

South Carolina: Tax reform is back on the table



David M. Kall | Thursday, September 8, 2016

In December 2010, the South Carolina Taxation Realignment Commission (TRAC) issued its 240 page [Final Report](#), the result of “the most comprehensive and holistic study of [the] [s]tate’s tax structure.” The report contains TRAC’s assessment of the adequacy, fairness, and efficiency of the Palmetto State’s tax system, with the ultimate goal of ensuring that “South Carolina remains an optimum competitor in its efforts to attract business and individuals to locate, live, work, and invest in” the state.

The report concluded that while South Carolina is a low tax state, compared to its neighbors, the region, and nationally, the current tax structure is hindered by structural deficiencies that challenge the system’s ability to produce a stable stream of revenue over time, for even the most basic of services. Additionally, the current structure is inadequate for producing a system that is fair in its treatment of all taxpayers.

Accordingly, the report set forth numerous findings and recommendations, including:

- Broaden the sales tax base by repealing or amending more than 60 of the 80 exemptions and exclusions. This is necessary because the 6 percent sales and use tax, which is still in effect today, is high, and the 38 percent of gross sales that are subject to the tax is insufficient.
- Tax additional services, including e-commerce, to reflect the shift from a goods to a services-based economy, and utilize the new revenue to lower the overall sales tax rate, to between 4 and 5 percent.
- Adjust the individual income tax structure in a similar way, by increasing the base and reducing the rates.

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- Adopt a combined reporting structure for corporate income taxes. Although these rates are among the lowest in the nation, doing this would avoid discrimination against certain businesses, tax income that would otherwise be shifted out of state, and address the growing complexities of the current corporate climate.
- Address the property tax system, a “product of extremes,” including the highest rates in the nation on manufacturers (not in a fee-in-lieu), a low tax burden on urban primary residences, very high tax levies on boats and planes, one of the lowest in the country for primary residents over the age of 65 that live in an urban county, some of the highest national tax rates on commercial and industrial property, and the lowest tax rates on residential property.
- Raise the gas tax by 5 cents per gallon, or impose a revenue neutral structural change, to stabilize the revenue stream needed for road and infrastructure maintenance and modernization.

New committee formed

An Aug. 28, 2016 Statehouse Report [article](#) declares that “after six years of lip service about comprehensive tax reform, House leaders say they are ready to dust off [the Report] and take up the topic again.” Indeed, House Speaker Jay Lucas issued a [press release](#) revealing that he had filled a newly formed House Tax Policy Review Committee with 14 members of the House, eight Republicans and six Democrats, to do just that. The committee is responsible for reviewing South Carolina’s current tax code and submitting suggestions for reform to the Speaker before the beginning of next legislative session.

Although it has been almost six years since the report came out, the former Department of Revenue Director asserted that it is “just as accurate today as it was when we issued it. Very little has changed. It’s a valuable document, not dated.”

Exemptions have triggered litigation in the past

The numerous sales tax exemptions the report cites as problematic were themselves the subject of a lawsuit that the South Carolina Supreme Court [resolved](#) in May 2013. A taxpayer filed the suit asking the court to strike down all of the exemptions and caps as, among other things, violative of the South Carolina Constitution’s equal protection guarantee, and because the “sheer number...removes any rationale relationship they have to the underlying tax itself.” The court disagreed with the taxpayer on all of his claims, but one concurring justice pointed out that future challenges to individual exemptions and caps could very well collapse under a minimal level of scrutiny.



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