Tax and Fiscal Reform Recommendations for the State of Louisiana

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Since passage of the 1974 Louisiana Constitution, there has been a significant concentration of taxpayer-generated revenues in state government, and literally dozens of additional constitutional and statutory dedications of revenues. This concentration and these dedications—along with certain exemptions and exclusions from taxation, and the application of tax credits—have created many of the structural and systemic problems in the budget, fiscal and tax policy in the state of Louisiana.

Before 1974, local governments were more autonomous and able to generate the required and needed revenues to operate their localities (cities and/or parishes) by generating revenues from their citizens based upon the vote of their elected officials, and/or the vote of the people.

Starting the process of reversing this trend would be an excellent first step for true fiscal and tax reform, and should be done in a planned and properly staged fashion. Such a reversal would greatly ease the pressure on state government and its yearly budget battles and crises.

Past task forces or commissions were legislatively established to prepare recommendations to the Legislature for consideration and ultimate approval. To earn the trust of the populace, business and industry, there must be transparency about any proposed fiscal and tax changes, said changes must follow a "plan of reform," and they must ultimately reverse and repeal the temporary measures approved during 2015 and 2016.

Assist Local Government

Removing those obstacles or prohibitions which limit the ability of local governments to raise revenues from their citizens, while also removing certain state obligations to provide financial support for, and to, local governments, is an essential first step in reform. The following are recommendations to that end.

1. Allow the Homestead Exemption to be locally determined (local option), and set by the citizens of each parish, by requiring a vote of the citizens of the affected parish for any changes to the exemption. The state would no longer determine the amount of the exemption, if any, but each parish, by the vote of its citizens, would determine the amount desired or needed to meet operating budgets or capital improvements.
2. Significantly overhaul the state sales tax structure as follows:
    a. Standardize for all parishes and municipalities those definitions, exemptions and exclusions to the sales tax, as established by the Legislature of the State of Louisiana.
    b. Give each parish and/or municipality permission to set the rate of sales tax without any legislative approval or oversight. However, if the rate is to be higher than the state's rate (whatever it is at that time), such an increase would require the vote of the people of that parish and/or municipality.
    c. Eliminate the sales tax exemption on food for consumption in the home (constitutional change). Many low-income citizens in the state are the recipients of SNAP benefits (food stamps) and/or WIC (women, infants, and children) vouchers, which are not subject to the sales tax on food for consumption in the home. From the revenues generated, ½ of 1% could be used to provide "block grants" to each parish, with 65% of the grant based upon population of the parish and 35% based on square mileage in the parish. The state aid to local government currently in the Constitution and termed as "revenue share" ($90 million) should then be repealed.
    d. Consider the assessment of a state sales tax on certain clearly-defined personal services at a rate not to exceed 2% at the state level, with a similar assessment at the local or municipal level not to exceed 2%. Such personal services should only include services provided to individuals (not businesses) to service, make, maintain, or repair "things," such as plumbers, electricians, carpenters, painters, etc.

Professional or other services designed to assist a person, such as accountants, attorneys, engineers, architects, barbers, hairstylists, doctors, baby-sitters, consultants, etc., should not be taxed. Such service work done under the supervision of a licensed general contractor would not be subject to the sales tax.

e. After an appropriate transition period, repeal the additional 1% sales tax (passed in the first special session of 2016), and repeal and eliminate the sales tax on Business Utilities and on Manufacturing Machinery and Equipment (MM&E).

f. After an appropriate transition period, lower the state sales tax to 3.5%.

3. Repeal and eliminate the "inventory tax" and its related state sales tax credit. Most businesses and industries must maintain inventories just to perform their basic business functions. This tax has always been viewed as being burdensome, and in the early 1990's, a credit was passed at the state level to mitigate its impact on businesses and industries. Realizing that this tax has been an important source of revenues for local governments, it must be replaced at the local level by some other local revenues or by some type of state block grant to local government, as mentioned above. (See also the recommended changes in the Industrial Tax Exemption below.)

4. Engage local governments in property tax abatement, and potentially reduce the incentive if there is a comprehensive tax reform plan such as this one and if other business taxes are reduced.

Reform State Taxation Policies

In addition to the suggestions above, several reforms of state taxation policies are needed.

