

# South Carolinas Taxation Realignment Commission

## An Appendix to: Sales and Use Tax Report

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“TRAC Sales and Use Tax Exemption Recommendations - Draft Revenue Table (of unofficial estimates)”, prepared by Craig H. Parks, MPA, Sr. Research Analyst, SC Senate Finance Committee, for the Tax Realignment Commission, November 2010.

“Sales and Use Tax Exemptions, FY2008-09” (revenue table only), prepared by the SC Board of Economic Advisors, January 14, 2008.

“Updated State and Local Option Sales Tax: Combined State and Average Local Rates (50 state analysis), Fiscal Fact No. 196, Padgett, Tax Foundation, October 2009.

Chart: “South Carolina General Fund Sales Tax Collections as a Percentage of Total Personal Income” (1970-2009), prepared for the Tax Realignment Commission by the SC Board of Economic Advisors.

Chart: “South Carolina Total Sales Tax Collections as a Percentage of Total Personal Income” (1970-2009), prepared for the Tax Realignment Commission by the SC Board of Economic Advisors.

Chart: “US Electronic Commerce as a Percentage of Total US Retail Sales (2000-2009)”, prepared for the Tax Realignment Commission by the SC Board of Economic Advisors.

“SC Tax Policy & Economic Development - A Report to the Tax Realignment Commission: Sales Tax”, prepared by Dr. Rebecca Gunnlaugsson, Ph.D., Director, Research Division, SC Department of Commerce, October 28, 2010.

“Local Option Taxes in South Carolina - A Review”, presentation to the Tax Realignment Commission, Craig H. Parks, MPA, Sr. Research Analyst, SC Senate Finance Committee, January 6, 2010.

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“Which States Tax the Sale of Food for Home Consumption in 2009?”, Center on Budget and Policy Priorities, November 4, 2009.

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Chart: “Personal Consumption Trends, Goods vs. Services - United States (1947-2007)”, prepared by the SC Department of Commerce from data provided by the US Bureau of Economic Analysis, 2009.

“Services Taxed in South Carolina if SC Tax Realignment Committee Recommendations are Enacted” (unofficial analysis), McCormack, SC Department of Revenue, September 2, 2010.

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“The Streamlined Sales and Use Tax Agreement and South Carolina: A Review of the Requirements to Comply and the Agreement’s Possible Impact on South Carolina if the General Assembly Amends the State and Local Sales and Use Tax Laws to Comply”, prepared by Handel and McCormack, SC Department of Revenue, August 20, 2007.

“Americans for Fair Taxation”, a presentation to the Tax Realignment Commission by Mr. Jack Jackson, Fair Tax South Carolina, January 6, 2010.

“‘Fairtax’ Proposals to Replace State Income and Business Taxes with Expanded Sales Tax Would Create Serious Problems”, McNichol and Johnson, Center on Budget and Policy Priorities, September 7, 2010.

## TRAC Sales and Use Tax Exemptions - Draft Legislation

A new section is added to Chapter 35 of Title 11 to read:

**1. SECTION 11-35-XXX. State contractors required to be licensed with the Department of Revenue**

(A) A governmental body or political subdivision shall not contract to purchase tangible personal property, and a person may not contract to sell tangible personal property to a governmental body or political subdivision unless, prior to or upon entering into the contract, and during the term of the contract, the person contracting to sell such tangible personal property is licensed with the SC Department of Revenue and agrees to remit sales and use tax pursuant to Chapter 36 of Title 12. The provisions of this section apply to all sellers, including nonresident sellers who may not be legally obligated to collect and remit the sales and use tax.

(B) The licensing requirement of subsection (A) does not apply:

(1) if all sales of tangible personal property by the person to governmental bodies, political subdivisions, or residents or businesses in this state are exempt from the sales and use tax pursuant to Code Section 12-36-2120; or,

(2) to an affiliate of the person contracting with a governmental body or political subdivision if that affiliate is not selling tangible personal property to a governmental body, political subdivision, or any resident or business in this state.

(C) As used in this section:

(1) the term "person" has the same meaning as in Code Section 12-36-30 and includes every affiliate of the person contracting with governmental body or political subdivision;

(2) the term "affiliate" includes any person that bears a relationship, as set forth in Section 267 of the Internal Revenue Code, to the person entering into a contract, or under contract, with the governmental body or political subdivision; and,

(3) the term "tangible personal property" has the same meaning as in Code Section 12-36-60.

(D) The South Carolina Budget and Control Board shall enforce the provisions of this section and may require governmental bodies and political subdivisions to incorporate within all contracts to purchase tangible personal property penalties that must be imposed upon the person contracting with the governmental body or political subdivision for failure to comply with this section.

(E) Failure of the person contracting with a governmental body or political subdivision to comply with the provisions of this section allows the governmental body or political subdivision, at its discretion, to immediately void the contract, and impose any penalties established under the procurement code or by contract for failure of the person to comply with the law. Any penalties

imposed pursuant to this code section may not be passed on to the governmental body or political subdivision.

**2. SECTION 12-36-60. “Tangible personal property”.**

“Tangible personal property” means personal property which may be seen, weighed, measured, felt, touched, or which is in any other manner perceptible to the senses. It also includes services including \_\_\_\_\_ and intangibles, including data processing, computer software, digital products, communications, laundry and related services, furnishing of accommodations and sales of electricity, the sale or use of which is subject to tax under this chapter and does not include stocks, notes, bonds, mortgages, or other evidences of debt. ~~Tangible personal property does not include the transmission of computer database information by a cooperative service when the database information has been assembled by and for the exclusive use of the members of the cooperative service.~~

Comment: The TRAC has studied which services are subject to sales taxes throughout in the United States (see TRAC recommendations regarding taxation of services).

**3. ADD NEW CODE SECTION 12-36-71.**

(A) Notwithstanding any other provision of law, a retailer is presumed to be liable for the sales tax or responsible for collecting and remitting the use tax if the retailer enters into an agreement with a resident of this State under which the resident, for a commission or other consideration, directly or indirectly refers potential customers, whether by a link on an Internet Web site or otherwise, to the retailer.

This presumption applies only if the cumulative gross receipts from sales by the retailer to purchasers in this State who are referred to the retailer by all residents with this type of agreement with the retailer is in excess of ten thousand dollars (\$10,000) during the preceding twelve calendar months. This presumption may be rebutted by proof that the resident with whom the retailer has an agreement did not engage in any solicitation in the State on behalf of the retailer that would satisfy the nexus requirement of the United States Constitution during the twelve calendar months in question.

(B) A retailer liable for the sales tax or responsible for collecting and remitting the use tax under the provisions of this section must obtain a retail license and remit sales and use taxes in accordance with the provisions of this chapter on all retail sales of tangible personal property not otherwise exempt.

**4. SECTION 12-36-80.**

(A) Retailer maintaining a place of business in this State, or any similar term, includes any retailer having or maintaining within this State, directly, indirectly or by a subsidiary or other affiliated



entity, an office, distribution house, sales house, warehouse, real or personal property, or other place of business, or any agent, independent contractor, or representative operating within this State under the authority of the retailer or its subsidiary or its affiliated entity, regardless of whether the business or agent, independent contractor, or representative is located here permanently or temporarily or whether the retailer or subsidiary or affiliated entity is admitted to do business within this State.

(B) The term also includes, but is not limited to, an out-of-state retailer if: (1) the out-of-state retailer and an in-state company maintaining one or more locations within this State are related parties; and (2) the out-of-state retailer and the in-state company use an identical or substantially similar name, tradename, trademark, or goodwill, to develop, promote, or maintain sales; or the in-state company and the out-of-state retailer pay for each other's services in whole or in part; or the in-state company and the out-of-state retailer share a common business plan or substantially coordinate their business plans; or the in-state company provides services to or on behalf of, or that inure to the benefit of, the out-of-state retailer.

Two persons are affiliated entities or related parties under this section if they bear a relationship such that a deduction for a loss would be disallowed from the sale of property between them pursuant to Internal Revenue Code section 267. For purposes of this section Internal Revenue Code means the Internal Revenue Code as defined in Section 12-6-40(A).

## 5. **SECTION 12-36-90. "Gross proceeds of sales".**

Gross proceeds of sales, or any similar term, means the value proceeding or accruing from the sale, lease, or rental of tangible personal property.

(1) The term includes:

(a) the proceeds from the sale of property sold on consignment by the taxpayer;

(b) the proceeds from the sale of tangible personal property without any deduction for:

(i) the cost of goods sold;

(ii) the cost of materials, labor, or service;

(iii) interest paid;

(iv) losses;

(v) transportation costs;

(vi) manufacturers or importers excise taxes imposed by the United States; or

(vii) installation charges

~~(vii)~~ (viii) any other expenses.

(c) the fair market value of tangible personal property previously purchased at wholesale which is withdrawn from the business or stock and used or consumed in connection with the business or used or consumed by any person withdrawing it, except for:

(i) withdrawal of tangible personal property previously withdrawn and taxed by such business or person;

(ii) tangible personal property which becomes an ingredient or component part of tangible personal property manufactured or compounded for sale;

(iii) tangible personal property replacing defective parts under written warranty contracts if:

(A) the warranty, maintenance, service, or similar contract is given without charge, at the time of original purchase of the defective property, or the tax was paid on the sale or renewal of warranty, maintenance, or similar service contract for tangible personal property of which the defective part was a component, whether or not such contract was purchased in conjunction with the sale of tangible personal property,

(B) in the case of a warranty, maintenance, service, or similar contract that is given without charge at the time of original purchase of the defective property, the tax was paid on the sale of the defective part or on the sale of the property of which the defective part was a component, and

(C) the warrantee is not charged for any labor or materials,

(iv) an automobile furnished without charge to a high school for use solely in student driver training programs;

~~(v) a new motor vehicle used by a dealer as a demonstrator.~~

(2) The term does not include:

(a) a cash discount allowed and taken on sales;

(b) the sales price of property returned by customers when the full sales price is refunded in cash or by credit;

(c) the value allowed for secondhand property transferred to the vendor as a trade-in;

(d) the amount of any tax imposed by the United States with respect to retail sales, whether imposed upon the retailer or the consumer, except for manufacturers or importers excise taxes.

~~(e) a motor vehicle operated with a dealer, transporter, or manufacturer, or education license plate and used in accordance with the provisions of Section 56-3-2320 or 56-3-2330;~~

(f) that portion of a charge taxed under Section 12-36-910(B)(3) or 12-36-1310(B)(3) attributable to the cost set by statute for a governmental license or permit.

(g) fees imposed on the sale of motor oil, new tires, lead-acid batteries, and white goods pursuant to Article 1, Chapter 96 of Title 44, including the refundable deposit when a lead-acid battery core is not returned to a retailer.

(h) the sales price, not including sales tax, of property on sales which are actually charged off as bad debts or uncollectible accounts for state income tax purposes. A taxpayer who pays the tax on the unpaid balance of an account which has been found to be worthless and is actually charged off for state income tax purposes may take a deduction for the sales price charged off as a bad debt or uncollectible account on a return filed pursuant to this chapter, except that if an amount charged off is later paid in whole or in part to the taxpayer, the amount paid must be included in the first return filed after the collection and the tax paid. The deduction allowed by this provision must be taken within one year of the month the amount was determined to be a bad debt or uncollectible account.

(i) interest, fees, or charges however described, imposed on a customer for late payment of a bill for electricity or natural gas, or both, whether or not sales tax is required to be paid on the underlying electricity or natural gas bill.

(j) the environmental surcharge imposed pursuant to Section 44-56-430.

(k) the alcoholic liquor by the drink excise tax imposed by Section 12-33-245.

(l) tangible personal property purchased by a person engaged in the business of servicing a warranty, maintenance, or similar service contract for use in replacing a defective part under the contract if tax was paid on the sale or the renewal of the contract and the customer is not charged for labor or material when the part is replaced.

**6. SECTION 12-36-110. Sale at retail; retail sale.**

Sale at retail and retail sale mean all sales of tangible personal property except those defined as wholesale sales. The quantity or sales price of goods sold is immaterial in determining if a sale is at retail.

(1) The terms include:

- (a) sales of building materials to construction contractors, builders, or landowners for resale or use in the form of real estate;
- (b) sales of tangible personal property to manufacturers, processors, compounders, quarry operators, or mine operators, which are used or consumed by them, and do not become an ingredient or component part of the tangible personal property manufactured, processed, or compounded for sale;
- (c) the withdrawal, use, or consumption of tangible personal property by anyone who purchases it at wholesale, except:
  - (i) withdrawal of tangible personal property previously withdrawn and taxed by such business or person,
  - (ii) tangible personal property which becomes an ingredient or component part of tangible personal property manufactured or compounded for sale,
  - (iii) tangible personal property used directly in manufacturing, compounding, or processing tangible personal property for sale,
  - (iv) ~~materials, containers, cores, labels, sacks, or bags used incident to the sale and delivery of tangible personal property for sale;~~
  - (v) ~~a motor vehicle operated with a dealer, transporter, or manufacture, or education license plate and used in accordance with the provisions of Section 56-3-2320 or 56-3-2330;~~
- (d) the use within this State of tangible personal property by its manufacturer as building materials in the performance of a construction contract. The manufacturer must pay the sales tax based on the fair market value at the time and place where used or consumed;
- (e) sales to contractors for use in the performance of construction contracts;
- (f) [Reserved];
- (g) sales of tangible personal property, other than cigarettes and soft drinks in closed containers, to vendors who sell the property through vending

machines. The vendors are deemed to be the users or consumers of the property;

- (h) sales of prepared meals, or unprepared food products used to prepare meals, to hospitals, infirmaries, sanitariums, nursing homes, and similar institutions, educational institutions, boarding houses, and transportation companies, if furnished as part of the service rendered. These institutions and companies are deemed to be the users or consumers of the property;
- (i) sales of drugs, prosthetic devices, and other supplies to hospitals, infirmaries, sanitariums, nursing homes, and similar institutions, medical doctors, dentists, optometrists, and veterinarians, if furnished to their patients as a part of the service rendered. These institutions, companies, and professionals are deemed to be the users or consumers of the property;
- (j) sales, not otherwise exempted, when reimbursed or paid in whole or in part by Medicare or Medicaid. However, only the net amount reimbursed by Medicare and Medicaid is subject to the tax, if the vendor is prohibited by law from charging the purchaser the difference between the retail sale and the amount reimbursed.
- (k) sales of all local telecommunications services by local exchange companies (LECs) to customer owned coin-operated telephone (COCOT) providers, as those terms are defined by the South Carolina Public Service department. The COCOT providers that purchase these services in order to provide payphone services to their customers are considered to be the users and consumers of the services, and are not subject to sales tax for their subsequent sale of local telecommunications services to their COCOT customers.
- (l) sales of tangible personal property to veterinarians. The veterinarians are deemed to be the users or consumers of the property whether used in the rendering of professional services or sold outright as part of the veterinarian practice and not furnished as a part of professional services rendered.

