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Business is Paying More than Its "Fair Share" in Louisiana

According to the independent organization, the Council on State Taxation, Louisiana businesses pay 41% of all state taxes and 59% of all local taxes for a total of just under half of all taxes collected in Louisiana. Annually, Louisiana business taxes are estimated at $9 billion for state and local government. Of note, Louisiana businesses fund state and local government above the national average, where businesses pay 40% of state taxes, 55% of local taxes, and a total of 44% of all state/local taxes in the United States.

The focus of much attention in recent legislative sessions is the corporate income tax, which state economists project will be more than $400 million in the current fiscal year when combined with the franchise tax. It should be noted that corporate income tax is a volatile revenue source in every state and makes up less than 10% of all state and local business taxes; it currently makes up four percent of tax revenue in Louisiana.

A major reason that corporate income tax appears low is because the vast majority of American businesses – sole proprietorships, LLCs, and other partnerships – pay income taxes as individuals, passing all business income through to their individual income taxes and not through the corporate tax.

Furthermore, Louisiana taxes business in many other ways than corporate income tax. Even before the recent sales tax increases, the sales tax made up 31% of all taxes paid by business in the state, when on average nationally, sales taxes make up only 21% of the business tax burden. Louisiana businesses paid an estimated $2.8 billion in sales taxes in 2015, which is estimated to be the highest business share of state and local sales taxes in the nation.

Similarly, despite political rhetoric that tax incentives have negated all business property tax, Louisiana businesses paid an estimated $3 billion in property taxes in Louisiana in 2015. Business actually pays property tax at a rate 50% higher than individuals and unlike homeowners, the inventory, machinery, equipment, and office furniture of business is also taxed. Even without agricultural and timber land utilized in commerce, the Louisiana Tax Commission estimates business pays more than half of all property taxes collected in the state.

In addition to property and sales and income taxes, large categories of business taxes in Louisiana include severance tax, excise taxes, and business and occupational licenses, totaling hundreds of millions of dollars annually.

In the past year, Louisiana's incentives for economic development have plummeted in state rankings, and the tax structure itself fares very poorly in state comparisons. Louisiana is currently ranked #41 for its business tax climate by the Tax Foundation.

A CLOSER LOOK AT BUSINESS SALES TAX

In 2014, business paid an estimated 47% of all sales taxes collected in the state. Businesses in Louisiana pay sales taxes on everything from office equipment to cleaning services to some software. A Louisiana manufacturer, for example, pays sales taxes on processing chemicals, gaskets and cables, filters and timing belts, security equipment, uniforms, office supplies, trailer and forklift rentals, cranes and tank rentals, vehicle repairs, and more.

Even before the Legislature and the administration passed the temporary tax increases in 2016, Louisiana businesses were subject to the third highest burden for sales taxes on business inputs, such as utilities and manufacturing machinery and equipment – which the vast majority of states do not tax. Including Louisiana, only three states in the country impose a sales tax on manufacturing raw materials, only nine states tax manufacturing machinery and equipment, and just 14 states tax manufacturing utilities. To quote the Tax Foundation: "This is not because businesses deserve special treatment under the tax code, but because applying the sales tax to business inputs results in multiple layers of taxation embedded in the price of goods once they reach final consumers, known as 'tax pyramiding.' The result is higher and inequitable effective tax rates for different industries and products."

Also of note, before and after the temporary sales taxes on inputs enacted in 2016, businesses in Louisiana are subject to a high local sales tax on production inputs. According to data gathered by the Sales Tax Streamlining and Modernization Commission, for example, local governments within 59 of the 64 parishes in Louisiana tax the purchase of manufacturing machinery. Furthermore, regardless of the state rate, Louisiana has the highest local-option sales tax rate in the United States at 4.98%.

A CLOSER LOOK AT CORPORATE INCOME TAX

Corporate tax exemptions are frequently blamed for Louisiana's current budget crisis. Exemptions have been necessary in Louisiana to overcome one of the highest corporate income tax rates in the country as well as the imposition of the franchise tax on top of that, which fewer than 20 states impose. Louisiana's franchise tax was expanded to even more companies in 2016 and must be paid regardless of profitability; the franchise tax rate itself is the second highest in the nation.

While all Louisiana exemptions experienced a period of significant growth over the past decade, 2016 was very different. New Louisiana Department of Revenue data shows that, while individual income tax exemptions continue to grow, corporate exemptions are down significantly after changes by the Legislature and administration went into effect. The inventory tax credit is down 60% from 2015 to 2016; the Net Operating Loss deduction is down 65%; and the exemption for business utilities has dropped by 59%, among others.

Corporate exemptions have not and do not make up the majority of tax exemptions. In 2016, Louisiana granted $2.7 billion in sales tax exemptions, $2.2 billion for individual income tax exemptions, and $1.4 billion in corporate exemptions – where there is much more to the story.

Of the $1.4 billion in corporate tax exemptions in 2016, more than half a billion dollars stems from the Sub-Chapter S Corporation exemption. This category of businesses report income on their *personal* income taxes and not on corporate income taxes; this is an accounting exemption that must exist to avoid double taxation. That brings the total down to $900 million in corporate exemptions.

Another major corporate tax credit is the $210 million credit for the partial reimbursement of inventory taxes paid to local government – a tax that penalizes investment and growth and is only collected in 10 states. The partial state credit is intended to mitigate this unorthodox tax and was deliberately chosen by the Legislature in order to maintain a subsidy for local government. In effect, businesses loan funds to local government and are later reimbursed by the state. When this credit is removed, the total exemptions for corporate income and franchise tax drops to $690 million.

The third largest corporate tax credit is the deduction for federal income taxes paid, which is $175 million for businesses but $870 million for individuals. In 2016, Louisiana voters rejected the repeal of this deduction for businesses, which would have triggered a lower rate for corporate income taxes. Without this tax deduction, corporate income tax credits would total $515 million.

Finally, another significant corporate tax deduction is for Net Operating Losses (NOLs) at $112 million, which accounts for cycles of business profits and losses in an attempt to smooth out income tax payments over time. NOLs are part of the tax code in every state that levies income tax; the federal government defines NOLs as an accounting practice and historically does not even consider it in the annual federal tax expenditure report.

Without just these four categories of tax deductions – which are present in nearly every state that levies income taxes – corporate tax credits are roughly $400 million total in 2016. Again, compare this to individual income tax credits, which total $2.2 billion, or to all of the taxes, licenses, and fees collected by the state, which total nearly $12 billion this year.

In March 2017, Governor John Bel Edwards publicly stated that 129,000 of 149,000 corporate tax filers annually paid no taxes to the state. In fact, the Department of Revenue data shows that 48,000 of these filers paid taxes as S-Corporations on their personal income tax returns, not corporate. Perhaps more relevant, this ignores the fact that all 149,000 filers were still subject to the franchise tax.

The full picture shows that businesses are paying more than their "fair share." In an overly complex tax code, corporations are being treated much the same as individuals when it comes to exemptions, while paying above the national average of state and local taxes overall.

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