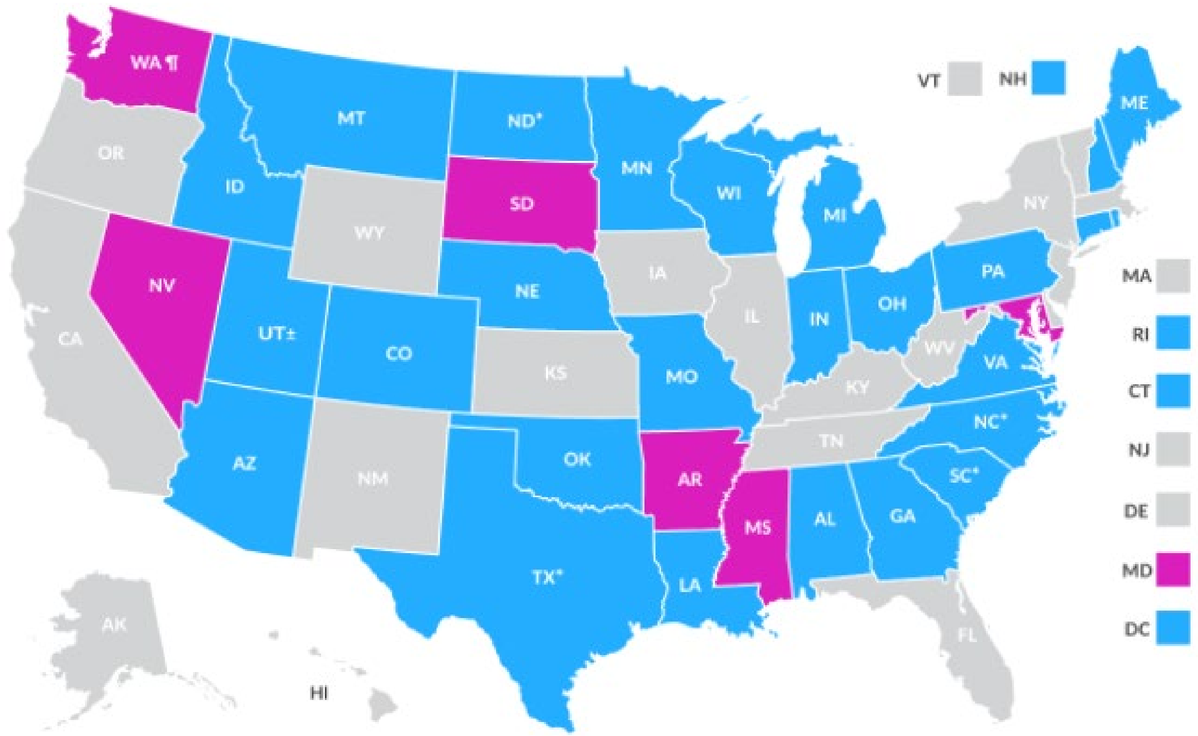


Notes: In **Georgia**, employer must withhold if the employee is in the state for more than 23 days in a calendar year, or if $5,000 or more or 5% or more of total income is attributable to Georgia. In **Illinois**, the 30-day threshold applies for tax years beginning after December 31, 2020 (this is the result of legislation enacted in 2019). In **Utah**, employer must withhold if the employer (not the employee) does business in the state for more than 60 days in a calendar year. ***Kansas** considered 30-day legislation in 2020.

Source: Mobile Workforce Coalition

More than Half the States Will Protect Businesses from Certain COVID-19-Related Unemployment Insurance Benefits Charges

States' Treatment of Unemployment Insurance (UI) Employer Charges During the COVID-19 Pandemic (as of May 11, 2020)



Notes:

* State has preexisting law that prevents employer accounts from being charged for an unemployment claim when the claim is related to a disaster covered by a federal and/or state disaster declaration.

± In Utah, claims related to COVID-19 will not be charged to an employer's benefit ratio but will instead be charged to social costs, where they are not attributed to any particular employer and where the tax amounts to only $1 for every $1,000 of the taxable wage base.

¶ In Washington, employers may be able to seek protection from charges for unemployment claims that are linked to temporary business closure due to "possible contamination at the business site." In addition, the legislature has approved $25 million in benefit charge relief for employers who put their employees on standby.

Source: State executive orders and labor department websites.

Will Employers be Charged for COVID-19-Related Claims?

- Yes
- No
- No Determination

POLICIES FOR RECOVERY

STATE ACTIONS AND OPTIONS

1) Structural reforms to enhance tax competitiveness (e.g., WV repealing throwout, adopting market sourcing)
2) Reducing or excluding the GILTI inclusion (e.g., AL, IA, KS, partially in UT)
3) Lowering tax rates (e.g., ID, MT)
4) Modernizing state tax codes to better accommodate telework and the new economy (e.g., AL)
5) Fixing unemployment insurance (UI) tax systems to prevent tax hikes (many states)
6) Conform to federal pandemic-related tax relief provisions, especially those designed to enhance liquidity
7) Repealing burdensome taxes businesses must pay regardless of profitability