The terms do not include sales of tangible personal property to a manufacturer or construction contractor when the tangible personal property is subsequently processed, partially or completely fabricated, or manufactured in this State by the manufacturer or contractor, for use in the performance of a construction contract if the property is transported to, assembled, installed, or erected at a job site outside the State and thereafter used solely outside the State.

**7. SECTION 12-36-130. "Sales price".**

"Sales price" means the total amount for which tangible personal property is sold, without any deduction for the cost of the property sold, the cost of the materials used, labor, installation, or service cost, interest paid, losses, or any other expenses.

(1) The term includes:

(a) any services or transportation costs that are a part of the sale, whether paid in money or otherwise;

(b) any manufacturers or importers excise tax imposed by the United States.

(2) The term does not include:

(a) a cash discount allowed and taken on the sale;

(b) an amount charged for property, which is returned by the purchaser, and the full amount is refunded in cash or by credit;

(c) the value allowed for secondhand property transferred to the vendor in partial payment; and

(d) the amount of any tax imposed by the United States with respect to retail sales, whether imposed upon the retailer or consumer, except for manufacturers or importers excise taxes.

For purposes of the sale of an "audiovisual master" as defined in Section 12-36-2120(55), sales price is the total amount for which the audiovisual master is sold, including charges for any services that go into its fabrication, manufacture, or delivery that are a part of the sale valued in money whether paid in money, or otherwise, and includes any amount for which credit is given to the purchaser by the seller without any deduction from it on account of the cost of the property sold, the cost of materials used, labor or service costs, interest charged, losses, or any other expenses whatsoever.

The term "sales price" as defined in this section, also does not include the sales price, not including tax, of property on sales which are actually charged off as bad debts or uncollectible accounts for state income tax purposes. A taxpayer who pays the tax on the unpaid balance of an account which has been found to be worthless and is actually charged off for state income tax purposes may take a deduction for the sales price charged off as a bad debt or uncollectible account on a return filed pursuant to this chapter, except that if an amount charged off is later paid in whole or in part to the taxpayer, the amount paid must be included in the first return filed after the collection and the tax paid. The deduction allowed by this paragraph must be taken within one year of the month the amount was determined to be a bad debt or uncollectible account.

## **8. SECTION 12-36-140. "Storage" and "Use".**

(A) “Storage” includes any keeping or retaining in this State, for any purpose except sale in the regular course of business or subsequent use solely outside this State, of tangible personal property purchased at retail.

(B) “Use” includes the exercise of any right or power over tangible personal property incident to the ownership of that property, or by any transaction in which possession is given; but it does not include the sale of that property in the regular course of business.

(C) “Storage” and “use” do not include the keeping, retaining, or exercising of any right or power over tangible personal property:

(1) for the exclusive purpose of subsequently transporting it outside the State for first use;

(2) for the purpose of first being manufactured, processed, or compounded into other tangible personal property to be transported and used solely outside the State; or

(3) for the purpose of being distributed as ~~(i) cooperative direct mail promotional advertising materials, or (ii) promotional maps, brochures, pamphlets, or discount coupons by nonprofit chambers of commerce or convention and visitor bureaus who are exempt from income taxation pursuant to Internal Revenue Code Section 501(c) by means of interstate carrier, a mailing house, or a United States Post Office to residents of this State from locations both inside and outside the State. For purposes of this item, “cooperative direct mail promotional advertising materials” means discount coupons, advertising leaflets, and similar printed advertising, including any accompanying envelopes and labels which are distributed with promotional advertising materials of more than one business in a single package to potential customers, at no charge to the potential customer, of the businesses paying for the delivery of the material.~~

**9. ADD NEW CODE SECTION 12-36-160. “Computer software”.**

“Computer software” means a set of coded instructions designed to cause a “computer” or automatic data processing equipment to perform a task. It includes software either delivered electronically or by tangible storage media and includes load and leave, meaning delivery to the purchaser by use of tangible storage media where the tangible storage media is not physically transferred to the purchaser. It also includes custom software.

**10. ADD NEW CODE SECTION 12-36-170. “Digital products”.**

“Digital products” means electronically transferred goods obtained by the purchaser by means other than tangible storage media.

(a) “Digital Audio-Visual Works” which means a series of related images which, when shown in succession, impart an impression of motion, together with accompanying sounds, if any

(b) “Digital Audio Works” which means works that result from the fixation of a series of musical, spoken, or other sounds, including ringtones; for purposes of the definition of “digital audio works”, “ringtones” means digitized sound files that are downloaded onto a device and that may be used to alert the customer with respect to a communication, and

(c) "Digital Books" which means works that are generally recognized in the ordinary and usual sense as "books".

**11. ADD NEW CODE SECTION 12-36-180. "Data processing".**

"Data processing" means the manipulation of information furnished by a customer through all or part of a series of operations involving an interaction of procedures, processes, methods, personnel, and computers. It also means the electronic transfer of or access to that information. Examples of the processing include, without limitation, summarizing, computing, extracting, storing, retrieving, sorting, sequencing, and the use of computers.

**12. SECTION 12-36-910. Five percent tax on tangible personal property; laundry services, electricity, communication services, and manufacturer-consumed goods.**

(A) A sales tax, equal to ~~five~~ \_\_\_\_\_ percent\* of the gross proceeds of sales, is imposed upon every person engaged or continuing within this State in the business of selling tangible personal property at retail.

*\*Note, rate will be 17% or more lower than current rate displayed based on initial (and unofficial) staff estimates.*

(B) The sales tax imposed by this article also applies to the:

(1) gross proceeds accruing or proceeding from the business of providing or furnishing any laundering, dry cleaning, dyeing, or pressing service, but does not apply to the gross proceeds derived from coin-operated laundromats and dry cleaning machines;

(2) gross proceeds accruing or proceeding from the sale of electricity;

(3)(a) gross proceeds accruing or proceeding from the charges for the ways or means for the transmission of the voice or messages, including the charges for use of equipment furnished by the seller or supplier of the ways or means for the transmission of the voice or messages. Gross proceeds from the sale of prepaid wireless calling arrangements subject to tax at retail pursuant to item (5) of this subsection are not subject to tax pursuant to this item. Effective for bills rendered after August 1, 2002, charges for mobile telecommunications services subject to the tax under this item must be sourced in accordance with the Mobile Telecommunications Sourcing Act as provided in Title 4 of the United States Code. The term "charges for mobile telecommunications services" is defined for purposes of this section the same as it is defined in the Mobile Telecommunications Sourcing Act. All other definitions and provisions of the Mobile Telecommunications Sourcing Act as provided in Title 4 of the United States Code are adopted. Telecommunications services are sourced in accordance with Section 12-36-1920;

(b)(i) for purposes of this item, a "bundled transaction" means a transaction consisting of distinct

and identifiable properties or services, which are sold for one nonitemized price but which are treated differently for tax purposes;

(ii) for bills rendered on or after January 1, 2004, that include telecommunications services in a bundled transaction, if the nonitemized price is attributable to properties or services that are taxable and nontaxable, the portion of the price attributable to any nontaxable property or service is subject to tax unless the provider can reasonably identify that portion from its books and records kept in the regular course of business for purposes other than sales taxes.

(4) fair market value of tangible personal property manufactured within this State, and used or consumed within this State by the manufacturer.

(5) gross proceeds accruing or proceeding from the sale or recharge at retail for prepaid wireless calling arrangements.

(a) "Prepaid wireless calling arrangements" means communication services that:

(i) are used exclusively to purchase wireless telecommunications;

(ii) are purchased in advance;

(iii) allow the purchaser to originate telephone calls by using an access number, authorization code, or other means entered manually or electronically; and

(iv) are sold in units or dollars which decline with use in a known amount.

(b) All charges for prepaid wireless calling arrangements must be sourced to the:

(i) location in this State where the over-the-counter sale took place;

(ii) shipping address if the sale did not take place at the seller's location and an item is shipped; or

(iii) either the billing address or location associated with the mobile telephone number if the sale did not take place at the seller's location and no item is shipped.

~~(6) gross proceeds accruing or proceeding from the sale or renewal of warranty, maintenance, or similar service contracts for tangible property, whether or not such contracts are purchased in conjunction with the sale of tangible personal property.~~

~~(7) gross proceeds accruing or proceeding from the sale or renewal of warranty, maintenance, or similar service contracts for tangible personal property, whether or not the contracts are purchased in conjunction with the sale of tangible personal property.~~

(7) gross proceeds accruing or proceeding from the charges for computer software.

(8) gross proceeds accruing or proceeding from the charges for digital products.



(9) gross proceeds accruing or proceeding from the charges for data processing.

~~(C) Notwithstanding other provisions in this article or Article 13, Chapter 36, of this title, the sales or use tax imposed by those articles does not apply to the gross proceeds accruing or proceeding from charges for or use of data processing. As used in this subsection, "data processing" means the manipulation of information furnished by a customer through all or part of a series of operations involving an interaction of procedures, processes, methods, personnel, and computers. It also means the electronic transfer of or access to that information. Examples of the processing include, without limitation, summarizing, computing, extracting, storing, retrieving, sorting, sequencing, and the use of computers.~~

Sales Tax Rate: Repeals 5 cent sales tax rate (new lower rate to be inserted in final report based on BEA estimates).

**13. SECTION 12-36-1110.** Additional sales, use and casual excise tax imposed on certain items; exceptions.

Beginning June 1, 2007, an additional sales, use, and casual excise tax equal to one percent is imposed on amounts taxable pursuant to this chapter, except that this additional one percent tax does not apply to amounts taxed pursuant to Section 12-36-920(A), the tax on accommodations for transients, ~~nor does this additional tax apply to items subject to a maximum sales and use tax pursuant to Section 12-36-2110 nor to the sale of unprepared food which may be lawfully purchased with United States Department of Agriculture food coupons.~~

**14. SECTION 12-36-1310.** Imposition of tax; rate; applicability; credit for tax paid in another state.

(A) A use tax is imposed on the storage, use, or other consumption in this State of tangible personal property purchased at retail for storage, use, or other consumption in this State, at the rate of ~~five~~ \_\_\_\_\_ percent\* of the sales price of the property, regardless of whether the retailer is or is not engaged in business in this State.

***\*Note, rate will be 17% or more lower than current rate displayed based on initial (and unofficial) staff estimates.***

(B) The use tax imposed by this article also applies to the:

(1) gross proceeds accruing or proceeding from the business of providing or furnishing a laundering, dry cleaning, dyeing, or pressing service, but does not apply to the gross proceeds derived from coin operated laundromats and dry cleaning machines;

(2) gross proceeds accruing or proceeding from the sale of electricity;

(3)(a) gross proceeds accruing or proceeding from the charges for the ways or means for the transmission of the voice or messages, including the charges for use of equipment furnished by the

seller or supplier of the ways or means for the transmission of the voice or messages. Gross proceeds from the sale of prepaid wireless calling arrangements subject to tax at retail pursuant to item (5) of this subsection are not subject to tax pursuant to this item. Effective for bills rendered after August 1, 2002, charges for mobile telecommunications services subject to the tax under this item must be sourced in accordance with the Mobile Telecommunications Sourcing Act as provided in Title 4 of the United States Code. The term "charges for mobile telecommunications services" is defined for purposes of this section the same as it is defined in the Mobile Telecommunications Sourcing Act. All definitions and provisions of the Mobile Telecommunications Sourcing Act as provided in Title 4 of the United States Code are adopted. Telecommunications services are sourced in accordance with Section 12-36-1920.

(b)(i) For purposes of this item, a "bundled transaction" means a transaction consisting of distinct and identifiable properties or services, which are sold for one nonitemized price but which are treated differently for tax purposes.

(ii) For bills rendered on or after January 1, 2004, that include telecommunications services in a bundled transaction, if the nonitemized price is attributable to properties or services that are taxable and nontaxable, the portion of the price attributable to any nontaxable property or service is subject to tax unless the provider can reasonably identify that portion from its books and records kept in the regular course of business for purposes other than sales taxes;

(4) fair market value of tangible personal property brought into this State, by the manufacturer thereof, for storage, use, or consumption in this State by the manufacturer.

(5) gross proceeds accruing or proceeding from the sale or recharge at retail for prepaid wireless calling arrangements.

(a) "Prepaid wireless calling arrangements" means communication services that:

(i) are used exclusively to purchase wireless telecommunications;

(ii) are purchased in advance;

(iii) allow the purchaser to originate telephone calls by using an access number, authorization code, or other means entered manually or electronically; and

(iv) are sold in units or dollars which decline with use in a known amount.

(b) All charges for prepaid wireless calling arrangements must be sourced to the:

(i) location in this State where the over-the-counter sale took place;

(ii) shipping address if the sale did not take place at the seller's location and an item is shipped; or

(iii) either the billing address or location associated with the mobile telephone number if the sale did not take place at the seller's location and no item is shipped.

(6) gross proceeds accruing or proceeding from the sale or renewal of warranty, maintenance, or similar service contracts for tangible personal property, whether or not such contracts are purchased in conjunction with the sale of tangible personal property.

(7) gross proceeds accruing or proceeding from the charges for computer software.

(8) gross proceeds accruing or proceeding from the charges for digital products.

(9) gross proceeds accruing or proceeding from the charges for data processing.

(C) When a taxpayer is liable for the use tax imposed by this section on tangible personal property purchased in another state, upon which a sales or use tax was due and paid in the other state, the amount of the sales or use tax due and paid in the other state is allowed as a credit against the use tax due this State, upon proof that the sales or use tax was due and paid in the other state. If the amount of the sales or use tax paid in the other state is less than the amount of use tax imposed by this article, the user shall pay the difference to the department.

**15. SECTION 12-36-1340.**

Each seller making retail sales of tangible personal property for storage, use, or other consumption in this State shall collect and remit the tax in accordance with this chapter and shall obtain from the department a retail license as provided in this chapter, if the retail seller:

(1) maintains a place of business;

(2) qualifies to do business;

(3) solicits and receives purchases or orders by an agent, independent contractor, or representative ~~or salesman~~; or

(4) distributes catalogs, or other advertising matter, and by reason of that distribution receives and accepts orders from residents within the State.

**16. SECTION 12-36-2110.** Maximum tax on sale or lease of certain items; calculation of tax on manufactured homes; maximum tax on purchase of certain property by religious organizations; maximum tax on sale or use of machinery for research and development.

Section 1:

(A) The maximum tax imposed by this chapter is ~~three~~ six hundred dollars ~~in 2011; one thousand~~ dollars in 2012 and one thousand two hundred dollars in 2013 for each sale made ~~after June 30, 1984, or lease executed after July 1, 2011~~ August 31, 1985 of each:

(1) aircraft, including unassembled aircraft which is to be assembled by the purchaser, but not items

to be added to the unassembled aircraft;

(2) motor vehicle;

(3) motorcycle;

(4) boat;

(5) trailer or semitrailer, pulled by a truck tractor, as defined in Section 56-3-20, and horse trailers, but not including house trailers or campers as defined in Section 56-3-710 or a fire safety education trailer;

(6) recreational vehicle, including tent campers, travel trailer, park model, park trailer, motor home, and fifth wheel; or

(7) railroad car, monorail car and locomotive; or

(8) vessel or barge.

