



Issue Brief

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## Keeping and Modernizing the Corporate Income Tax Will Best Serve Florida

### *Corporate Tax Cut Would Force More Service Cuts While Doing Little to Create Jobs*

Governor Rick Scott's proposal to cut corporate income taxes by \$1.5 billion over the next two years would force deep budget cuts for services provided to millions of Floridians. Among those harmed: public school and college students, the poor, the elderly, health care providers, teachers, public safety workers, road construction contractors and workers, vulnerable children and families, people with disabilities, public employees, and almost every other Floridian touched by the services state government provides.

*Slashing the corporate income tax would do little, if anything, to improve an already business-friendly tax structure or to create jobs. But it would do much to decrease the level of services necessary to support a high quality of life, which is the foundation of economic development.*

Meanwhile, profitable corporations, many of them multistate operations headquartered outside of Florida, would pay less for the benefits they receive from the state's education system, its transportation and infrastructure, and other services like law enforcement and the judicial system.

Proponents of eliminating the corporate income tax maintain that it would unleash a flood of new business activity that would create hundreds of thousands of new jobs. Little evidence exists to bear out those claims.

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Instead of cutting or eliminating the corporate income tax, the state could close loopholes to require that every corporation pays its fair share and that Florida small businesses and individuals don't bear a disproportionate share of the cost of state services.

Five key points argue for the preservation of the tax and for strengthening it:

## 1. The State Corporate Income Tax Is Not An Onerous Levy on Businesses Operating in Florida

Florida's corporate income tax is far from being a stifling levy on businesses in the state. Few businesses pay it and the great majority of those that do owe too little to hire even one Florida worker if allowed to forgo paying the tax. Small businesses generally are not subject to the tax and in fact their profits are not taxed at all by the state.

The state corporate income tax – 5.5 percent of net profits, among the lowest in the nation<sup>1</sup> – is levied on only certain kinds of corporations doing business in Florida. Generally, only businesses incorporated as a C corporation under Internal Revenue Service rules are subject to the tax. Most small businesses – because they are sole proprietorships or organized as S corporations, partnerships, or limited liability companies – are exempt. The income of these exempt businesses is passed through the business entity directly to the owner or stockholders.

Such “pass-through” income is taxed in most other states through the states’ personal income tax. Because Florida is one of only nine states without a personal income tax, **these businesses pay no state income tax, either personal or corporate**, on their profits. The result: “This makes the tax environment for small businesses in Florida very competitive compared to other states.”<sup>2</sup>

*Less than one percent of business entities in Florida pay any state corporate income tax.*

State data show that less than one percent of for-profit business entities operating in Florida pay the tax. Of the more than two million active for-profit businesses registered with the state,<sup>3</sup> only about 200,000 even file a Florida corporate income tax form each year. Only about 25,000 to 40,000 actually owe and pay the tax each year, depending on corporate profitability conditions in the general economy.<sup>4</sup>

The monetary impact of the tax is low on almost all corporations that pay it. In 2008, of the 30,916 corporations that had a corporate income tax liability, 28,819 of them combined to pay 10 percent of total collections from the tax. The \$192.1 million they paid collectively equals only \$6,666 per corporation<sup>5</sup> -- less than one-sixth of the average income of one Florida worker.<sup>6</sup>

The primary beneficiaries of corporate income tax reductions or the total elimination of the tax would be the largest payers. Thirteen corporations paid 20 percent of the total corporate income tax collections in 2008, or \$384.2 million. Half of total collections from the tax came from 116 large, profitable corporations.<sup>7</sup>

## 2. Little Evidence Exists That Corporate Tax Cuts Produce More Jobs

Despite the arguments of corporate tax-reduction advocates, cuts are unlikely to lead to the creation of a significant number of new jobs. A 2010 study of Virginia’s corporate income tax system by the state’s legislative audit commission cast doubt on claims that business tax reductions produce a lot of jobs:

