Infrastructure spending among recent shifts in state tax and fiscal policy

David M. Kall | Thursday, August 3, 2017

In early January, we published a blog explaining why the Institute on Taxation and Economic Policy (ITEP) predicted that 2017 would be a major year for gas tax reforms. Now, a late July follow up report by the group indicates that its forecast is coming true. Further, pointing to other tax reforms in a "diverse mix of states" that aim to raise revenue for public investments and reduce tax burdens on low income workers and families, the ITEP report asserts that this year has "marked a sea change in state tax policy" in general, while "dubious supply-side economic theories began to lose their grip on statehouses."

Infrastructure spending

Among these reforms is the way states pay for infrastructure. In June, ITEP recognized several states for passing the following gas tax increases to maintain and expand their transportation systems, all of which took effect on July 1, 2017:

- Indiana: 9.9 cents per gallon
- Montana: 4.5 cents per gallon
- Tennessee: 4 cents per gallon
- West Virginia: 3.5 cents per gallon
- South Carolina: 2 cents per gallon
- California: 1.9 cents per gallon
- Maryland: .3 cents per gallon

- New Jersey: 10.8 per gallon for diesel fuel only

Iowa and Nebraska are both cutting their gas taxes, by 0.2 cents and 0.3 cents respectively, though Nebraska implemented a 1.5 cent increase in January of this year.

In late May, we addressed California's plan, which was incorporated into the May budget revision and the new budget, and which provided $54 billion in new funding over the next decade. Now, however, there is a movement afoot to place a measure on the 2018 ballot to repeal the new 12 cents per gallon gas tax that was part of the transportation package.

Around that same time, we also described South Carolina's effort, which was contentious but ultimately passed after lawmakers overrode Gov. Henry McMaster's veto. The 2 cents per gallon increase went into effect on July 1, 2017, and will go up another 2 cents each year until 2022. While applauding the move to address infrastructure spending in the first place, ITEP is critical of the legislation, which it describes as "unnecessarily complicated" because it relies on a refundable earned income tax credit, and "requires drivers to track all their gas *and* maintenance expenses every year for an average of $10 per vehicle."

Likewise, a *Post and Courier* article wondered whether the required bookkeeping would be worth the trouble. Although "[r]esidents will be able to claim a refundable income tax credit during the next six years for a portion of the expenses they face due to the added gas tax, or their cost of preventive vehicle maintenance, whichever is less," they will have to go to the trouble of tracking and comparing those costs. Whether that is worth what amounts to a $10 income tax credit per vehicle remains to be seen. The legislation caps the amount the state can give out in income tax credits, to $40 million, while the expected claims amount to $61 million. "Lawmakers could have made this so much easier."

Expansion of tax credits

ITEP observed that "2017 was the most productive year in over a decade for the expansion of tax credits for workers and their families." Three states – Hawaii, Montana, and South Carolina – enacted new Earned Income Tax Credits (EITC). In addition, in California, the credit increased from $14,000 to $22,300, and in Illinois, the credit increased from 10 percent to 14 percent this year, and will go up again, to 18 percent, in 2018.

Even so, some states have taken a different approach. For example, in the Palmetto State, "only 2 percent of South Carolinians with incomes below $21,000 will benefit," because the credit is nonrefundable. And in Montana, which took a "meaningful step toward poverty alleviation," the three percent credit is the lowest in the nation

Nevertheless, opined ITEP, "[l]awmakers demonstrated a strong commitment to tax fairness for low-income households even in states that faced significant fiscal pressures and uncertainty regarding the impacts of federal tax reform."

Modernizing tax codes

By this statement, ITEP means ensuring that states' "tax codes are keeping pace with the modern economy," with respect to, for example, online shopping and changes in consumption patterns. One step in the right direction is that in all states, Amazon.com now collects and remits sales taxes on goods that it sells directly.

Additionally, laws designed to expand nexus, so that states can collect tax revenue on purchases when the

seller may not have a physical connection with the state, are also helpful, assuming the statutes are not overturned by the courts. We have written extensively on this dilemma, in various jurisdictions like Ohio**,** North Carolina**,** and Colorado**.**

The so-called gig economy presents yet a third test to revenue-challenged states. The term gig-economy "refers to services that are generally provided by independent contractors that were previously only provided by brick and mortar businesses**." AirBnB and Uber are two of the best-known suppliers of services that contest the existing framework. States have attempted to tax these service providers in the same way they do they traditional ones, but with little success thus far.**

In light of the inevitability and ubiquity of the gig-economy, ITEP offered recommendations for reform in a March 15, 2017 publication, **reasoning that "**[i]t is imperative that states and localities update their tax codes to account for these new business models, and that they remain prepared to implement… updates as those business models continue to evolve."

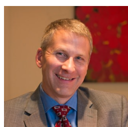
Income taxes

ITEP's report praises lawmakers in Georgia, Nebraska, and West Virginia for seeing "through the specious arguments for flat income taxes, tax-cut triggers, and income tax elimination," even assome states are still trying to cut income taxes on the wealthy, efforts that have largely failed. **"**The unfortunate exception to this trend [of progressive income tax reforms] this year has been North Carolina, where lawmakers…chose to double down on regressive tax cuts and supply-side economics [d]espite the evidence from other states…"

Another trend, which ITEP does not mention, is that of imposing new or incremental income taxes on the wealthy. We have been following this trend: New York's new budget included a millionaire's tax, a ballot initiative in Massachusetts seeking approval for a similar tax will go to the voters in 2018, and our most recent blog on the topic addresses Seattle's recently-passed statute. As expected, the first lawsuit has already been filed, on behalf of an investment manager who is also a Seattle resident.

Revenues for social services

ITEP portrays a focus on investments in education, health and social services as **"**[o]ne of the most notable and welcome themes of the year." The group highlights a "number of states where Democrats and Republicans came together to propose, and in some cases enact, tax changes." In Kansas, lawmakers of both stripes joined forces, in a reversal from the last several years' "regressive and costly tax cuts that were wreaking havoc on the state's budget." Bipartisan work in Illinois, Oklahoma, Alaska and Louisiana also was productive for raising revenues for "economically crucial public investments."



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Team member bio