~~(7) self-propelled light construction equipment with compatible attachments limited to a maximum of one hundred sixty net engine horsepower.~~

In the case of a lease, the total tax rate required by law applies on each payment until the total tax paid equals ~~three hundred dollars~~ the capped amount. Nothing in this section prohibits a taxpayer from paying the total tax due at the time of execution of the lease, or with any payment under the lease. To qualify for the tax limitation provided by this section, a lease must be in writing and specifically state the term of, and remain in force for, a period in excess of ninety continuous days.

~~(B) For the sale of a manufactured home, as defined in Section 40-29-20, the tax is calculated as follows:~~

~~(1) subtract trade-in allowance from the sales price;~~

~~(2) multiply the result from item (1) by sixty-five percent; \_\_\_\_\_~~

~~(3) if the result from item (2) is no greater than six thousand dollars, multiply by five percent for the amount of tax due;~~

~~(4) if the result from item (2) is greater than six thousand dollars, the tax due is three hundred dollars plus two percent of the amount greater than six thousand dollars.~~

~~However, a manufactured home is exempt from any tax in excess of three hundred dollars that may be due as a result of the calculation in item (4) if it meets these energy efficiency levels: storm or double pane glass windows, insulated or storm doors, a minimum thermal resistance rating of the insulation only of R-11 for walls, R-19 for floors, and R-30 for ceilings. However, variations in the energy efficiency levels for walls, floors, and ceilings are allowed and the exemption on tax due above three hundred dollars applies if the total heat loss does not exceed that calculated using the levels of R-11 for walls, R-19 for floors, and R-30 for ceilings. The edition of the American Society of Heating, Refrigerating, and Air Conditioning Engineers Guide in effect at the time is the source for heat loss calculation. Notwithstanding the provisions of this subsection, from July 1, 2009, to July 1, 2019, a manufactured home is exempt from any tax that may be due as a result of the calculation in this subsection if it has been designated by the United States Environmental Protection Agency and the United States Department of Energy as meeting or exceeding each~~

~~agency's energy saving efficiency requirements or has been designated as meeting or exceeding such requirements under each agency's ENERGY STAR program. The dealer selling the manufactured home must maintain records, on forms provided by the State Energy Office, on each manufactured home sold that meets the energy efficiency levels provided for in this subsection. These records must be maintained for three years and must be made available for inspection upon request of the Department of Consumer Affairs or the State Energy Office. The maximum tax authorized by this subsection does not apply to a single family modular home regulated pursuant to Chapter 43, Title 23.~~

~~(9) For the sale of each musical instrument, or each piece of office equipment, purchased by a religious organization exempt under Internal Revenue Code Section 501©(3), the maximum tax imposed by this chapter is three hundred dollars. The musical instrument or office equipment must be located on church property and used exclusively for the organizations exempt purpose. The religious organization must furnish to the seller an affidavit on forms prescribed by the department. The affidavit must be retained by the seller.~~

~~(D) Repealed.~~

~~(E) Equipment provided, supplied, or installed on a firefighting vehicle is included with the vehicle for purposes of calculating the maximum tax due under this section.~~

Section 2: Subsections (A)(2) and (A)(3) are repealed in 2014.

Comment: The TRAC Committee took testimony on the amount of the sales tax cap in southeastern states and what items (boats, planes, mobile homes, trailers, light construction equipment, equipment installed after the sale on firefighting equipment) are covered by caps; the caps above are similar to the sales tax caps and highways fees in North Carolina.

## 17. SECTION 12-36-2120. Exemptions from sales tax.

(A) The major sales and use tax exemptions are found in sections 12-36-2120. The amendment does as follows.

Exempted from the taxes imposed by this chapter are the gross proceeds of sales, or sales price of:

- (1) tangible personal property or receipts of any business which the State is prohibited from taxing by the Constitution or laws of the United States of America or by the Constitution or laws of this State;
- (2) ~~tangible personal property sold to the federal government;~~
- (3)
  - (a) textbooks, books, magazines, periodicals, newspapers, and access to on-line information systems used in a course of study in primary and secondary schools and institutions of higher learning or for students' use in the school library of these schools and institutions;
  - (b) books, magazines, periodicals, newspapers, and access to on-line information systems sold to publicly supported state, county, or regional libraries;

Items in this category may be in any form, including microfilm, microfiche, and CD ROM; ~~however, transactions subject to tax under Sections 12-36-910(B)(3) and 12-36-1310(B)(3) do not fall within this exemption;~~

- (4) livestock. "Livestock" is defined as domesticated animals ~~customarily~~ raised on South Carolina farms for use primarily as beasts of burden, ~~or food for resale or~~ breeding purposes, or for sale and certain mammals when raised for their pelts or fur. Animals such as dogs, cats, reptiles, fowls (except baby chicks and poult), and animals of a wild nature, are not considered livestock;
- (5) ~~feed used for the production and maintenance of poultry and livestock;~~

Comment: recodified in (6).

- (6) (a) insecticides, chemicals, fertilizers, soil conditioners, seeds, ~~or seedlings, or~~ nursery stock, or fuel (including natural gas and liquefied petroleum gas) used solely in the production—producing, curing or irrigating for sale of farm, dairy, grove, vineyard, or garden products, or for sale in the cultivation of poultry or livestock feed; and
- (b) feed used in the production and maintenance of poultry and livestock; and
- (c) fuel used by cotton gins to manufacture tangible personal property for sale.
- (7) ~~containers and labels used in:~~
  - (a) ~~preparing agricultural, dairy, grove, or garden products for sale, or~~
  - (b) ~~preparing turpentine gum, gum spirits of turpentine, and gum resin for sale.~~

~~For purposes of this exemption, containers mean boxes, crates, bags, bagging, ties, barrels, and other containers;~~

- (8) newsprint paper, ~~newspapers~~, and religious publications, including the Holy Bible and the South Carolina Department of Agriculture's The Market Bulletin;
- (9) coal, or coke or other fuel sold to manufacturers, electric power companies, and transportation companies for:
  - (a) use or consumption in the production of by-products;
  - (b) the generation of heat or power used in manufacturing or recycling, tangible personal property for sale. For purposes of this item, "manufacturer" or "manufacturing" includes the activities of a processors and recyclers. As used in this subitem, "recyclers" means persons operating an industrial facility where materials that otherwise would

become solid waste are collected, separated, or processed for use in the form of raw materials or products for sale. A recycler does not include a person operating a facility whose purpose is retailing, wholesaling, distributing, or some other non-manufacturing purpose;

- (c) the generation of electric power or energy for use in manufacturing tangible personal property for sale; or
  - (d) the generation of motive power for transportation. For the purposes of this exemption, "manufacturer" or "manufacturing" includes the activities of mining and quarrying;
- (10) (a) meals or foodstuffs used in furnishing meals to school children, if the sales use are within school buildings and are not for profit;
- (b) meals or foodstuffs provided to elderly or disabled persons at home by nonprofit organizations that receive only charitable contributions in addition to sale proceeds from the meals;
  - (c) food stuffs, either prepared or packaged for the homeless or needy that are sold to nonprofit organizations, or food stuffs that are subsequently sold or donated by a nonprofit organization to another nonprofit organization. This subitem is only applicable to food stuffs which are eligible for purchase under the USDA food stamp program;
  - (d) meals or foodstuffs prepared or packaged that are sold to public or nonprofit organizations for congregate or in-home service to the homeless or needy or disabled adults over eighteen years of age or individuals over sixty years of age. This subitem only applies to meals and foodstuffs eligible for purchase under the USDA food stamp program.
- (11) (a) toll charges for the transmission of voice or messages between telephone exchanges for call centers with two hundred and fifty or more employees at a single location
- (b) ~~charges for telegraph messages;~~
  - (c) ~~earlier access charges and customer access line charges established by the Federal Communications department of the South Carolina Public Service department; and~~
  - (d) electronic transactions involving automatic teller machines
- (12) seventy five percent of the gross proceeds of the sales of water sold by public utilities, if rates and charges are of the kind determined by the Public Service Commission, or water sold by nonprofit corporations organized pursuant to Chapter 36 of Title 33;

- (13) fuel, lubricants, and supplies for use or consumption aboard ships in intercoastal trade or foreign commerce. This exemption does not exempt or exclude from the tax the sale of materials and supplies used in fulfilling a contract for the painting, repair, or reconditioning of ships and other watercraft;
- (14) ~~wrapping paper, wrapping twine, paper bags, and containers, used incident to the sale and delivery of tangible personal property;~~
- (15) (a) motor fuel, blended fuel, and alternative fuel subject to tax under Chapter 28 of Title 12; however, gasoline used in aircraft is not exempt from the sales use tax;
- (b) If the fuel tax is subsequently refunded under Section 12-28-710, the sales or use tax is due unless otherwise exempt, and the person receiving the refund is liable for the sales or use tax;
- (c) fuels used in farm machinery and farm tractors used for farming purposes; and
- (d) fuels used in commercial fishing vessels.
- (16) farm machinery and their replacement parts and attachments, used in planting, cultivating or harvesting farm crops, including bulk coolers (farm dairy tanks) used in the production and preservation of milk on dairy farms, and machines used in the production of poultry and poultry products on poultry farms, when such products are sold in the original state of production or preparation for sale. This exemption does not include automobiles or trucks;
- (17) machines used in manufacturing, processing, recycling, compounding, mining, or quarrying tangible personal property for sale. "Machines" include the parts of machines, attachments, and replacements used, or manufactured for use, on or in the operation of the machines and which (a) are necessary to the operation of the machines and are customarily so used, or (b) are necessary to comply with the order of an agency of the United States or of this State for the prevention or abatement of pollution of air, water, or noise that is caused or threatened by any machine used as provided in this section. This exemption does not include automobiles or trucks. ~~As used in this item "recycling" means a process by which materials that otherwise would become solid waste are collected, separated, or processed and reused, or returned to use in the form of raw materials or products, including composting, for sale. In applying this exemption to machines used in recycling, the following percentage of the gross proceeds of sale, or sales price of, machines used in recycling are exempt from the taxes imposed by this chapter: As used in this sub-~~  
item, "recycling" means and industrial process in which materials that otherwise would become solid waste are collected, separated, or processed for use in the form of raw materials or products for sale. Recycling under this item does not include any process at a facility whose purpose is retailing, wholesaling, distributing, or some other non-manufacturing purpose;

Fiscal Year of Sale \_\_\_\_\_ Percentage



Fiscal year 1997-98 \_\_\_\_\_ fifty percent

After June 30, 1998 \_\_\_\_\_ one hundred percent

- (18) ~~fuel used exclusively to cure agricultural products;~~

COMMENT: This is recodified in (6).

- (19) ~~electricity used by cotton gins, manufacturers, miners, or quarriers to manufacture, recycle, mine, or quarry tangible personal property for sale. For purposes of this item, "manufacture" or "manufacture" includes the activities of processors and recyclers. As used in this item, "recyclers" means persons operating an industrial facility where materials that otherwise would become solid waste are collected, separated, or processed for use in the form of raw materials or products for sale. A recycler does not include a person operating a facility whose purpose is retailing, wholesaling, distributing, or some other non-manufacturing purpose;~~

COMMENT: Cotton gins are recodified in (6)

- (20) ~~railroad cars, locomotives, and their parts, monorail cars, and the engines or motors that propel them, and their parts;~~

COMMENT: Railroad cars, etc. subject to sales tax caps contained in Section 12-36-2110.

- (21) ~~vessels and barges of more than fifty tons burden;-~~

COMMENT: Subject to sales tax caps contained in Section 12-36-2110.

- (22) Materials necessary to assemble missiles to be used by the Armed Forces of the United States;

- (23) ~~farm, grove, vineyard, and garden products, if sold in the original state of production or preparation for sale, when sold by the producer or by members of the producers immediate family;~~

- (24) supplies and machinery used by laundries, cleaning, dyeing, pressing, or garment or other textile rental establishments in the direct performance of their primary function, but not sales of supplies and machinery used by coin-operated laundromats;

- (25) ~~motor vehicles (excluding trucks) or motorcycles, which are required to be licensed to be used on the highways, sold to a resident of another state, but who is located in South Carolina by reason of orders of the United States Armed Forces. This exemption is allowed only if within ten days of the sale the vendor is furnished a statement from a commissioned officer of the Armed Forces of a higher rank than the purchaser certifying that the buyer is a member of the Armed Forces on active duty and a resident of another state or if the buyer furnishes a leave and earnings~~

~~statement from the appropriate department of the armed services which designates the state of residence of the buyer;~~

- (26) ~~all supplies, technical equipment, machinery, and electricity sold to radio and television stations and cable television systems, for use in producing, broadcasting, or distributing programs. For the purpose of this exemption, radio stations, television stations, and cable television systems are deemed to be manufacturers;~~
- (27) ~~all plants and animals sold to any publicly supported zoological park or garden or to any of its non-profit support corporations;~~

- (28) (a) seventy five percent of the gross proceeds of the sales of medicine and prosthetic devices sold by prescription.\* However, sales of medicine and prosthetic devices (including dental devices) sold by a prescription, and specifically written to Medicare and/or Medicaid beneficiaries, are exempt. prescription medicines used to prevent respiratory syncytial virus, prescription medicines and therapeutic radiopharmaceuticals used in the treatment of rheumatoid arthritis, cancer, lymphoma, leukemia, or related diseases, including prescription medicines used to relieve the efforts of any such treatment, free samples of prescription medicine distributed by its manufacturer and any use of these free samples

*\*Capped at \$100 maximum liability annually (fully refundable income tax credit).*

- (b) prescription medicines used to prevent respiratory syncytial virus, prescription medicines and therapeutic radiopharmaceuticals used in the treatment of rheumatoid arthritis, cancer, lymphoma, leukemia, or related diseases, including prescription medicines used to relieve the efforts of any such treatment, free samples of prescription medicine distributed by its manufacturer and any use of these free samples
- (c) seventy five percent of the gross proceeds of the sales of hypodermic needles, insulin, alcohol swabs, blood sugar testing strips, monolet lancets, dextrometer supplies, blood glucose meters, and other similar diabetic supplies sold to diabetics under the authorization and direction of a physician; However, sales of hypodermic needles, insulin, alcohol swabs, blood sugar testing strips, monolet lancets, dextrometer supplies, blood glucose meters, and other similar diabetic supplies sold to diabetics that are Medicare and/or Medicaid beneficiaries under the authorization and direction of a physician are exempt;
- (d) seventy five percent of the gross proceeds of the sales of disposable medical supplies such as bags, tubing, needles, and syringes, which are dispensed by a licensed pharmacist in accordance with an individual prescription written for the use of a human being by a licensed health care provider, which are used for the intravenous administration of a

prescription drug or medicine, and which come into direct contact with the prescription drug or medicine. This exemption applies only to supplies used in the treatment of a patient outside of a hospital, skilled nursing facility, or ambulatory surgical treatment center

- (e) medicine donated by its manufacturer to a public institution of higher education for research or for the treatment of indigent patients; and
  - (f) seventy five percent of the gross proceeds of the sales of dental prosthetic devices;
  - (g) prescription drugs dispensed to Medicare Part A patients residing in a nursing home are not considered sales to the nursing home and are not subject to the sales tax.
- (29) ~~tangible personal property purchased by persons under a written contract with the federal government when the contract necessitating the purchase provides that title and possession of the property is to transfer from the contractor to the federal government at the time of purchase or after the time of purchase. This exemption also applies to purchases of tangible personal property which becomes part of real or personal property owned by the federal government or, as provided in the written contract, is to transfer to the federal government. This exemption does not apply to purchases of tangible personal property used or consumed by the purchaser;~~
- (30) office supplies, or other commodities, and services resold by the Division of General Services of the State Budget and Control Board to departments and agencies of the state government, if the tax was paid on the divisions original purchase;
- (31) ~~vacation time sharing plans, vacation multiple ownership interests, and exchanges of interests in vacation time sharing plans and vacation multiple ownership interests as provided by Chapter 32 of Title 27, and any other exchange of accommodations in which the accommodations to be exchanged are the primary consideration;~~

Comment: Some states apply a flat fee for time shares for ease of calculation/administration.

