

LABI Releases Testimony on Critical Tax Provisions

LABI submitted written testimony to the House Ways and Means Committee on the Net Operating Loss (NOL) provision, Subchapter S Corporation law, the inventory tax credit, sales tax exemptions on business utilities, and sales tax exemptions on the purchase of manufacturing machinery and equipment. Read a compiled document of LABI's testimony [here](#) or browse by topic below.

Net Operating Loss (NOL) – [LABI testimony](#)

LABI strongly recommended changing the deduction for NOLs based on its current application to the corporate income tax. Specifically, LABI recommended the same application of NOL as the federal system enacted in 1918, which allows for a two-year carryback and a 15-year carryforward without any caps. The NOL deduction is NOT a tax credit, but rather a standard feature of the federal tax code and of every state tax code that imposes a corporate income tax. The NOL deduction is intended to allow companies to more accurately reflect profits and losses over time. To learn more about NOLs, watch LABI's April 25 testimony [here](#) and view LABI Tax Council Chair Jason Decuir's one-pager [here](#).

Subchapter S Corporation Law – [LABI testimony](#)

LABI strongly recommended the continuation of the Subchapter S corporation exemption from corporate income tax, stressing that this exemption is NOT a tax credit, but an accounting mechanism to reflect the true tax nature of its status as a pass-through entity. LABI reported that to change this exemption would result in double taxation of the same income on Louisiana taxpayers, which would pose constitutional problems, stand in contrast with federal tax code, and make Louisiana unique among states.

Inventory Tax Credit – [LABI testimony](#)

LABI strongly recommended the continuation of the credit against corporate income and franchise taxes and individual income tax, noting more than 10,000 businesses pay inventory taxes to local government and claim the refund from the state, generating about 11 percent of all property tax collected in the state. While this is technically a refundable credit, in practicality, taxpayers receive \$0 beyond what they pay. Refunding the inventory tax was seen as a major step to make Louisiana more competitive when it was enacted, and it is still a factor in national rankings of business tax climates.

Sales Tax Exemptions on Business Utilities – [LABI testimony](#)

LABI strongly recommended changing the sales tax on business utilities exemption in order to restore the complete exemption and allow for the tax-free sale of electric power or energy for nonresidential users.

Although this exemption was enacted in 1948, legislators recently instated a:

- 5 percent sales tax on business utilities from April 1 to June 30, 2016,
- 4 percent sales tax from July 1, 2016 to June 30, 2018, and
- 1 percent tax from July 1, 2018 to March 31, 2019.

Only 14 states impose sales taxes on manufacturing utilities; all others completely exempt this business input from sales taxes. The 2016 change at the state level compounds what is already considered poor tax policy, negatively affecting employers and consumers alike and making Louisiana even less competitive economically.

Sales Tax Exemptions on Purchases of Manufacturing Machinery and Equipment (MM&E) – [LABI testimony](#)

LABI strongly recommended changing the purchases of MM&E exclusion in order to restore the complete exemption from state sales, use, lease, and rental tax for eligible manufacturers.

After exempting these purchases from the 4 percent state sales tax for a number of years, in 2016, legislators reinstated:

- 2 percent of the state sales tax on MM&E from April 1 to June 30, 2016, and
- 1 percent from July 1, 2016 to June 30, 2018.

Only nine states require some level of sales taxes on manufacturing machinery; all others completely exempt this business input from sales taxes. Even before the reinstatement of the state sales tax on MM&E, the Council on State Taxation ranked Louisiana third highest in the nation for imposing state and local sales taxes on 55 percent of business input purchases; the average nationwide is 44 percent.

In Case You Missed It

[LABI Released “New Tax Burdens on Employers” Report Resulting from Special Fiscal Session](#)

In April, LABI issued a report detailing the outcomes of the 2016 special session on fiscal reform, called by Gov. John Bel Edwards to address a multi-year deficit in state government. Read the report here: [New Tax Burdens on Employers: Outcomes from the 2016 First Special Session of the Louisiana Legislature](#)

[LABI Proposed a Slate of Recommendations to Control State Spending Prior to the Special Session](#)

In December 2015, LABI released more than 20 recommendations resulting from a multi-part research series developed to help employers and the public understand the Louisiana state budget, the reasons for the deficit, and potential solutions for government to prioritize spending and promote economic growth and individual prosperity. View LABI’s “Budget Basics” research series [here](#).