1. Completely repeal or cap the corporate franchise tax. This tax is very burdensome, and is paid by corporations (and now is assessed on Limited Liability Companies (LLC's) which choose to be taxed as Sub Chapter "C" corporations for federal tax purposes). It is paid whether or not the business entity is profitable. Louisiana has always desired to attract corporate

headquarters, but will never do so with this tax in place. This tax is levied on the sum of all corporate stock, paid-in capital and retained earnings. In other words, any corporation that is heavily capitalized (which is the most desirable to attract) would never locate in Louisiana due to this annual assessment. It is truly an existence tax. Currently, Louisiana has more of an appeal to a debt laden company than a company with a strong balance sheet. This tax needs to be fully repealed, but at the very least, the amount of the tax must be capped at a figure no greater than $10,500 per year per subject entity. Also, if retained, the rate of the assessment should be changed to $1.50 per thousand up to the first $1 million, and $3.00 per thousand above the $1 million level, with the total tax capped at $10,500 per year. This tax should also be applied to all LLC's regardless of what method of tax filing is chosen. Ultimately, the goal should be to fully repeal this tax.

2. Adjust the tax rates and the income brackets for personal income taxes, and eliminate the deduction of 100% of the federal income taxes paid (constitutional change), but permit the deduction of 50% of the excess itemized deductions.

   Considerable discussion has taken place about the Stelly Plan and its partial reversal. A recommendation for improving the current situation, given the above recommendations in this document, would be to consider changing the rates and the income brackets to:

   2% - $.00 to $25,000

   3% - $25,000 to $50,000

   4% - $50,000 to $100,000

   5% - over $100,000

3. Adjust the tax rates and income brackets for corporate income tax, and eliminate the deductibility of 100% of the federal income taxes paid. However, any tax credits earned should only be applied to actual taxes calculated and due, and no tax credits should be refunded. Tax credits should be permitted to be carried forward, but only applied to actual taxes due, but not paid.

Consider changing the rates and brackets for corporations to the below:

2% - $0.00 to $25,000

3% - $25,000 to $75,000

4% - $75,000 to $125,000

5% - $125,000 to $175,000

6% - over $ 175,000

Additionally, the following acts should be repealed: Acts 29, 103, 109, 123, and 125 of the 2015 Regular Session.

4. Repeal and eliminate the sales tax on the sale of materials for further processing.
5. Establish a "floor" and "ceiling" for the severance tax on oil and natural gas at an amount such that the state can properly budget in low price environments, and does not secure a windfall when pricing is extraordinarily high.
6. Permit the exclusion from taxation of up to $48,000 per person annually of state employee and/or teachers' retirement, given the recommendations above for the revised state income taxation rates and adjusted brackets. This exclusion would also apply to any other retirement, pension, and/or distributions from profit sharing plans, IRA's, 401(k), etc., for any tax payer.

Conclusion

Needless to say, there is no silver bullet, or simple solution(s), to solve the budget, revenue, expense, budgetary, and fiscal and tax problems in the state of Louisiana. However, bold leadership and decisive action in an organized fashion will result in improved results for years to come. It should be noted that any rates or income brackets mentioned above could be adjusted to fit the actual revenue needs of the state once all programs and services have been fully evaluated and reviewed for efficiency, productivity, and need.

Additional thoughts for future consideration

The following must also be discussed and addressed:

1. State employee and Teachers' Retirement Systems need to be revised with future entrants being covered in defined contribution plans, and current employees under 50 years of age being properly vested but covered going forward in new defined contribution plans.

2. The restructure and realignment of the state higher education and university systems such that there are fewer four year institutions, some two year institutions, and an enhanced junior college and community college system serving the other institutions. The avoidance of duplicate curriculums must also be in the discussion.

3. Some adjoining parishes should consider providing other shared services and/or having common elected officials serving multiple parishes where practical.

4. All state government programs and services should be thoroughly evaluated to determine their need, utilization, eligibility for participation, and how well they are operated in terms of efficiency and effectiveness, costs, and desired outcomes or deliverables. They should also be subject to routine audits of eligibility for participation.

5. All constitutional and statutory dedications should be thoroughly reviewed and assessed, with only those with dedicated revenues to a state financial obligation permitted to remain until another revenue source is committed to the repayment of the financial obligation.