- (32) ~~natural and liquefied petroleum gas and electricity used exclusively in the production of poultry, livestock, swine, and milk;~~

Comment: recodified in (6).

- (33) Seventy five percent of the gross proceeds of the sales of electricity, natural gas, fuel oil, kerosene, LP gas, coal, or any other combustible heating material or substance used for residential purposes. Individual sales of kerosene or LP gas of twenty gallons or less by retailers are considered used for residential heating purposes;

- (34) fifty percent of the gross proceeds of the sale of a manufactured home, as defined in Section 40-29-20, or a modular home regulated pursuant to Chapter 43 of Title 23, both on-frame and off-frame. ~~For purposes of this item only, "gross proceeds of sale" equals the manufacturer's net invoice price of the modular home sold, including all accessories built in to the modular home at the time of delivery to the purchaser and not including freight or deposit on returnable materials. The manufacturer shall collect the tax and remit it to the Department of Revenue;~~
- (35) motion picture film sold or rented to or by theaters;
- (36) tangible personal property where the seller, by contract of sale, is obligated to deliver to the buyer, or to an agent or donee of the buyer, at a point outside this State or to deliver it to a carrier or to the mails for transportation to the buyer, or to an agent or donee of the buyer, at a point outside this State;
- (37) petroleum asphalt products, commonly used in paving, purchased in this State, which are transported and consumed out of this State;
- (38) ~~hearing aids, as defined by Section 40-25-20(5);~~
- (39) ~~concession sales at a festival by an organization devoted exclusively to public or charitable purposes, if:~~
  - (a) ~~all the net proceeds are used for those purposes;~~
  - (b) ~~in advance of the festival, its organizers provide the department, on a form it prescribes, information necessary to ensure compliance with this item;~~

~~For purposes of this item, a "festival" does not include a recognized state or county fair;~~

- (40) ~~containers and chassis, including all parts, components, and attachments, sold to international shipping lines which have a contractual relationship with the South Carolina State Ports Authority and which are used in the import or export of goods to and from this State;~~
- (41) ~~items sold by organizations exempt under Section 12-37-220A(3) and (4) and B(5), (6), (7), (8), (12), (16), (19), (22), and (24), if the net proceeds are used exclusively for exempt purposes and no benefit inures to any individual. An organization whose sales are exempted by this item is also exempt from the retail license tax provided in Article 5 of this chapter;~~
- (42) depreciable assets, used in the operation of a business, pursuant to the sale of the business. This exemption only applies when the entire business is sold by the owner of it, pursuant to a written contract and the purchaser continues operation of the business;
- (43) ~~all supplies, technical equipment, machinery, and electricity sold to motion picture companies for use in filming or producing motion pictures for the purposes of this~~

~~item, "motion picture" means any audiovisual work with a series of related images either on film, tape, or other embodiment, where the images shown in succession impart an impression of motion together with accompanying sound, if any, which is produced, adapted, or altered for exploitation as entertainment, advertising, promotional, industrial, or educational media; and a "motion picture company" means a company generally engaged in the business of filming or producing motion pictures;~~

Comment: Duplicative of Film Commission Section

- (44) ~~electricity used to irrigate crops;~~

COMMENT: This is recodified in (6)

- (45) ~~building materials, supplies, fixtures, and equipment for the construction, repair, or improvement of or that become a part of a self-contained enclosure or structure specifically designed, constructed, and used for the commercial housing of poultry or livestock.~~
- (46) War memorials or monuments honoring units or contingents of the Armed Forces of the United States or of the National Guard, including United States military vessels, which memorials or monuments are affixed to public property;
- (47) ~~tangible personal property sold to charitable hospitals predominantly serving children exempt under Section 12-37-220, where care is provided without charge to the patient;~~

COMMENT: Recodified in (63)

- (48) ~~solid waste disposal collection bags required pursuant to the solid waste disposal plan of a county or other political subdivision if the plan requires the purchase of a specifically designated containment bag for solid waste disposal;~~
- (49) ~~postage purchased by a person engaged in the business of selling advertising services for clients consisting of mailing, or directing the mailing of, printed advertising material through the United States mail directly to the client's customers or potential customers or by a person to mail or direct the mailing of printed advertising material through the United States mail to a potential customer;~~
- (50) (a) ~~recycling property;~~
- (b) ~~electricity, natural gas, propane, or fuels of any type, oxygen, hydrogen, nitrogen, or gasses of any type, and fluids and lubricants used by a qualified recycling facility;~~
- (c) ~~tangible personal property which becomes, or will become, an ingredient or component part of products manufactured for sale by a qualified recycling facility;~~

- (d) ~~as used in this item, "recycling property", "qualified recycling facility", and "postconsumer waste material" have the meanings provided in Section 12-6-3460.~~

COMMENT: Recyclers are treated as manufacturers in (9)

- (51) material handling systems and material handling equipment used in the operation of a distribution facility or a manufacturing facility including, but not limited to, racks used in the operation of a distribution facility or a manufacturing facility and either used or not used to support a facility structure or part of it. To qualify for this exemption, the taxpayer shall notify the department before the first month it uses the exemption and shall invest at least thirty-five million dollars at a single site in real or personal property in this State over the five-year period beginning on the date provided by the taxpayer to the department in its notices. The taxpayer shall notify the department in writing that it has met the thirty-five million dollar investment requirement or, after the expiration of the five years, that it has not met the thirty-five million dollar investment requirement. The department may assess any tax due on material handling systems and material handling equipment purchased tax-free pursuant to this item but due the State as a result of the taxpayer's failure to meet the thirty-five million dollar investment requirement. The running of the periods of limitations for assessment of taxes provided in Section 12-54-85 is suspended for the time period beginning with notice to the department before the taxpayer uses the exemption and ending with notice to the department that the taxpayer either has met or has not met the thirty-five million dollar investment requirement.
- (52) Parts and supplies used by persons engaged in the business of repairing or reconditioning aircraft owned by or leased to the federal government or commercial air carriers. This exemption does not extend to tools and other equipment not attached to or that do not become a part of the aircraft.
- (53) ~~motor vehicle extended service contracts and motor vehicle extended warranty contracts.~~
- (54) ~~Clothing and other attire required for working in a Class 100 or better as defined in Federal Standard 290E clean room environment.~~
- (55) ~~Audiovisual masters made or used by a production company in making visual and audio images for first generation reproduction. For purposes of this item:~~
- (a) ~~"Audiovisual master" means an audio or video film, tape, or disk, or another audio or video storage device from which all other copies are made.~~
- (b) ~~"Production company" means a person or entity engaged in the business of making motion picture, television, or radio images for theatrical, commercial, advertising, or education purposes.~~

- (56) Machines used in research and development. "Machines" includes machines and parts of machines, attachments, and replacements which are used or manufactured for use on or in the operation of the machines, which are necessary to the operation of the machines, and which are customarily used in that way. "Machines used in research and development" means machines used directly and primarily in research and development, in the experimental or laboratory sense, of new products, new uses for existing products, or improvement of existing products.
- (57) Sales taking place during a period beginning 12:01 a.m. on the first Friday in August and ending at twelve midnight the following Sunday of the following school supplies or clothes for children in grades K-12 to be used or worn in the classroom or at home with respect to school assignments:
- (i) Clothing strictly limited to outwear garments such as shirts, shorts, pants (this excludes clothing items such as, but not limited to, wedding and formal wear dresses, tuxedos, shoes and footwear);
  - (ii) ~~clothing accessories including, but not limited to, hats, scarves, hosiery, and handbags;~~
  - (iii) ~~footwear;~~
  - (i) ~~(iv) school supplies including, but not limited to, pens, pencils, paper, binders, notebooks, books, bookbags, lunchboxes, and calculators~~ and similar school supplies; and
  - (ii) ~~(v)~~ computers, printers and printer supplies, and computer software;
  - ~~(vi) bath wash clothes, blankets, bed spreads, bed linens, sheet sets, comforter sets, bath towels, shower curtains, bath rugs and mats, pillows and pillow cases~~
- (b) The exemption allowed by this item does not apply to:
- (i) sales of jewelry, cosmetics, eyewear, wallets, watches;
  - (ii) sales or rentals of furniture, appliances, toiletries, bicycles, bath wash clothes, blankets, bed spreads, bed linens, sheet sets, comforter sets, bath towels, shower curtains, bath rugs and mats, pillows, pillow cases or similar items;
  - (iii) a sale of an item placed on layaway or similar deferred payment and delivery plan however described;
  - (iv) sales or rental of clothing, clothing accessories or footwear;
  - (i) (v) a sale or lease of an item for use in a trade or business.

- (c) Before July tenth at each year, the department shall publish and make available to the public and retailers a list of those ~~articles~~ school supplies qualifying for the exemption allowed by this item.
- (58) ~~cooperative direct mail promotional advertising materials and promotional maps, brochures, pamphlets, or discount coupons by nonprofit chambers of commerce or convention and visitor bureaus who are exempt from income taxation pursuant to Internal Revenue Code Section 501(c) delivered at no charge by means of interstate carrier, a mailing house, or a United States Post Office to residents of this State from locations both inside and outside the State. For purposes of this item, "cooperative direct mail promotional advertising materials" means "discount coupons, advertising leaflets, and similar printed advertising, including any accompanying envelopes and labels which are distributed with promotional advertising materials of more than one business in a single package to potential customers, at no charge to the potential customer, of the businesses paying for the delivery of the material.~~
- (59) ~~facilities for transmitting electricity that is transferred, sold, or exchanged by electrical utilities, municipalities, electric cooperatives, or political subdivisions to a limited liability company which is subject to regulation under the Federal Power Act (16 U.S.C. Section 791(a)) and which is formed to operate or to take functional control of electric transmission assets as defined in the Federal Power Act;~~
- (60) a lottery ticket sold pursuant to Chapter 150 of Title 59;
- (61) copies of or access to legislation or other informational documents provided to the general public or any other person by a legislative agency when a charge for these copies is made reflecting the agency's cost of the copies. Funds received as revenue from the sale of materials or as reimbursements for the cost of providing certain supplies or services or refunds must be remitted to the State Treasurer as collected, but in no event later than twelve working days from the date of the receipt of any such funds.
- (62) fifty percent of the gross proceeds of the rental or lease of portable toilets.
- (63) prescription and over-the-counter medicines and medical supplies, including diabetic supplies, diabetic diagnostic equipment, and diabetic testing equipment, sold to a health care clinic that provides medical or dental care without charge to all of its patients or sold to a charitable hospital exempt under Section 12-37-220 that provides medical ~~and~~ or dental care without charge to all of its patients.
- (64) ~~Sweetgrass baskets made by artists of South Carolina using locally grown sweetgrass.~~
- (65) (a) computer equipment, as defined in subitem (c) of this item, used in connection with a technology intensive facility as defined in Section 12-6-3360(M)(14)(b), where



- (i) the taxpayer invests at least three hundred million dollars in real or personal property or both comprising or located at the facility over a five-year period;
- (ii) the taxpayer creates at least one hundred new full-time jobs at the facility during that five-year period, and the average cash compensation of at least one hundred of the new full-time jobs is one hundred fifty percent of the per capita income of the State according to the most recently published data available at the time the facility's construction starts; and
- (iii) at least sixty percent of the three hundred million dollars minimum investment consists of computer equipment;

(b) computer equipment, as defined in subitem (c) of this item, used in connection with a manufacturing facility, where:

- (i) the taxpayer invests at least seven hundred fifty million dollars in real or personal property or both comprising or located at the facility over a seven-year period; and
- (ii) the taxpayer creates at least three thousand eight hundred full-time new jobs at the facility during that seven-year period.

As used in this subitem, "taxpayer" includes a person who bears a relationship to the taxpayer as described in Section 267(b) of the Internal Revenue Code.

(c) For the purposes of this item, "computer equipment" means original or replacement servers, routers, switches, power units, network devices, hard drives, processors, memory modules, motherboards, racks, other computer hardware and components, cabling, cooling apparatus, and related or ancillary equipment, machinery, and components, the primary purpose of which is to store, retrieve, aggregate, search, organize, process, analyze, or transfer data or any combination of these, or to support related computer engineering or computer science research.

(d) These exemptions apply from the start of the investment in or construction of the technology intensive facility or the manufacturing facility. The taxpayer shall notify the Department of Revenue of its use of the exemption provided in this item on or before the first sales tax return filed with the department after the first such use. Upon receipt of the notification, the department shall issue an appropriate exemption certificate to the taxpayer to be used for qualifying purposes under this item. Within six months after the fifth anniversary of the taxpayer's first use of this exemption, the taxpayer shall notify the department in writing that it has or has not met the investment and job requirements of this item by the end of that five-year period. Once the department certifies that the taxpayer has met the investment and job requirements, all subsequent purchases of or investments in computer equipment, including to replace originally deployed computer equipment or to implement future

expansions, likewise shall qualify for the exemption described above, regardless of when the taxpayer makes the investments.