“While states have long utilized their tax structure to attract new firms and promote the expansion of existing companies, research literature suggests that tax policy may not be a cost effective means of creating jobs and, ultimately, boosting state economies.” Results from studies suggest “that lowering taxes to stimulate economic development may be a risky approach for job creation.”<sup>8</sup>

***Corporate income tax reductions have minor impacts on job creation because the tax is a small part of total expenses of a business.***

In addition, the study said, “[F]unding tax reductions by reducing public services appears to significantly temper potential job gains, particularly if budget cuts are aimed at programs valued by businesses, such as transportation or education.”<sup>9</sup>

Furthermore, simply cutting corporate taxes doesn’t make a state stand out among others. A 2008 report containing recommendations for states to create stronger economies after the recession warned: “[L]ow costs – especially if they come at the expense of the factors that enable firms to innovate and learn: a good education system, research universities, robust broadband telecommunications, a good quality of life to attract and retain knowledge workers, and a dynamic transportation network – are not enough to create competitive advantage.”<sup>10</sup>

In its Tax Policy Handbook for State Legislators, the bipartisan National Conference of State Legislatures advises that “as long as overall state tax burdens (income, sales, property and other taxes combined) are not excessive compared to other states, taxes are rarely as important as labor, energy and transportation costs” in business location decisions.<sup>11</sup>

Corporate income tax reductions have minor impacts on job creation because the tax is a small part of total expenses paid by a business. All state and local taxes paid by corporations represent only 2 to 3 percent of total costs, and the corporate income tax is less than 10 percent of that amount – or one-quarter of 1 percent of total costs.<sup>12</sup>

## 3. Florida Is Already Known as One of the Most Business-Friendly States

The stated goal of reducing or eliminating the corporate income tax is to make Florida’s “business climate” so attractive that the state will become a magnet for job-creating companies. Yet Florida already consistently rates among the top states in the nation in assessments of business climate, and

there's no indication that the corporate income tax is an impediment to job creation in the state. The Tax Foundation, for example, has ranked Florida the **5<sup>th</sup>-best** state in its State Business Tax Climate Index every year from 2006 through 2011.<sup>13</sup>

Florida is **6<sup>th</sup>** among the states in the Small Business Survival Index 2010 of the Small Business and Entrepreneurial Council;<sup>14</sup> **6<sup>th</sup>** in the Executive Survey Business Climate Rankings of SiteSelection.com;<sup>15</sup> ranked **6<sup>th</sup>**-best in the Best and Worst States for Business 2010 by ChiefExecutive.net;<sup>16</sup> and ranked the **7<sup>th</sup>**-best state to start a business by U.S. News/Money. "Its low corporate and unemployment taxes and nonexistent individual taxes attract business people," U.S. News said of Florida.<sup>17</sup>

Five Florida metro areas (Orlando, Jacksonville, Broward County, Tampa Bay, and Palm Beach County) rank among the top 20 in the nation of cities with the lowest operating costs and best business climate, according to BizCosts.com. "**Florida is one of the most pro-business states in the nation. And it has been for some time,**" its report said.<sup>18</sup>

*Corporate tax cuts would come directly at the expense of public schools, the working poor facing catastrophic illnesses, and services for children, families, and veterans.*

Enterprise Florida, the state's economic development agency, brags on its website that "Florida's stable and highly favorable tax climate provides advantages that make a Florida location profitable for every type of business."<sup>19</sup> Furthermore, Enterprise Florida advertises, "Business dollars go a lot farther here given Florida's limited corporate taxes and no personal income tax."<sup>20</sup>

#### **4. The Corporate Income Tax is a Significant Revenue Source for Florida; Tax Cuts Would Come Directly at the Expense of Services**

**The corporate income tax is a significant source of revenue to fund basic state services. Without that money, state services would suffer.** The tax will provide about \$2.2 billion in general revenue in Fiscal Year 2011-12 – about 9 percent of all general revenue and the second-largest source of general revenue behind the sales tax.<sup>21</sup> (General revenue is the money collected from general taxes like the sales tax and not pledged to be spent for specific purposes.)

