FLORIDA CENTER FOR FISCAL AND ECONOMIC POLICY

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Floridians Can Reflect on the State's Unfair Tax Structure as Federal Income Tax Returns Are Filed

The deadline for filing federal income tax returns serves as a reminder of a distinction Florida shares with only six other states: imposing no state personal income tax.

The absence of the tax, banned in the Florida Constitution since 1924,[1] is a fact appreciated by most Floridians. But it has consequences on Florida's tax structure, affecting who pays for public services and whether the revenue generated by the tax system is adequate to meet state needs.

Key facts about our tax system:

1. **Florida is a low-tax state.** Florida ranks 42nd among the states in state taxes per person and 46th in state taxes as a percentage of personal income.[2]

2. **Florida's tax structure is the second-worst in the nation in terms of fairness.[3]** The result: Florida is not a low-tax state for low- and moderate-income residents because state taxes levied in Florida are regressive. They take a larger bite of the earnings of low- and moderate-income Floridians than of the more affluent. This is because income taxes are progressive, based on the ability to pay: The higher the income, the higher the percentage of that income is due in taxes. Without a state personal income tax, Floridians are not taxed on their ability to pay but instead pay the same rates in state taxes and fees, regardless of income or wealth.

3. **Florida relies on "consumption taxes" more than any other state.** Consumption taxes are paid when goods are bought and consumed – the sales tax, alcohol and beverage taxes, gasoline taxes, and cigarette taxes. The sales tax produces about 73 percent of the state's general revenue,[4] highest in the nation. The sales tax when combined with other consumption taxes produces 83 percent of state taxation, also highest in the nation.[5] Most other states derive part of their revenue from the personal income tax or from a state property tax, or both. Neither of those taxes is levied in Florida, increasing the importance of the sales tax.

4. **Florida's tax structure is made even more regressive because two taxes on accumulated wealth, paid almost entirely by the very affluent, have been eliminated.** The federal estate tax was eliminated at least temporarily in the Bush presidency (its revival remains an issue in Congress), and the state estate tax went too because it was linked to the federal tax. Beginning in 1999, Florida phased out its intangibles tax, collected since 1931 on "intangible" property – items that cannot be touched physically or that represent something else of value, such as stocks, mutual funds, bonds, and notes. Most financial assets held by middle-income Floridians were exempt: cash, bank certificates of deposit, the value of insurance policies, individual retirement accounts (IRAs), and real estate holdings, as well as some business assets.

   Ending the estate and intangibles taxes costs Florida about $2 billion in revenue from the most affluent Floridians each year. Without that money, less is available for services such as education and healthcare, and low- and moderate-income people and small businesses pay a greater share of state taxes.[6]

5. **Despite a "no new taxes" pledge, legislators have raised additional revenue – but only from regressive sources that hit low- and moderate-income Floridians hardest.** In 2009, the legislature increased a variety of fees, including university tuition, and imposed a conveniently named "surcharge" – not a tax increase, in their formulation – on tobacco products. Increases for driver's licenses, auto titles, and motor vehicle fees and licenses now produce about $1.3 billion more each year than they did in the 2007-08 fiscal year.[7] These fees are regressive; every citizen, for example, regardless of income or wealth, must pay the same amount for an auto title or a driver's license. Thus the only time in recent years that the legislature raised additional revenue to balance the budget, it looked once again to average Floridians rather than to progressive taxes based on ability to pay.

6. **Even while average citizens pay more, the legislature creates more tax breaks for selected businesses and gives away more tax dollars to corporations promising to create jobs.**[8] These subsidies occur even though officials admit the state has done a poor job holding companies accountable for hundreds of millions of dollars in subsidies in previous years.[9]

7. **Low- and moderate-income Floridians are asked to assume more of the responsibility for financing state services not only because taxes on the wealthy have been eliminated, but also because many large, profitable multistate corporations escape paying their fair share.** Although corporate income tax records are shielded from disclosure, some information can be gleaned from public statements and reports filed with federal regulatory agencies – and it hints at the extent of corporate income tax avoidance. For example, SeaWorld recently admitted that although the corporation had record earnings in 2011, it will

pay no federal or state corporate income taxes because of loopholes.[10] WellCare Health Plan, the Tampa-based corporation that recently reached a $137.5 million settlement on criminal charges of Medicaid fraud against Florida and eight other states,[11] will have a negative corporate income tax rate in the states where it earns profits, according to preliminary analysis by the Institute on Taxation & Economic Policy and Citizens for Tax Justice.