(e) The department may assess any tax due on property purchased tax free pursuant to this item but due the State if the taxpayer subsequently fails timely to meet the investment and job requirements of this item after being granted the exemption; for purposes of determining whether the taxpayer has timely satisfied the investment requirement, replacement computer equipment counts toward the investment requirement to the extent that the value of the replacement computer equipment exceeds the cost of the computer equipment so replaced, but, provided the taxpayer otherwise qualifies for the exemption, the full value of the replacement computer equipment is exempt from sales and use tax. The running of the periods of limitation within which the department may assess taxes provided pursuant to Section 12-54-85 is suspended during the time period beginning with the taxpayer's first use of this exemption and ending with the later of the fifth anniversary of first use or notice to the department that the taxpayer either has met or has not met the investment and job requirements of this item;

- (66) electricity used by a technology intensive facility as defined in Section 12-6-3360(M)(14)(b) and qualifying for the sales tax exemption provided pursuant to item (65) of this section, and the equipment and raw materials including, without limitation, fuel used by such qualifying facility to generate, transform, transmit, distribute, or manage electricity for use in such a facility. The running of the periods of limitation within which the department may assess taxes pursuant to Section 12-54-85 is suspended during the same time period it is suspended in item (65)(d) of this section.
- (67) effective July 1, 2011, construction materials used in the construction of a new or expanded single manufacturing or distribution facility, or one that serves both purposes, with a capital investment of at least one hundred million dollars in real and personal property at a single site in the State over an eighteen-month period, or effective November 1, 2009, construction materials used in the construction of a new or expanded single manufacturing facility where:
  - (i) the taxpayer invests at least seven hundred fifty million dollars in real or personal property or both comprising or located at the facility over a seven-year period; and
  - (ii) the taxpayer creates at least three thousand eight hundred full-time new jobs at the facility during that seven-year period.

To qualify for this exemption, the taxpayer shall notify the department before the first month it uses the exemption and shall make the required investment over the applicable time period beginning on the date provided by the taxpayer to the department in its notices. The taxpayer shall notify the department in writing that it has met the investment requirement or, after the expiration of the applicable time period, that it has not met the investment requirement. The department may assess

any tax due on construction materials purchased tax free pursuant to this subitem but due the State as a result of the taxpayer's failure to meet the investment requirement. The running of the periods of limitations for assessment of taxes provided in Section 12-54-85 is suspended for the time period beginning with notice to the department before the taxpayer uses the exemption and ending with notice to the department that the taxpayer either has met or has not met the investment requirement.

As used in this subitem, "taxpayer" includes a person who bears a relationship to the taxpayer as described in Section 267(b) of the Internal Revenue Code.

- (68) ~~any property sold to the public through a sheriff's sale as provided by law.~~
- (69) the sale or renewal of a warranty, maintenance, or similar service contract for tangible personal property if the sale or purchase of the tangible personal property covered by the contract is exempt or excluded from the tax imposed by this chapter.
- (70)
  - (a) ~~gold, silver or platinum bullion, or any combination of this bullion;~~
  - (b) ~~coins that are or have been legal tender in the United States or other jurisdiction; and~~
  - (c) ~~currency.~~

~~The department shall prescribe documentation that must be maintained by retailers claiming the exemption allowed by this item. This documentation must be sufficient to identify each individual sale for which the exemption is claimed.~~

- (71) ~~any device, equipment, or machinery operated by hydrogen or fuel cells, any device, equipment, or machinery used to generate, produce, or distribute hydrogen and designated specifically for hydrogen applications or for fuel cell applications, and any device, equipment, or machinery used predominantly for the manufacturing of, or research and development involving hydrogen or fuel cell technologies. For purposes of this item:~~
  - (a) ~~"fuel cells" means a device that directly created electricity using hydrogen (or hydrocarbon-rich fuel) and oxygen through an electro-chemical process; and~~
  - (b) ~~"research and development" means laboratory, scientific, or experimental testing and development of hydrogen or fuel cell technologies. Research and development does not include efficiency surveys, management studies, consumer surveys, economic surveys, advertising, or promotion, or research in connection with literary, historical, or similar projects.~~
- (72) ~~any building materials used to construct a new or renovated building or any machinery or equipment located in a research district. However, the amount of the sales tax that would be assessed without the exemption provided by this section must be invested by the taxpayer in hydrogen or fuel cell machinery or equipment~~

~~located in the same research district within twenty-four months of the purchase of an exempt item.~~

~~"Research district" means land owned by the State, a county, or other public entity that is designated as a research district by the University of South Carolina, Clemson University, the Medical University of South Carolina, South Carolina State University, or the Savannah River National Laboratory.~~

- (73) an amusement park ride and any parts, machinery, and equipment used to assemble, operate, and make up an amusement park ride or performance venue facility located in a qualifying amusement park or theme park and any related or required machinery, equipment, and fixtures located in the same qualifying amusement park or theme park.

- (a) To qualify for the exemption, the taxpayer shall meet the investment and job requirements provided in subsubitem (i) of subitem (b) over a five-year period beginning on the date of the taxpayer's first use of this exemption. The taxpayer shall notify the Department of Revenue of its intent to qualify and use this exemption and upon receipt of the notification, the department shall issue an appropriate exemption certificate to the taxpayer to be used for qualifying purposes under this item. Within six months after the fifth anniversary of the taxpayer's first use of this exemption, the taxpayer shall notify the department, in writing, that it has or has not met the investment and job requirements of this item. If the taxpayer fails to meet the investment and job requirements, the taxpayer shall pay to the State the amount of the tax that would have been paid but for this exemption. The running of the periods of limitations for assessment of taxes provided in Section 12-54-85 is suspended for this time period beginning with the taxpayer's first use of this exemption and ending with notice to the department that the taxpayer has or has not met the investment and job requirements of this item.

- (b) For purposes of this item:

- (i) "Qualifying amusement park or theme park" means a park that is constructed and operated by a taxpayer who makes a capital investment of at least two hundred fifty million dollars at a single site and creates at least two hundred fifty full-time jobs and five hundred part-time or seasonal jobs.
- (ii) "Related or required machinery, equipment, and fixtures" means an ancillary apparatus used for or in conjunction with an amusement park ride or performance venue facility, or both, including, but not limited to, any foundation, safety fencing and equipment, ticketing, monitoring device, computer equipment, lighting, music equipment, stage, queue area, housing for a ride, electrical equipment, power transformers, and signage.

- (iii) “Performance venue facility means a facility for a live performance, nonlive performance, including any animatronics and computer-generated performance, and firework, laser, or other pyrotechnic show.
  - (iv) “Taxpayer” means a single taxpayer or, collectively, a group of one or more affiliated taxpayers. An “affiliated taxpayer” means a person or entity related to the taxpayer that is subject to common operating control and that is operated as part of the same system or enterprise. The taxpayer is not required to own a majority of the voting stock of the affiliate.
- (74) fifty percent of the gross proceeds of the sales of durable medical equipment and related supplies:
  - (a) as defined under federal and state Medicaid and Medicare laws;
  - (b) which is paid directly by funds of this State or the United States under the Medicaid or Medicare programs, where state or federal law or regulation authorizing the payment prohibits the payment of the sale or use tax; ~~and~~
  - (c) ~~— sold by a provider who holds a South Carolina retail sales license and whose principal place of business is located in this State.~~
- (75) Fifty nine percent of the proceeds of the sales of unprepared food that lawfully may be purchased with United States Department of Agriculture food coupons. However, the exemption allowed by this item applies only to the state sales and use tax imposed pursuant to this chapter. In addition, all sales purchased under the United States Department of Agriculture’s “Supplemental Nutrition Assistance Program (SNAP) will not be subject to any sales tax.
- (76) ~~sales of handguns as defined pursuant to Section 16-23-10(1), rifles, and shotguns during the forty eight hours of the Second Amendment Weekend. For purposes of this item, the “Second Amendment Weekend” begins at 12:01 a.m. on the Friday after Thanksgiving and ends at twelve midnight the following Saturday.~~
- (77) ~~Energy efficient products purchased for noncommercial home or personal use with a sales price of two thousand five hundred dollars per product or less.~~
  - (a) ~~For the purposes of this exemption, an “energy efficient product” is any energy efficient product for noncommercial home or personal use consisting of any dishwasher, clothes washer, air conditioner, ceiling fan, fluorescent light bulb, dehumidifier, programmable thermostat, refrigerator, door, or window, the energy efficiency of which has been designated by the United States Environmental Protection Agency and the United States Department of Energy as meeting or exceeding each agency’s energy saving efficiency requirements or which have been designated as meeting or exceeding such requirements under each~~

agency's ENERGY STAR program, and gas, oil, or propane water heaters with an energy factor of 0.80 or greater and electric water heaters with an energy factor of 2.0 or greater.

- (b) ~~This exemption shall not apply to purchases of energy efficient products purchased for trade, business, or resale.~~
- (c) ~~The exemption provided in this item applies only to sales occurring during a period commencing at 12:01 a.m. on October 1, 2009, and concluding at 12:00 midnight on October 31, 2009, (National "Energy Efficiency Month") and every year thereafter until 2019.~~
- (d) ~~Each year until 2019, the State Energy Office shall prepare an annual report on the fiscal and energy impacts of the October first through October thirty first exemption and submit the report to the General Assembly no later than January first of the following year.~~
- (e) ~~Beginning with the February 15, 2009, forecast by the Board of Economic Advisors of annual general fund revenue growth for the upcoming fiscal year, and annually after that, if the forecast of that growth then and in any adjusted forecast made before the beginning of the fiscal year equals at least five percent of the most recent estimate by the board of general fund revenues for the current fiscal year, then the exemption allowed by this item shall be allowed for the applicable year. If the February fifteenth forecast or adjusted forecast annual general fund revenue growth for the upcoming fiscal year meets the requirement for the credit, the board promptly shall certify this result in writing to the department.~~

Comment: The Supreme Court struck down the bill which provided the exemption for energy efficient products.

**18. SECTION 12-36-2610.** Discount for timely payment of tax (for retailers).

When a sales or use tax return required by Section 12-36-2570 and a local sales and use tax law administered and collected by the department on behalf of a local jurisdiction is filed and the taxes due on it are paid in full on or before the final due date, including any date to which the time for making the return and paying the tax has been extended pursuant to the provisions of Section 12-54-70, the taxpayer is allowed a discount as follows:

- (1) on taxes shown to be due by the return of less than one hundred dollars, three percent;
- (2) on taxes shown to be due by the return of one hundred dollars or more, ~~two~~ one percent.

In no case is a discount allowed if the return, or the tax on it is received after the due date, pursuant to Section 12-36-2570, or after the expiration of any extension granted by the department. The discount permitted a taxpayer under this section may not exceed ~~three thousand~~ one thousand dollars during any one state fiscal year. However, for taxpayers filing electronically, the discount may not exceed ~~three thousand one hundred~~ one thousand five hundred dollars. A person making sales into this State who cannot be required to register for sales and use tax under applicable law

but who nevertheless voluntarily registers to collect and remit use tax on items of tangible personal property sold to customers in this State is entitled to a discount on returns filed as otherwise provided in this section not to exceed ten thousand dollars during any one state fiscal year.

**19. SECTION 12-36-2620.** Sales and use taxes composed of two components.

The taxes imposed by Sections 12-36-910, 12-36-920(B), 12-36-1310, and 12-36-1320 are composed of two taxes as follows:

- (1) a four percent tax, which must be credited as provided in Section 59-21-1010(A), and
- (2) a one percent tax, which must be credited as provided in Section 59-21-1010(B). ~~The one percent tax specified in this item does not apply to sales to an individual eighty-five years of age or older purchasing tangible personal property for his own personal use, if at the time of sale, the individual requests the one percent exclusion from tax and provides the retailer with proof of age.~~

**20. SECTION 12-36-2630.** Seven percent sales tax on accommodations for transients composed of three components.

The tax imposed by Section 12-36-920(A) is composed of three taxes as follows:

- (1) a four percent tax which must be credited as provided in Section 59-21-1010(A); and
- (2) a one percent tax, which must be credited as provided in Section 59-21-1010(B). ~~The one percent tax specified in this item (2) does not apply to sales to an individual eighty-five years of age or older purchasing tangible personal property for his own personal use, if at the time of sale, the individual requests the one percent exclusion from tax and provides the retailer with proof of age;~~ and

(3) a two percent local accommodations tax, which must be credited to the political subdivisions of the State in accordance with Chapter 4 of Title 6. The proceeds of this tax, less the department's actual increase in the cost of administration and the expenses of the Tourism Expenditure Review Committee established pursuant to Section 6-4-35, must be remitted quarterly to the municipality or the county in which it is collected. The two percent tax provided by this item may not be increased except upon approval of two-thirds of the membership of each House of the General Assembly. However, the tax may be decreased or repealed by a simple majority of the membership of each House of the General Assembly.

The tax imposed by Section 12-36-920 must be billed and paid in a single item listed as tax, without itemizing the taxes referred to in this section.

**21. SECTION 12-36-2640.** Casual excise tax composed of two components.

The tax imposed by Section 12-36-1710 is composed of two taxes as follows:

- (1) a four percent tax which must be credited to the general fund of the State; and
- (2) a one percent tax which must be credited as provided in Section 59-21-1010(B). ~~The one~~

~~percent tax specified in this item does not apply to the issuance of certificates of title or other proof of ownership to an individual eighty-five years of age or older titling or registering a motor vehicle, motorcycle, boat, motor, or airplane for his own personal use, if at the time of sale, the individual requests the one percent exclusion from tax and provides the retailer with proof of age.~~

**22. ~~SECTION 12-36-2646.~~ Retailers to post notice of tax exclusion available to individuals 85 years of age or over; penalties.**

~~(A) Retailers shall post a sign at each entrance or each cash register which advises individuals eighty-five years of age or older of the one percent exclusion from tax available under Sections 12-36-2620, 12-36-2630, and 12-36-2640.~~

~~(B) A retailer who fails to post the required signs is subject to a penalty of up to one hundred dollars for each month or portion of the month the sign or signs are not posted. Continued failure to post the signs after a written warning from the Department of Revenue may result in revocation of the retailer's retail license in accordance with Section 12-54-90. Failure to post the signs does not give rise to a cause of action by an individual eighty-five years of age or older who failed to request the exclusion and provide proof of age at the time of sale.~~

**23. SECTION 12-11-30. Income tax to be instead of other taxes; exceptions.**

The income tax provided for in this chapter is instead of all other taxes on banks, except the sales and use tax, the deed recording fee, and taxes on real property. The real property of a bank is taxed in the place where it is located.

**24. SECTION 12-13-50. Tax shall be in lieu of other taxes; exceptions.**

The income tax provided in this chapter shall be in lieu of any and all other taxes on such associations, except sales and use taxes, deed recording fees, and taxes on real property. The real property of any such association shall be taxed in the place where it may be located, the same as the real property of individuals.