**The \$458.5 million tax break that the Governor would give to corporations in the first year would come at the expense of education, health care, transportation, and other state services.** The cut would dig the state's revenue hole even deeper, forcing even more harsh cuts in state services. "In general that sounds terrific," one executive said about tax and spending cuts, "but at what price? If you end up cutting the education budget then you end up shooting yourself in the foot."<sup>22</sup>

The first-year cut would come close to equaling the \$507.5 million spending reduction he proposes by reducing by 5 percent the payments for Medicaid services provided through nursing homes, hospital inpatient and outpatient services, and county health departments. In addition:

- The Governor’s proposed corporate income tax cuts of \$1.5 billion over two years, if not enacted, would pay for the 5 percent Medicaid Provider reduction plus the \$1.1 billion he proposes to cut in 2012-13 from the Medically Needy Program for Floridians ineligible for Medicaid but facing catastrophic health challenges.<sup>23</sup>
- Retaining the money from his proposed first-year tax reduction would avoid ALL of these cuts in his proposed budget: \$174 million for services through the Agency for Persons With Disabilities, \$179 million from the Department of Children and Families, \$39 million from the Department of Elder Affairs, and \$36 million from the Department of Veterans Affairs.
- If the money in the first-year tax break were applied to education, it would cover the current state appropriation for 136,000 K-12 students.<sup>24</sup>

## 5. Corporate Tax Cut Would Force Others to Pay Disproportionately More

Without the existing corporate income tax, the state will be even more reliant on the regressive sales tax to fund state services. The sales tax already requires low- and moderate-income Floridians to pay a larger share of their income in state taxes than do more affluent residents.<sup>25</sup>

*Florida’s corporate income tax was the result four decades ago of a governor’s effort to relieve the tax load placed “squarely on the shoulders of middle- and low-income citizens.”*

Proponents of cuts in the corporate income tax maintain that consumers ultimately pay business taxes through higher prices, not corporations. Yet that may not be the case, as the architect of Florida’s state corporate income tax showed 40 years ago.

The tax came into being after a State Senator, Reubin Askew, won his campaign for governor in 1970 on a “Fair Share Tax Program” that included a tax on corporations that he said didn’t pay enough for state services that benefited them. A newspaper story at the time captured his belief: “Askew charged that **Florida’s taxes, which are primarily consumer based, seem ‘almost purposely designed to place the cost of government squarely on the shoulders of middle- and low-income citizens while allowing many privileged interests to escape virtually tax-free.’**”<sup>26</sup>

During his campaign, he compared the prices of items sold in Florida and the same item sold in Georgia, which already imposed a corporate income tax. Because the prices were the same, he concluded that multistate corporations were making a greater profit off Florida customers.

Similarly, a corporate tax reduction now would likely result in more money leaving Florida than remaining here for job-producing activities.

Multistate and multinational corporations that would pay the tax in Florida would owe less (or nothing, if the tax is ultimately eliminated completely, as the Governor has suggested). They could use the increased net income to hire new workers or pay higher salaries. But they could also retain those profits and distribute them to their shareholders, who may live anywhere in the nation or world. If the corporations used part of their increased profit to invest in a business activity that produces jobs, they could choose to invest in any state or nation just as well as they could in Florida.

*Closing loopholes would increase fairness among businesses as well as yield more revenue for state services.*

However, because demand for goods and services is low now in the slowly recovering economy, “corporations will simply pocket a tax cut as a windfall increase in their retained earnings rather than spend it.”<sup>27</sup>

## **Corporate Income Tax Loopholes Make It Virtually “a Voluntary Tax” That Should Be Strengthened, Not Ended**

Florida’s corporate income tax structure is flawed, but not because it taxes too many businesses too much. Rather, it contains so many loopholes that one tax expert calls it “a voluntary tax” paid only by those too honest or unfortunate to escape it.<sup>28</sup> Because many corporations are able to avoid it, one state senator said, Florida would be best-served by eliminating it.<sup>29</sup>

But closing loopholes so that the tax is paid by a greater number of profitable corporations makes more sense. In that case, the tax not only would yield more revenue for state services, but also would increase fairness among businesses by eliminating the competitive disadvantages faced by those who pay the tax as compared to competitors who do not.

