

# Business is Paying More than Its “Fair Share” in Louisiana

Updated May 2018

Louisiana business taxes are estimated at **\$8.7 billion annually for state and local government**. In fact, national data **ranks Louisiana #13 for the greatest reliance on business taxes** as a share of total state and local tax revenue.

According to the independent organization, the Council on State Taxation, **Louisiana businesses pay 38% of all state taxes and 59% of all local taxes** for a total of just under half of all taxes collected in Louisiana (48%). Of note, **Louisiana businesses fund state and local government at or above the national average**, where businesses pay 39% of state taxes, 52% 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 \$350 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 just 3.8% of all state and local tax revenue nationwide; it currently makes up one percent of tax revenue in Louisiana.

One major reason corporate income tax appears low is that the vast majority of American businesses – sole proprietorships, LLCs, and other partnerships – pay income taxes as individuals, **passing business income through to their individual income taxes** and not through the corporate tax. In fact, the Tax Foundation reports the number of US companies filing as pass-through businesses has tripled in the U.S. since 1980; an estimated 94% of all American firms in 2011 were pass-through businesses.

Furthermore, Louisiana taxes business in many other ways than corporate and individual income tax. Even before the recent sales tax increases, **the sales tax made up 34% 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 \$2.9 billion in sales taxes** to state and local government in 2016.

Similarly, despite political rhetoric that tax incentives have negated all business property tax, 35% of taxes paid by business in Louisiana is for property tax, which is aligned with most of the nation (38%). **Louisiana businesses paid an estimated \$3.1 billion in property taxes** in 2016.

Even without agricultural and timber lands utilized in commerce, the Louisiana Tax Commission estimates **business pays the majority of property taxes** collected in the state. Business actually pays property tax at a rate **50% higher than individuals** and unlike homeowners, the inventory, machinery, equipment, and even office furniture of business is also taxed.

In addition to the three major categories of property, sales, and income tax, large categories of business taxes in Louisiana include **severance tax, excise taxes, and business and occupational licenses**, totaling hundreds of millions of dollars annually for state and local government.

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 #42 for the business tax climate** by the Tax Foundation.

## **A CLOSER LOOK AT BUSINESS SALES TAXES**

**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 certain 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 a high burden for sales taxes on business inputs, receiving a D on one national report for failing to exempt major business inputs.** Before and after the temporary sales taxes enacted in 2016, businesses in Louisiana are subject to the **highest local sales tax in the nation on manufacturing machinery.**

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 12 states tax manufacturing utilities. LSU economists predict an increased MM&E sales tax in Louisiana would lead to a **potential loss of \$19 billion in planned projects** and the immediate reduction in maintenance and turnarounds, resulting in \$6.9 billion in lost earnings for workers and **\$414 million in foregone state taxes.**

To quote the Tax Foundation: “[Not taxing business inputs] 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.”

Furthermore, Louisiana is one of only a handful of states that continues to allow local jurisdictions to collect and audit sales taxes, and the state has an estimated 370 separate sales tax jurisdictions.

## **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 **a high corporate income tax rate** as well as the imposition of the franchise tax on top of that, which only 16 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. Since 2015, **all corporate income tax exemptions are down 21%.**

Specifically, the inventory tax credit is down 46%; the Net Operating Loss deduction is down 21%; and the exemption for the sales tax on business utilities has dropped by a whopping 86%, among others.

**Corporate exemptions have not and do not make up the majority of tax exemptions.** In 2017, Louisiana granted \$2.4 billion in sales tax exemptions, \$2.1 billion for individual income tax exemptions, and \$1.7 billion in corporate exemptions – where there is much more to the story.

Of the \$1.7 billion in corporate tax exemptions in 2017, **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 \$1.2 billion in corporate exemptions.

Another major corporate tax credit is **the \$293 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 \$900 million.

The third largest corporate tax credit is for **Net Operating Losses (NOLs) at \$247 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. That drops the total exemptions for corporate income and franchise tax to \$650 million.

Another corporate exemption is **the deduction for federal income taxes paid, which was \$203 million for businesses** but \$828 million for individuals. In 2016, Louisiana voters rejected the repeal of this deduction for businesses, which would have also triggered a lower rate for corporate income taxes. Without this tax deduction, corporate income tax credits would total \$450 million. (Half of the remaining balance is for the film tax credit at \$205 million.)

Without just these four categories of tax deductions – which are present in nearly every state that levies income taxes – corporate tax credits are roughly \$450 million total in 2017. Again, compare this to individual income tax credits, which total \$2.1 billion, or to all of the taxes, licenses, and fees collected by the state, which total nearly \$12 billion in 2017.

In 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. Additionally, the Governor’s annual snapshot ignores the state and federal NOLs deduction, whereby companies nationwide weather economic downturns. Not only is Louisiana in a recession, but both hurricanes and major flooding events have impacted the profitability of tens of thousands of businesses in recent years. Finally, the share of Louisiana corporate filers with \$0 taxes is consistent with national percentages, and nearly all of the 149,000 filers were still subject to the franchise tax even when they had no profits.

**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 share of state and local taxes overall.**

Sources:

2017 State Business Tax Burden Rankings. Anderson Economic Group

2018 State Business Tax Climate Index. The Tax Foundation

Tax Exemption Budget 2017-2018. Louisiana Department of Revenue

Total State and Local Business Taxes, August 2017. Council on State Taxation