**25. SECTION 13-17-90. Exemption from taxation.**

It is found and declared that the project authorized by this chapter is in all respects for the benefit of all the people of the State, for the improvement of their welfare and material prosperity, and is a public purpose and a corporation owned completely by the people of the State. The authority shall pay no taxes or assessments including, but not limited to, income tax, ~~sales and use tax~~, and property tax upon any of the property acquired by it or upon any of its activities.; ~~except that the authority is entitled to the above referenced sales and use tax exemption only in (1) transactions to obtain tangible personal property for the authority's own use or consumption, (2) transactions related to authority contracts with governmental entities and nonprofit entities, and (3) transactions related to authority contracts with private, for-profit entities doing business in South Carolina,~~



~~where these contracts do not place these entities in competition with other private, for-profit entities doing business in South Carolina.~~ The securities and other obligations issued by the authority, their transfer, and the income is free from taxation. After payment of necessary operating expenses and all annual debt requirements, the authority shall reinvest net earnings furthering the purposes of this chapter.

Comment: This relates to the South Carolina Research Authority.

**26. SECTION 38-29-150.** Exemption of Association from fees and taxes.

Life and Accident Health Insurance Guaranty Fund: Repeals the sales tax exemption for the Life and Accident Health Insurance Guaranty Fund.

**27. SECTION 38-31-130.** Exemption of Association from fees and taxes.

The association is exempt from payment of all fees and all taxes levied by this State or any of its political subdivisions, except taxes levied on real or personal property, and sales and use taxes.

Comment: This relates to the South Carolina Property and Casualty Insurance Guaranty Association.

**28. SECTION 44-7-2120.** Exemption of districts from State and local taxes.

All properties owned by a district, whether real, personal, or mixed, and the income from the properties, all securities issued by a district and the indentures and other instruments executed as security therefor, all leases made pursuant to the provisions of this article, and all revenues derived from these leases, and all deeds and other documents executed by or delivered to a district, are exempt from any and all taxation by the State or by any county, municipality, or other political subdivision of the State, including, but without limitation, license excise taxes imposed in respect of the privilege of engaging in any of the activities in which a district may engage. A district is not obligated to pay or allow any fees, taxes, or costs to the clerk of court, the Secretary of State, or the register of deeds in any county in respect of its incorporation, the amendment of its certificate of incorporation, or the recording of any document. ~~The gross proceeds of the sale of any property owned by the district and used in the construction and equipment of any health care facilities for a district is exempt from all other and similar excise or sales taxes.~~ It is the express intent of this section that any district authorized under this article incurs no tax liability to the State or any of its political subdivisions except to the extent that sales and use taxes ~~may be payable on the purchases of goods or equipment by the district.~~

Comment: Regional Health Services Districts

## TEMPORARY PROVISOS

House Bill 4567, Part IB, Section 89, Proviso 89.107

### 29. Sales Tax Holiday for 2009 – Handguns, Rifles, and Shotguns

~~This temporary proviso authorizes a Second Amendment Sales Tax Holiday for purchases of handguns (as defined in Code Section 16-23-10(1)), rifles and shotguns on November 27 and 28, 2009.~~

Note: On May 4, 2009, the South Carolina Supreme Court ruled in *The American Petroleum Institute and BP Products North America Inc v. South Carolina Department of Revenue, et al.* (Opinion No. 26645) that Act 338 of 2008 violated the one subject rule of the South Carolina Constitution and was unconstitutional. The Act concerned motor fuel products offered by a terminal (Code Section 12-28-340), a sales tax holiday for handguns, rifles, and shotguns (Code Section 12-36-2120(76)) and a sales tax holiday for energy efficient products (Code Section 12-36-2120(77)). As a result, the sales tax holiday for handguns, rifles, and shotguns, and the sales tax holiday for energy efficient products in Code Sections 12-36-2120(76) and (77), respectively, were eliminated.

House Bill 4657, Part IB, Section 89, Proviso 89.47

### 30. Private Schools - Use Tax Exemption

~~This temporary proviso exempts purchases of tangible personal property for use in private primary and secondary schools, including kindergarten and early childhood education programs, from the use tax if the school is exempt from income taxes under Internal Revenue Code Section 501(c)(3). This exemption does not apply to purchases subject to sales tax. See SC Regulation 117-334 for information as to which tax, the sales tax or the use tax, applies when goods are shipped into South Carolina. This use tax exemption is also applicable to purchases occurring after 1995; however, no refund is due any taxpayer on purchases exempted by this provision.~~

Services:

i) Personal Care:

(1) Salons, Hair Care, and Nail Care Services:

(1) "Beauty salon" or salon means a building or any place, or part of a place or building including, but not limited to, a rental booth, in which cosmetology is performed on the general public for compensation.

(2) "Cosmetology" means engaging in any of these practices or a combination of these practices when done for compensation either directly or indirectly:

(a) arranging, styling, thermal curling, chemical waving, pressing, shampooing, cutting, shaping, chemical bleaching, chemical coloring, chemical relaxing, or similar work, upon the hair, wig, or hairpiece of any person, by any means, with hands or mechanical or electrical apparatus or appliances;

(b) using cosmetic preparations, make-up, antiseptics, lotions, creams, chemical preparations on, or otherwise, or waxing, tweezing, cleansing, stimulating, manipulating, beautifying, or similar work including hair removal, on the scalp, legs, feet, face, neck, arms, hands; or

(c) manicuring or pedicuring the nails of a person or similar work.

(3) "Cosmetologist" means a person including, but not limited to, an independent contractor, not a student, who is licensed to practice cosmetology.

(2) Day Spa Services – Facials, Makeovers, etc

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Definition of Facials and Makeovers: The subject of manual, electrical and chemical facials shall include, but is not limited to the following techniques and procedures: Manual Facials including cleansing, scientific manipulations, packs, and masks. Electrical Facials include the use of electrical modalities, dermal lights and electrical apparatus, for facials and skin care purposes; however, machines capable of producing an electrical current shall not be used to stimulate so as to contract, or for the purpose of contracting, the muscles of the body or face. Chemical Facials include chemical skin peels, packs, masks and scrubs.

### (3) Exercise Facility Providers

"Physical fitness services" means access to facilities or services for a fee for the development of physical fitness through exercise or weight control. The term includes the facilities and services of health or exercise centers, clubs, studios, or classes; health spas; weight control centers, clinics, or studios; figure salons; tanning centers; and athletic or sport clubs. It does not include rehabilitative therapy administered by a licensed physical therapist.

### (4) Massage

(1) "Massage/bodywork therapist" means a person who administers massage/bodywork therapy for compensation.

(2) "Massage/bodywork therapy" means the application of a system of structured touch of the superficial tissues of the human body with the hand, foot, arm, or elbow whether or not the structured touch is aided by

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hydrotherapy, thermal therapy, a massage device, human hands, or the application to the human body of an herbal preparation.

(3) "Massage device" means a mechanical device which mimics or enhances the actions possible by the hands by means of vibration.

(4) "Thermal therapy" means the use of ice or a heat lamp or moist heat on superficial tissues.

#### (5) Tanning Facilities

(1) "Tanning facility" means a location, place, area, structure, or business or a part of a location, place, area, structure, or business which provides consumers access to tanning equipment for a fee.

(2) "Tanning Equipment" includes ultraviolet or other lamps and equipment containing these lamps, or equipment which disperses of skin coloring chemicals, either of which is intended to induce skin tanning through the irradiation of any part of the living human body with ultraviolet radiation or skin coloring chemicals.

#### (6) Weight Loss Salons and Weight Counselors

Any facility, independent contractor, or individual who charges a fee for individual or group support meetings, the development of personalized weight loss goals and weight loss plans, or manages and supports lifelong life style changes related to a person's body weight.

#### (7) Piercing:

(1) "Piercing" means the creation of an opening in the body of a human being for a fee by a "facility" or "technician" as defined below so as to create a

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permanent hole for the purpose of inserting jewelry or other decoration. This includes, but is not limited to, piercing of an ear, lip, tongue, nose, or eyebrow. "Body piercing" for the purpose of this chapter does include piercing an ear lobe with a disposable, single-use stud or solid needle that is applied using a mechanical device to force the needle or stud through the ear lobe.

(2) "Body piercing facility" means any room, space, location, area, structure, or business, or any part of any of these places, where body piercing is practiced or where the business of body piercing is conducted.

(3) "Body piercing technician" means a person who practices body piercing and who meets the requirements of this chapter.

**(8) Tattooing**

(1) Any "facility" or "artist" as defined below that charges a fee for "Tattoo or tattooing" which means indelibly marking or coloring the skin by subcutaneous introduction of nontoxic dyes or pigments.

(2) "Tattoo or piercing facility or parlor" means any room, space, location, area, structure, or business, or any part of any of these places, where tattooing is practiced or where the business of tattooing is conducted.

(3) "Tattoo artist" means a person who practices body tattooing and who meets the requirements of this chapter.

**ii) Photo Finishing**

Any person, independent contractor or retail establishment engaged in any of the following acts for a fee; developing camera film of any type, printing photographs

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(including photographs in electronic or digital form), recording video or photos (e.g. videographers and photographers) or converting between any of these or similar types of media.

### iii) Residential and Commercial Cleaning, Maintenance, and Repairs

#### (1) Carpets and Floors

(1) The term “carpet” or “floor” includes but is not limited to: cloth from synthetic or natural substances, carpets, rugs, mats, wood paneling, and matting; linoleum, other materials for covering existing floors and wall hangings.

(2) Cleaning of “carpets” or any other type of flooring includes, but is not limited to, the preparation or application manually or by machine for a fee to re-finish, polish, scour, cause abrasive preparations, soap, dye, perfume, lacquer, preserve, resin, or remove soil and or stains or colorings. This provision applies to in home or out of home services.

#### (2) Windows

(1) The term window includes, but is not limited to an opening constructed in a wall, roof or any other manmade structure that functions to admit light or air to or through an enclosure, and is often framed and spanned with glass mounted to permit opening and closing, or a framework enclosing or encasing a pane of glass (e.g. French or sliding glass doors) for such an opening, or a pane of glass or similar material enclosed in such a framework.

(2) Cleaning of “windows” includes, but is not limited to, the preparation or application manually or by machine for a fee to polish, scour, cause abrasive

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preparations, soap, dye, lacquer, preserve, resin, or remove soil, stains, colorings or any other substance.

### (3) Commercial Janitorial Services

“Commercial janitorial services” include business entities, individuals, or private contractors who for a fee attend to the maintenance or cleaning of any part of a commercial or industrial building, or any fixture or equipment used or housed by such places.

### (4) Furniture and Upholstery Cleaning, Repair and Refinishing

(1) Furniture includes, but is not limited to, the movable articles in a room or an establishment that make it fit for living or working, lighting fixtures, mirrors, picture frames; and other similar articles made of wood, cork, reeds, cane, wicker, horn, bone, ivory, whalebone, shell, amber, mother-of-pearl, meerschaum, celluloid, substitutes for all these materials, or of plastics

(2) Cleaning, refinishing and reupholstering includes, but is not limited to, the application either manually or by machine for a fee of paints, varnishes, lacquers, preservatives against rust and against deterioration of wood, coloring matters, dyestuffs, resins, metals in foil and powder form for painters and decorators, cloth, stuffing, leather, or other substances commonly used in “furniture” as defined above.

### (5) Swimming Pool and Hot Tub Cleaning and Repair

(1) "Swimming Pool" means an artificial structure used to impound water to provide for such recreational uses as bathing, swimming, diving, wading, spraying, sliding, floating, rafting, or other similar usage.



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(2) “Hot Tub” means a tub or pool made of ceramic, acrylic, wood, or another substance and filled with hot or cool water in which one or more bathers may soak, often having jets of warm water that can be directed toward a body part as for therapeutic purposes (e.g. spas, saunas, whirlpools).

(3) Cleaning or maintenance of “swimming pools” and “hot tubs” includes, but is not limited to, the preparation or application manually or by machine for a fee to polish, scour, cause abrasive preparations, soap, dye, lacquer, preserve, resin, seal, sanitize, sustain a desire water quality, or remove soil, stains, colorings or any other substance.

#### **iv) Climate Control System or Infrastructure Maintenance and Repair**

“Climate Control Systems and Infrastructure” include any machine, boiler, pump, furnace, or duct system used to heat or cool water, steam, or air, used for heating, ventilating, air conditioning, climate control, thermal comfort, acceptable indoor air quality, humidity control or the maintain pressure relationships between spaces.

“Repair,” “labor,” cleaning and maintenance mean to charge a fee for planning changes or improvements, inspection costs, connection or hookup charges, installation or physical improvements, upgrading, updating, expanding, or replacing existing capital improvements to provide better service or improve the functionality of a tangible good; and costs incurred for construction, reconstruction, system improvements, restoration to original form including design, acquisition, engineering or similar actions applied to a tangible good.

#### **v) Residential and Commercial Property Pest Control and Exterminating**

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“Pest Control” includes, but is not limited to, charging any fees for the services or labor involved in eliminating or controlling the presence, growth, or spread of ants, crickets, spiders, cockroaches, rodents, carpet beetles, flies of any type, mosquitoes, stinging and biting pests such as bees, hornets, fleas, ticks, beetles, weevils, or other similar pests. This provision does not apply to property that has been statutorily classified as “agricultural” or “timberland” for property taxation purposes.

**vi) Professional Security Systems—consulting, installation, and monitoring**

“Professional Security System” includes a physical or virtual method provided for a fee for providing security for physical property and individuals, information, computing systems, financial, human, food, etc. in commercial or residential settings. Examples include burglar alarms, human security or body guards, monitoring equipment or personnel. Any charges other than those collected for sale of equipment for such services will be considered a sale of services.

**vii) Commercial Art, Graphic Design, Document Preparation**

“Commercial Art, Graphic Design, and Document Preparation” includes the service for a fee of designing print or electronic forms of visual information, as for an advertisement, publication, or website, or preparing similar items in tangible form.

**viii) Miscellaneous Repair, Installation, Labor, and Fabrication**

“Repair” or “labor” means to charge a fee for planning changes or improvements, inspection costs, connection or hookup charges, installation or physical improvements, upgrading, updating, expanding, or replacing existing capital

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improvements to provide better service or improve the functionality of a tangible good; and costs incurred for construction, reconstruction, system improvements, restoration to original form including design, acquisition, engineering or similar actions applied to a tangible good. This definition applies to all items listed in this section.

**ix) Home Appliance Repair**

“Home appliances” are electrical/mechanical appliances which accomplish some household function, such as cooking or cleaning. Examples include, but are not limited to, refrigerators, stoves and ovens, vacuums, water softeners, water heaters, water pumps, dish washers, clothing dryers, washing machines, air or water filtration systems, humidifiers, and mechanical garage door opening mechanisms.

**(1) Home and commercial entertainment equipment and electronic goods repair**

“Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities. Examples of these items include, but are not limited to, televisions, computers, stereos, or radio equipment of any type, cameras, video cameras.