Corporations can and do limit their state corporate income tax liabilities in a variety of ways.<sup>30</sup>

- (1) Some result from what a 2003 Florida Senate report called “tax avoidance behavior” by corporations. That report said the state lost \$250 million to \$500 million each year because of those tax avoidance strategies.<sup>31</sup> They include artificially shifting profits to out-of-state subsidiaries; incorporating offshore; and creating so-called “nowhere income” not taxable in any state. One remedy for some tax avoidance efforts, called “combined reporting,” which treats a business composed of a parent corporation and subsidiaries as a single corporation for tax purposes, has been proposed repeatedly in the Florida Legislature without success.

- (2) Corporations can also avoid paying Florida corporate income tax by the way they organize their companies. By far the costliest break to the Florida treasury comes from S corporations (named after a section in the federal Internal Revenue Code), whose exemption totals \$850 million each year.<sup>32</sup> Since changes in federal law made more businesses eligible for S status, their number has ballooned in Florida. In 2009, according to the IRS, Florida was home to more S corporations than any other state. Florida's 603,000 S corporations exceed California's and New York's by 200,000, and total more than twice as many as Texas.<sup>33</sup>

Similarly, after an exemption for limited liability companies was created in Florida in 1998, the number of limited liability companies registered in the state mushroomed from 5,392 to 38,639 by 2002, the Florida Senate reported.<sup>34</sup> Today the number of Florida LLCs is 548,893,<sup>35</sup> and the exemption from the state corporate income tax for LLCs is estimated to cost the state \$216 million annually.<sup>36</sup>

- (3) In addition to tax avoidance strategies, corporations can lower their tax payments by using one of at least 18 other corporate tax breaks provided in state law.<sup>37</sup> These are called "tax preferences" or "tax expenditures," because they cost the state money just as appropriations do. They resemble "earmarks" that go for specific spending purposes available only to a select group.

***Tax breaks cost the state treasury money just as appropriations do. They resemble "earmarks" directed only to a select group. No regular process determines whether they accomplish their intended purposes.***

Under current state laws governing the tax, numerous exemptions, deductions, and credits exist (just as hundreds of tax breaks exist in the state sales tax). For example, about \$140 million in corporate income tax payments will fund vouchers for private schools, instead of going into the state treasury.

In Florida, no regular process exists to review the tax breaks and determine whether they have accomplished their intended purposes (such as creating new jobs) and whether they serve a justifiable public purpose.

The 2010 Florida Tax Handbook written by legislative staff summarizes these preferences:

Preferential tax treatments reduce government revenue and compete with programs funded by appropriations for state and local resources.... Once adopted, tax preferences often receive less scrutiny than appropriations, which must be enacted every year. Tax preferences remain effective until a positive action is taken to change them. Unlike

## Who Doesn't Pay?

Because corporate income tax returns are confidential by state law, it's not possible to know which corporations pay the Florida tax and how much. But information from federal reports, studies, and media reports provides a glimpse of who doesn't pay.

- Most recently, a February 2011 study found that two large corporations with headquarters in Florida – Carnival Cruise Lines and TECO Energy – were among the 10 profitable corporations that paid the least in combined federal, state, local, and foreign corporate income tax over the last five years. Carnival paid 1.1 percent of its net income during that period and TECO 2.3 percent. Boeing, Southwest Airlines, Yahoo, Prudential Financial, General Electric, and Amazon were among the others paying the least in combined corporate income tax. (“The Paradox of Corporate Taxes,” *New York Times*, February 11, 2011, and “The 16 Profitable Companies That Pay Almost Nothing in Taxes,” *Business Insider*, February 2, 2011.)