A 2011 study by the two groups found that eight Florida-based corporations paid less of their profits in state corporate income tax in 2008-10 than Florida's 5.5 percent tax rate.[12] Two of them, Ryder and NextEra, were among 26 profitable Fortune 500 corporations with negative federal corporate income tax rates from 2008-2011.[13] They ended up with more money *after* tax returns than before.

8. **Despite revenue shortfalls and the second-most unfair tax system in America, the governor and legislature are moving toward another regressive tax policy: eliminating the state corporate income tax.** This tax, paid only by only a small number of the largest, most profitable Florida businesses, produces almost $2 billion in annual revenue for public services – the second-largest source of general revenue behind the sales tax.

   Without a Florida corporate income tax, low- and moderate-income Floridians would be forced to bear *even more* of the responsibility for funding public services like schools, colleges and universities, and health services for the poor and disabled. If the tax is eliminated, as the governor has advocated, $2 billion will be retained by the companies and their shareholders and executives, who may not live in Florida or even anywhere in the United States. Many of those dollars will be removed altogether from Florida.

   The legislature has reduced the number of companies owing state corporate income tax in the last two legislative sessions. Under the guise of economic development, they raised the exemption in 2011 on profits subject to the tax from $5,000 to $25,000, removing tax liability for 8,351 corporations.[14] In 2012, the exemption was raised again, to $50,000, removing liability for 3,894 more corporations.[15] Despite the economic development rationale articulated for these cuts, they actually have little impact on job creation, one of the governor's staff members told the legislature.[16]

   The increases in exemptions to date have reduced corporate income tax collections by a modest amount. Corporations with profits of $50,000 or less would have owed a maximum of $2,475 under the old law, with most paying less, depending on profit level.

   About 10,000 corporations, a very small percentage of all Florida businesses, still remain subject to the tax.[17] These are the largest corporations earning profits in Florida and pay the vast majority of the almost $2 billion paid in state corporate income taxes each year. (Individual proprietors, limited liability companies, and Chapter S corporations were already exempt from the tax.)[18]

Tax Modernization Would Make State Taxes More Fair and Adequate

On Tax Day, when Americans file federal income tax returns, Floridians can reflect on the state's tax structure and who should be required to share in the responsibility for financing public services.

To make Florida's tax structure more fair and adequate relative to the needs of Florida's residents, policymakers should reverse their current course of creating new tax breaks and instead undertake comprehensive tax modernization.

While it is unlikely that 60 percent of the registered voters in Florida would opt to repeal the prohibition in the state constitution against creating a progressive state income tax, a number of policy changes could be adopted to make our tax system much fairer and more adequate.

Modernizing Florida's tax structure would (1) close the state's budget gap, (2) prevent more cuts and eventually invest more in essential services like education and healthcare, (3) increase fairness by broadening the base of who is paying, and (4) fix the state's long-term structural budget deficit.[19]

Elements of tax modernization would include keeping and strengthening the corporate income tax 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 public services. Instituting measures called "combined reporting" and the "throwback rule" would ensure that corporations operating in more than one state report and pay taxes on all profits earned in Florida; they would raise about $500 million in additional revenue each year. Bills that would add those features to the state's tax laws have been introduced in the legislature but have not received a hearing.[20]

In addition, Florida is ripe for a full review of sales tax exemptions, exclusions, deductions, and credits. The more than 240 such tax breaks in Florida law reduce state revenues by about $10 billion each year, and the exclusion of services from the sales tax reduces potential tax collections by another $20 billion.[21] A comprehensive review would allow exemptions that serve the public good to be retained and those not productive in creating jobs or serving other public goals to be eliminated.

This report was researched and written by Alan Stonecipher. The report and its findings do not necessarily reflect the views of the FCFEP Board of Directors.

Endnotes

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