**(2) Computer repair, hardware upgrading, maintenance**

“Repair and Maintenance” in this section also includes the building or configuring new hardware, installing and updating software packages, and creating and maintaining computer networks. These activities include, but are not limited to,

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physical and investigative processes, including trouble shooting procedures, technical support, data recovery, system administration, or information systems.

“Repair and maintenance” can range from correcting a minor setting that is incorrect, removal of spyware, viruses, and tasks such as replacing hardware or an entire software operating system, installing, uninstalling, or reinstalling various software packages.

“Hardware” refers to units limited to a location (desktops, mainframes and supercomputers) and more portable (laptop and handheld) devices, as well as a range of peripherals, including input devices like keyboards, mice, and scanners, output devices like displays, printers, and speakers, and data storage devices ranging from external hard drives to specialized high-storage desktop computers called servers, networking hardware, including routers, switches, fiber optics, and wireless networks.

“Software” in this section refers to a user's data and settings, data, adjusting one or several settings or preference, or programs designed to execute commands or process data.

## **(2) Office Equipment**

A “photocopier or copier” is a machine that makes paper copies of documents and other visual images quickly and cheaply using heat, Verifax, Photostat, carbon paper, mimeograph machines, and other duplicating machines.

“Communication Equipment” includes communication systems or equipment used for internal or external communication, and examples include intercoms, intercommunication system (a communication system linking different rooms

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within a building or ship, etc) P.A. systems, radio, wireless (a communication system based on broadcasting electromagnetic waves), two-way radio communication system (usually microwave); part of a more extensive telecommunication network, telecom equipment, telecom systems, telecommunication equipment, telecommunication systems (a communication system for communicating at a distance), phone system, communication systems (facility consisting of the physical plants and equipment for disseminating information,” communication equipment, booster amplifiers, booster stations, relay links, relay stations, relay transmitters, boosters (an amplifier for restoring the strength of a transmitted signal), fiber-optic transmission system (communication system using fiber optic cables) infrastructure, a communication system consisting of a group of broadcasting stations that all transmit the same programs, any electronic equipment that receives or transmits radio or tv signals.

**(3) Musical Instrument Repair, Tuning, Refinishing, or Refurbishing**

“Musical Instrument” means any of various devices or contrivances that can be used to produce musical tones or sounds including wind, string, brass, percussion instruments, or any type of electronic musical device (e.g. keyboards).

**(4) Sporting Goods Repair, Maintenance, or Custom Fitting and**

**Design (e.g., racket re-stringing, bike, gun repair)**

“Sporting Goods” includes activity specific equipment or clothing needed to participate in a particular sport and includes but is not limited to mean racquets, hunting weapons or firearms of any type, bikes, golf clubs, balls,

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field or environment set-up equipment or transportation for facilitating participation such as manufactured goals, fencing or boundary setting equipment, or golf carts.

**ix) Garment, Jewelry, or Watch Repairs or Changes**

Any adjustment, change, modification, restoration, coloring, cleaning, or custom fitting or design of previously made clothing, shoes, jewelry, watches.

**x) Storage**

**(1) Mini-storage**

"Storage" means space, or defined "units," leased or temporarily rented to individuals for a fee, usually used for storing household goods, or to small businesses, usually storing excess inventory or archived records. The rented spaces, commonly known as "units", are commonly, but not necessarily, secured by the tenant's own lock and key.

**(2) Climate Controlled Storage**

"Climate controlled storage" includes storage facilities as defined above, but also equipment designed to house or store tangible items with the purpose that the facility will control humidity or temperature levels. Similarly, facilities intended to prevent mold or mildew and other moisture problems through other means fall into this category, and other specially tailored facilities for perishable goods such as vegetables, meats, tobacco products, wines, medical products or other chemicals are included.

**(3) Marina, Aircraft, and Vehicle Storage and Towing**

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“Marina” means a facility which provides mooring or dry storage for watercraft for a fee, or someone commercially engaged in the business of towing or pulling another boat by request for a fee.

“Aircraft Storage” includes the temporary, short-term or long-term housing of aircraft in a traditional aircraft hangar or any other type of man made structure.

“Watercraft” includes any thing used or capable of being used as a means of transportation on the water but does not include: a seaplane regulated by the federal government, water skis, aquaplanes, surfboards, windsurfers, tubes, rafts, and similar devices or any thing that does not meet construction or operational requirements of the state or federal government for watercraft.

“Aircraft” includes any structure, vehicle, or machine designed to travel through air supported by its own buoyancy or by the action of air on its surfaces. It includes airplanes, gliders, helicopters, and balloons.

#### **xi) Transportation or Transport Vehicle Maintenance, Repair, and Towing**

“Repair” or “labor” means to charge a fee for waxing, washing, planning changes or improvements, inspection costs, connection or hookup charges, installation or physical improvements, upgrading, updating, expanding, or replacing existing capital or physical improvements to provide better service or improve the functionality of a tangible good; and costs incurred for construction, reconstruction, system improvements, restoration to original form including design, acquisition, engineering or similar actions applied to a tangible good. This definition applies to all items listed in this section.

“Transportation or transport vehicle” includes, automobiles, motorcycles, trucks, limousines, commercial transport trucks, recreational vehicles, watercraft as defined

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above, commercial or military vessels and barges, commercial fishing vessels, railroad cars, locomotives, monorail cars, and the engines or motors that propel them, aircraft as defined above, and their parts.

“Towing” and “ancillary auto services” includes someone commercially engaged in the business of towing, pulling, or loading a vehicle for a fee, and ancillary auto road services such as refueling, battery charging and locksmith services.

**xi) Pet Grooming and Pet Care**

“Pet Grooming” includes, but is not limiting to activities including preening, hygienic activities (caring for physical appearance), hair or fur trimming.

“Pet Care” involves the kenneling or leaving of an animal in the care of another for a fee.

**xii) Publishing and Distribution (newspapers and magazines)**

**xiii) Taxidermy**

“Taxidermy” includes the preparation, stuffing, or mounting the skin of any fish, reptile, amphibian, bird, or mammal for another person for a fee.’

**xiv.) Intra-State Transportation**

“Intra-State Transportation” includes fees paid directly to a provider or transportation or for a similar voucher (e.g. tickets, tokens, etc) in order to gain transportation by a public or private taxi, bus, limousine, aircraft, or other “transport vehicle” as defined above.



## Intangibles:

### i) Digital Goods

The major changes in this area regard taxing digital products and downloadable software. Examples of digital products that would be taxed under this proposal include digital books, music and ringtones. The convenience of purchasing and storing digital media will likely continue to grow at an accelerated pace. This growth will also cannibalize traditional sales of tangible books, music media, and off the shelf software. The taxation of digital forms of these goods will ensure that tax revenues keep pace with changes in the mix of sales of digital and tangible media.

### ii) Software

Legislation traditionally limited taxable software on to items that were delivered in tangible form. For instance, computer programs or games bought off of shelves at a brick and mortar retailer would have been one of the few forms of taxable software. Software now comes in an array of different forms, including downloadable software directly off of the internet. In addition to taxing downloadable software, sales of custom programmed software would be taxable under this proposal.

### iii) Data Processing

Data processing formally means, “the manipulation of information furnished by a customer through all or part of a series of operations involving an interaction of procedures, processes, methods, personnel, and computers.” It also means the electronic transfer of or access to that information. Examples of data processing include, without limitation, summarizing, computing, extracting, storing, retrieving, sorting and

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sequencing data, and the use of computers to accomplish these tasks. Many of these services have traditionally been exempt. TRAC's proposal seeks to update current legislation to capture revenue from growth in these service areas.

**iv) Electricity**

Electricity, heating oil and natural gas, as well as other fuels for residential use such as currently receive a full exemption for residential use in South Carolina. TRAC proposes a sales tax rate on electricity, heating oil, natural gas and other energy and heating sources equal to fifty percent of the full sales tax rate imposed by South Carolina. This reduced rate mimics the reduced sales tax rate residents pay in North Carolina (Georgia applies the standard full sales and use tax rate to electricity).

**v) Interstate Telephone**

Interstate long distance telephone use is currently exempt from sales tax. This proposal seeks to eliminate this sales tax exemption—except for commercial “call centers” with more than two hundred and fifty employees.

| Code Section | Description   | Action  | Estimated Revenue | Notes  |
|--------------|---|---|-------------------|--|
| 11-35-XXX    | New section prohibiting governmental bodies and political subdivisions from purchasing tangible property from retailers/contractors unless those retailers/contractors become licensed by DOR and agree to remit sales tax to the state, under certain conditions. Includes non-resident sellers. | Add   | To be Determined  | Relates to issues TRAC has been studying relative to ecommerce/nexus/"Amazon" etc. Requires all affiliates of state vendors to collect and remit sales taxes on sales made (typically through the internet) to state residents |
| 12-36-60     | Definition of Tangible Goods<br>NEW: Relates to issues TRAC has been studying relative to ecommerce/nexus/"Amazon" etc. Adds the "Amazon Law"   | Expanded list of certain intangibles and services to include data processing and software including software transferred electronically and other digital goods, among other services yet to be determined. | To be Determined  | Also note that TRAC studied which services are taxed in US and which to tax in SC and made recommendations as such; revenue will be used to lower overall sales tax rate   |
| 12-36-71     | Definition of "Retailer Maintaining a Place of Business in the State"   | Add   | To be Determined  | "Attributional Nexus" whereby an out of state retailer with a contractual agreement with a SC resident to refer business is subject to sales tax   |
| 12-36-80     | Definition of Gross Proceeds  | Amend (see below)   | To be Determined  | "Attributional Nexus" whereby companies with "bricks and mortar" in SC are required to collect sales taxes on sales over the internet by affiliated internet companies   |
| (1)(vii)     | Installation Charges  | Add   | To be Determined  | Adds to the definition of "gross proceeds of sales"  |
| (1)(C)(v)    | Excludes dealer demonstrator cars from tax  | Repeal  | To be Determined  |  |
| (2)(e)       | Excludes cars with dealer and other tags from tax   | Repeal  | To be Determined  |  |
| 12-36-110    | Definition of Retail Sale   | Amend (see below)   | To be Determined  |  |
| (1)(C)(iv)   | Excludes from "withdrawal for use" definition materials, containers, bags, etc, used incident to tangible sale  | Repeal  | To be Determined  |  |
| (1)(C)(v)    | Excludes from "withdrawal for use" definition cars with dealer and other tags from tax  | Repeal  | To be Determined  |  |
| 12-36-130    | Definition of "Sales Price"   | Amend to include "installation" charges in the definition   | To be Determined  |  |
| 12-36-140    | Definition of "Storage" and "Use"   |   | To be Determined  |  |
| (C)(3)       | Excludes from "use" definition storage of direct mail, etc.   | Repeal  | To be Determined  | Relates to ST Exemption 12-36-2120(58)   |
| 12-36-160    | NEW - Definition of Computer Software   | Add   | To be Determined  |  |
| 12-36-170    | NEW - Definition of Digital Products  | Add   | To be Determined  |  |
| 12-36-180    | NEW - Definition of Data Processing   | Add   | To be Determined  |  |

|            |   |   |                  |   |
|------------|---|---|------------------|---|
| 12-36-910  | Tax Rate and application of rate to certain items<br>Excludes the State Accommodations Tax, items subject to "max taxes" and groceries from extra penny effective June 2007     | Amend (incorporates definitions of computer software, digital products and data processing referenced above and deletes exclusion of tax abiliability to data processing. | To be Determined |   |
| 12-36-1110 |   | Repeal  | To be Determined | Relates to ST Exemption 12-36-2110 and 2120(75)   |
| 12-36-1310 | Use Tax   | Amend (makes same changes in 12-36-910 (sales tax) to use tax statute as well for consistant reasons.   | To be Determined |   |
| 12-36-1340 | Collection of Tax by Retail Sellers   |   |                  | "Attributional Nexus" whereby persons soliciting through independent contractors are required to obtain sales tax licenses. |
| 12-36-2110 | Maximum Sales Tax Caps  | Amend   | To be Determined |   |
| (A)        | Motor vehicles, motorcycles, boats, airplanes, trailer or semitrailer pulled by a truck, horse trailers, recreational vehicles, and self-propelled light construction equipment | Amend (see below)   |                  |   |
| (A)(1)     | Airplanes   | Amend by raising cap to \$600 in Yr. 1, \$1,000 in Yr. 2, and \$1,200 Yr. 3 and beyond.   | To be Determined |   |
| (A)(2)     | Motor Vehicles  | Amend by raising cap to \$600 in Yr. 1, \$1,000 in Yr. 2, and \$1,200 Yr. 3, no cap in Yr. 4 and beyond.  | \$61,025,238     |   |
| (A)(3)     | Motorcycles   | Amend by raising cap to \$600 in Yr. 1, \$1,000 in Yr. 2, and \$1,200 Yr. 3, no cap in Yr. 4 and beyond.  | To be Determined |   |
| (A)(4)     | Boats   | Amend by raising cap to \$600 in Yr. 1, \$1,000 in Yr. 2, and \$1,200 Yr. 3 and beyond.   | To be Determined |   |
| (A)(5)     | Semitrailers and Horse Trailers   | Amend by raising cap to \$600 in Yr. 1, \$1,000 in Yr. 2, and \$1,200 Yr. 3 and beyond.   | To be Determined |   |
| (A)(6)     | Recreational Vehicles   | Amend by raising cap to \$600 in Yr. 1, \$1,000 in Yr. 2, and \$1,200 Yr. 3 and beyond.   | To be Determined |   |
| (A)(7)     | Self-propelled light construction equipment with a maximum of 160 net engine horsepower   | Repeal  | To be Determined | \$2,930,080   |