(The study used the corporations' federally mandated public reports to investors to determine combined corporate income tax paid and doesn't report on the Florida corporate income tax specifically. But Florida “piggybacks” the federal tax code in determining taxable income, so state tax payments generally track federal corporate income tax payments.)

- A 2002 *Wall Street Journal* report listed dozens of companies involved in litigation with states regarding their use of “passive investment companies.” With these PICs, a corporation transfers ownership of its trademarks and patents to a subsidiary located in a state that does not tax royalties, interest, or similar types of “intangible income.” Those corporations that used PICs and therefore avoided some corporate income taxes:

Aaron Rents	ADP, Inc.	American Greetings Corp.
Beatrice	Budget Rent-a-Car Corp.	Burger King
CompUSA	ConAgra Foods, Inc.	Crown Cork & Seal
Dover Elevator	Dress Barn	Eaton Admin. Corp
Gap, Inc.	Gore Industries	Hologic, Inc.
Home Depot USA	Honeywell International, Inc.	J.P. Stevens and Co.
Kimberly Clark Corp.	Kmart Corp.	Kohl's
Lamb Weston, Inc.	Long John Silver's	McCormick & Co.
Mallinckrodt Medical	Marsh Supermarkets, Inc.	Marsh Village Pantries, Inc.
May Dept. Stores	Novacare	Payless Shoesource, Inc.
PF Brands, Inc.	Premark FEG Corporation	R. Scientific Products
Radio Shack Corp	Sherwin Williams	Snap on Tool
Sonoco Products Co.	Stanley Works	Staples
Sunglass Hut International, Inc.	Syms	The Limited Brands
TJX Cos.	Toys R Us	Tyson Foods, Inc.
United Refrigeration of Del.	Urban Outfitters	Yellow Freight System
York International		

Source: Glenn R. Simpson, “A Tax Maneuver in Delaware Puts Squeeze on Other States,” *Wall Street Journal*, August 9, 2002.

- In a 2003 *St. Petersburg Times* series, Carnival Corp., Verizon Communications, Inc., and Saddlebrook Resorts, Inc., admitted paying no Florida income taxes the previous year, although Verizon said it had paid in previous years. (“Loophole Inc.,” *St. Petersburg Times*, October 26, 2003)
- The newspaper also reported that at least 11 of the top 30 private companies based in Florida were structured in ways that allow them to bypass the state corporate income tax, as S corporations or limited liability companies. (“Big Boys Profit on Mom-and-Dad's Tax Breaks,” *St. Petersburg Times*, December 28, 2003.)

appropriations, which are for fixed amounts, tax preferences are often open-ended.<sup>38</sup>

Tax credits such as those Florida provides “complicate the tax system, narrow the tax base, drive up tax rates for companies that do not qualify and distort the free market.”<sup>39</sup>

Furthermore, it’s difficult for taxpayers to know whom they’re subsidizing through corporate income tax breaks and for what purposes. A December 2010 review of Florida corporate tax breaks by the nonprofit organization Good Jobs First reported on five “economic development” subsidies provided by the state: “In no case does the state regularly disclose company location, job creation goals or outcomes, projected or actual wages, or other performance outcomes on the web.<sup>40</sup>” At that time, some limited information about recipients was available on the Internet, but since the new gubernatorial administration began those links go to web pages without content.<sup>41</sup>

## Conclusion

Cutting Florida’s corporate income tax would further unbalance the state’s tax structure, require low- and moderate-income residents to pay more, and reduce revenue available for state services. A reduction of \$458.5 million in 2011-12, as the Governor proposes, would come directly at the expense of public school and college students, frail elderly, and Floridians with disabilities. The rationale for reducing and eventually eliminating the tax completely – that the state will become a magnet for new businesses to create jobs – is weak, particularly since Florida is already recognized as one of the most business-friendly states.

A better course of action would be to modernize the corporate income tax, along with other state taxes. Modernization would eliminate unfair advantages held by some businesses over others, broaden the tax base and insure that all corporations pay a fair share of the costs of services they benefit from, and provide revenue adequate to meet state needs.

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