## TRAC Sales and Use Tax Exemption Recommendations - Draft Revenue Table

|            |   |   |                  |  |
|------------|---|---|------------------|--|
| (A)(?)     | NEW - Railroad cars, monorail cars and locomotives  | Institute cap to conform, ie, \$600 in Yr. 1, \$1,000 in Yr. 2, and \$1,200 Yr. 3 and beyond.   | To be Determined | Note: This is a partial recodification of the repeal of (20)           |
| (A)(?)     | NEW - Vessels or barges   | Institute cap to conform, ie, \$600 in Yr. 1, \$1,000 in Yr. 2, and \$1,200 Yr. 3 and beyond.   | To be Determined | Note: This is a partial recodification of the repeal of (21)           |
| (B)        | Sale of Manufactured Homes  | Repeal (see side note)  | \$13,300,450     | Partially recodified in (34)   |
| (C)        | The sale of musical instruments or office equipment purchased by religious organizations  | Keep  | \$0              |  |
| (D)        | Repealed: Machines used in research and development (refer to Section 12-36-2120(56))   | N/A   | \$0              |  |
| (E)        | Equipment provided, supplied, or installed on a firefighting vehicle  | Repeal  | \$870,000        |  |
| 12-36-2120 | Exemptions From Sales Tax   |   |                  |  |
| (1)        | Exemptions prohibited by the US or SC Constitutions   | Keep  | \$0              |  |
| (2)        | Tangible personal property sold to the federal government   | Repeal  | To be Determined |  |
| (3)        | Publications and on-line access used in a course of study in all schools or for students' use in the school library   | Keep but Amend to clarify exemption applies to transactions subject to the tax under 12-36-910(B)(3) relating to "the transmission of voice or messages". | To be Determined |  |
| (4)        | Sale of livestock used primarily as beasts of burden and livestock that provide, food, pelts, or fur.   | Keep (Amend to clarify/technical)   | \$0              |  |
| (5)        | Feed for production and maintenance of poultry and livestock  | Repeal (Recodify in (6) below)  | \$0              |  |
| (6)        | Insecticides, chemicals, fertilizers, soil conditioners, seeds, seedlines, or nursery stock, used in production of farm products, or in the cultivation of poultry or livestock feed. | Keep (Amend - see side note)  | \$0              | Add feed, fuel for cotton gin and natural/LP gas from other exemptions |
| (7)        | Containers and labels used for preparing agriculture, dairy, grove, garden, turpentine and gum resin for sale   | Repeal  | \$600,000        |  |
| (8)        | Newsprint paper, newspapers, religious publications, and Dept. of Agriculture's "Market Bulletin"   | Amend (See below)   |                  |  |
|            | Newsprint paper   | Keep  | \$0              |  |
|            | Newspaper sales   | Repeal  | \$6,983,466      |  |
|            | Market Bulletin   | Keep  | \$0              |  |
| (9)        | Coal, coke, or fuel sold to manufacturers, electric power companies, and transportation companies   | Keep (Amend - see side note)  | \$0              | Add "recyclers" to definition/repeal separate recycler exemption       |
|            | Electric Utility  | Keep  | \$0              |  |
|            | Other Industry  | Keep  | \$0              |  |
|            | Transportation  | Keep  | \$0              |  |
| (10)       | Meals or foodstuffs used in school meals, for the elderly, disabled, homeless, or needy.  | Keep  | \$0              |  |
| (11)       | Toll charges for transmission of messages and transactions  | Keep  | \$0              |  |
|            |   | Amend (See below)   |                  |  |

## TRAC Sales and Use Tax Exemption Recommendations - Draft Revenue Table

| (A)  | Voice messages between telephone exchanges (long distance)  | Amend (see side note)   | \$45,766,650     | Repeal except for call centers with at least 250 employees       |
|------|---|---|------------------|--|
|      |   | Repeal  | negligible       |  |
| (B)  | Telegraph messages  |   |                  |  |
| (C)  | Carrier and customer access charges established by FCC or SC Public Service Commission  | Repeal  | \$22,883,325     |  |
| (D)  | Automatic teller machine transactions   | Keep but Amend to clarify that this exemption applies to "electronic" transactions. | To be Determined |  |
| (12) | Water sold by public utilities, if rates and charges are the kind determined by the Public Service Commission or sold by a nonprofit corporation falling under Chapter 36 of Title 33   | Amend to tax, but continue to exempt 75% of proceeds.                               |                  |  |
| (13) | Vessel Bunkering  | Keep  | \$5,820,800      | effective tax rate of roughly 1.25%                              |
| (14) | Wrapping paper, twine, bags, and containers for sale and delivery of tangible personal property   | Repeal  | \$24,974,700     |  |
| (15) | Fuel under Chapter 28 Title 12  | Keep  |                  |  |
| (A)  | On-Highway  | Keep  | \$0              |  |
| (A)  | Off-Highway   | Keep  | \$0              | Same as 15(A) above  |
| (C)  | Farm machinery and tractors   | Keep (see side note)  | \$0              | clarify use for farm purposes only                               |
| (D)  | Commercial fishing vessels  | Keep  | \$0              |  |
|      | Construction (?)  | Keep  | \$0              | Verify with BEA  |
|      | Military (? - Related to 12-28-710?)  | Keep  | \$0              | Verify with BEA  |
| (16) | Farm machinery and replacement parts and attachments used in planting, cultivating or harvesting farm crops, preservation of milk on dairy farms, poultry products on poultry farms, when sold in the original state of production or preparation for sale. | Keep  | \$0              |  |
| (17) | Machines used in manufacturing, processing, recycling, compounding, mining, or quarrying tangible personal property for sale  | Keep (Amend - see side note)  | \$0              | Technical - delete extraneous language                           |
| (18) | Fuel to cure agriculture products   | Repeal (Recodify in (6) above)  | \$0              |  |
|      | Cure Tobacco  | Repeal (Recodify in (6) above)  | \$0              |  |
|      | Cure Corn   | Repeal (Recodify in (6) above)  | \$0              |  |
|      | Cure Peanuts  | Repeal (Recodify in (6) above)  | \$0              |  |
| (19) | Electricity for cotton gins, manufacturers, miners, or quarries for the sale of tangible personal property  | Keep (Amend - see side note)  | \$0              | Add "recyclers" to definition/repeal separate recycler exemption |
| (20) | Railroad cars, locomotives and their parts, monorail cars, and engines or motors that propel them, and parts  | Repeal (see side note)  | To be Determined | Partially recodified in 12-6-2110(A)                             |
| (21) | Vessels and barges more than 50 tons burden   | Repeal  | To be Determined | Partially recodified in 12-6-2110(A)                             |
| (22) | Missile assembly materials used by the Armed Forces of the US   | Keep  | \$0              |  |
| (23) | Farm, grove, vineyard and garden products sold in original state of production or preparation for sale, when sold by the producer or members of the producers immediately family  | Repeal  | \$412,400        |  |
| (24) | Supplies and equipment bought by laundries, dry cleaners, and carpet cleaners   | Keep  | \$0              |  |

## TRAC Sales and Use Tax Exemption Recommendations - Draft Revenue Table

|      |   |                       |              |  |
|------|---|-----------------------|--------------|--|
| (25) | Out of state residents of the US Armed Forces vehicle purchases when by reason of orders is located in SC                     | Repeal                | \$2,225,000  |  |
| (26) | Supplies, technical equipment, machinery, and electricity sold to television and radio stations, and cable television systems | Repeal                | \$9,150,000  |  |
| (27) | Plants and animal sales to public zoo's or gardens or its nonprofit support corporations                                      | Repeal                | \$4,290      |  |
| (28) | (a)(1) Medicine sold by Rx  | Amend (see side note) | \$76,622,433 | Prescription medicine when reimbursed in whole or in part by Medicaid/care remains exempt. Free samples of prescription medicine remains exempt as does medicine donated to a public institution of higher education when used for research or for treatment of indigent patients (remains exempt). Non-Medicaid/care prescription medicine is taxable, but at 25% of gross proceeds. Prior to final rate reduction under proposal, that equates to an effective tax rate of 1.5%. Based on estimated initial rate reduction to 5%, actual effective tax rate here will be 1.25% (or lower). |
|      | (a)(2) Prosthetics sold by Rx   | Amend (see side note) | \$274,563    | Prescription prosthetics when reimbursed in whole or in part by Medicaid/care remains exempt. Non-Medicaid/care prosthetics is taxable, but at 25% of gross proceeds. Prior to final rate reduction under proposal, that equates to an effective tax rate of 1.5%. Based on estimated initial rate reduction to 5%, actual effective tax rate here will be 1.25% (or lower).   |

|  |  |                       |             |  |
|--|--|-----------------------|-------------|--|
|  | (a)(3) Rx medicine purchased by healthcare providers/institutions related to RSV, RA and/or cancer (exempt under current law).   | Keep                  | \$0         |  |
|  | (b) Rx medicine and prosthetics sold to doctors, hospitals, infirmaries, sanitariums, nursing homes, dentists, optometrists, and veterinarians (excluding RSV, RA and cancer already exempt) | Remain taxable        | \$0         | Under current law, sales of medicines and prosthetics to doctors, hospitals, infirmaries, sanitariums, nursing homes, dentists, optometrists, and veterinarians are taxable at 6%, unless otherwise exempt. While these drugs remain taxable under the proposal, it should be noted that these providers will benefit from the lower base ST rate that results from broadening the base.               |
|  | (c ) Insulin/diabetic related supplies   | Amend (see side note) | \$1,197,313 | Insulin/diabetic related supplies reimbursed in whole or in part by Medicaid/care remain exempt. Non-Medicaid/care insulin/diabetic related supplies are taxable, but at 25% of gross proceeds. Prior to final rate reduction under proposal, that equates to an effective tax rate of 1.5%. Based on estimated initial rate reduction to 5%, actual effective tax rate here will be 1.25% (or lower). |



## TRAC Sales and Use Tax Exemption Recommendations - Draft Revenue Table

|      |   |   |                  |   |
|------|---|---|------------------|---|
|      | (d) Disposable Medical supplies   | Amend (see side note)                                 | \$40,028         | Taxable, but at 25% of gross proceeds. Prior to final rate reduction under proposal, that equates to an effective tax rate of 1.5%. Based on estimated initial rate reduction to 5%, actual effective tax rate here will be 1.25% (or lower).                               |
|      | (e) Dental prosthetic devices   | Amend (see side note)                                 | \$493,256        | Dental prosthetics reimbursed in whole or in part by Medicaid/care remain exempt.   |
|      | (f) Rx drugs sold to Nursing Homes and dispensed to Medicare Part A residents   | Keep  | \$0              | Non-Medicaid/care prosthetics taxable, but at 25% of gross proceeds. Prior to final rate reduction under proposal, that equates to an effective tax rate of 1.5%. Based on estimated initial rate reduction to 5%, actual effective tax rate here will be 1.25% (or lower). |
| (29) | Sale of tangible personal property by persons under written contract with the federal government where the property is later transferred to the federal government  | Repeal  | To be Determined |   |
| (30) | Supplies, commodities, and services resold by Div. of General Services of SCB&CB to department and state agencies, if the tax was paid on the divisions original purchase   | Keep  | \$0              |   |
| (31) | Vacation time sharing plans, vacation multiple ownership interests, and exchanges of interests in vacation time sharing plans and vacation multiple ownership interests as provided by Chapter 32 of Title 27, and any other exchange of accommodations in which the accommodations to be exchanged are the primary consideration | Repeal  | \$5,316,000      |   |
| (32) | Natural and liquefied petroleum gas and electricity used exclusively in the production of poultry, livestock, swine, and milk   | Repeal (Recodify in (6) above)                        | \$0              |   |
| (33) | Electricity or any combustible heating material or substance use for residential purposes   | Amend to tax, but continue to exempt 75% of proceeds. | \$47,055,836     | effective rate of roughly 1.25%   |
|      | Electricity   | See 33 above  |                  |   |
|      | Natural Gas   | See 33 above  |                  |   |
|      | Kerosene  | See 33 above  |                  |   |
|      | Fuel Oil  | See 33 above  |                  |   |
|      | Coal  | See 33 above  |                  |   |
|      | LP Gas  | See 33 above  |                  |   |
| (34) | Modular homes 50% of gross proceeds of the sale   | Amend to add "or manufactured homes"                  | To be Determined |   |
| (35) | Motion picture film sold or rented to or by theaters  | Keep  | \$0              |   |
| (36) | Tangible personal property sold out of state  | Keep  | \$0              |   |

## TRAC Sales and Use Tax Exemption Recommendations - Draft Revenue Table

|      |  |  |             |   |
|------|--|--|-------------|---|
| (37) | Petroleum asphalt products, used in paving, purchased in this state, which are transported and consumed out of state   | Keep   | \$0         |   |
| (38) | Hearing aids   | Repeal   | \$2,148,568 |   |
| (39) | Concession sales at a festival by an organization devoted exclusively to public or charitable purposes   | Repeal   | \$475,000   |   |
| (40) | Containers and chassis including parts sold to international shipping lines in contract with SCSA and used for import and export of goods to and from South Carolina                             | Repeal   | \$550,000   |   |
| (41) | Organizations exempt under 12-37-220(A),(3-4), and B(5-8), (12), (16), (19), (22), and (24) if the net proceeds are used exclusively for exempt purposes and no benefit inures to any individual | Repeal   | \$6,725,000 |   |
| (42) | Depreciable assets used in the operation of a business pursuant to the sale of the business, when the entire business is sold by the owner   | Keep   | \$0         |   |
| (43) | All supplies, technical equipment, machinery, and electricity sold to motion picture companies for use in filming or producing a motion picture  | Repeal as duplicative of the Film Commission section | \$0         |   |
| (44) | Electricity to irrigate crops  | Repeal (Recodify in (6) above)                       | \$0         |   |
| (45) | Building materials, supplies, fixtures, and equipment for the construction repair or improvement of commercial housing of poultry or livestock   | Repeal   | \$63,000    |   |
| (46) | War memorials or monuments affixed to public property  | Keep   | \$0         |   |
| (47) | Tangible personal property sold to charitable hospitals serving children where care is provided without charge   | Repeal (recodify in (63))                            | \$0         |   |
| (48) | Solid waste disposal collection bags when the county or political subdivision requires the purchase of a specific bag for solid waste disposal   | Repeal   | \$38,979    |   |
| (49) | Postage paid by a person engaged in the business of selling advertising services for clients   | Repeal   | \$825,000   |   |
| (50) | Recycling property   | Repeal (see side note)                               | \$0         | The various exemptions for recycling property is repealed (and partially recodified in (9)) |
| (51) | Material handling systems and equipment used in distribution facilities  | Keep (see side note)                                 | \$0         | clarify investment at single site   |
| (52) | Parts and supplies used by business for repairing aircraft owned or leased by commercial carriers  | Keep   | \$0         |   |
| (53) | Motor vehicle extended service contracts and warranties  | Repeal   | \$1,188,000 |   |
| (54) | Clothing and attire for working in a Class 100 or better clean room environment  | Repeal   | \$40,000    |   |
| (55) | Audiovisual masters  | Repeal   | \$60,000    |   |
| (56) | Machines used in research and development  | Keep   | \$0         |   |
| (57) | Sales tax holiday in August  | Amend (see side note)                                | \$2,175,000 | Partial repeal-narrow just to school supplies and clothes                                   |

## TRAC Sales and Use Tax Exemption Recommendations - Draft Revenue Table

|      |   |   |             |                        |
|------|---|---|-------------|------------------------|
| (58) | Cooperative direct mail promotional advertising materials, and maps, brochures, pamphlets, or discount coupons by nonprofit chambers of commerce or convention and visitor bureaus, delivered to residents of SC from locations inside or outside the State | Repeal  | \$800,000   |                        |
| (59) | Facilities for transmitting electricity that is transferred, sold, or exchanged to a limited liability company controlling electric transmission assets   | Repeal  | \$0         |                        |
| (60) | Lottery tickets   | Keep  | \$0         |                        |
| (61) | Copies of or access to legislation or other information documents provided to the general public or any other person by a legislative agency when a charge for these copies is made reflecting the agency's cost of the copies                              | Keep  | \$0         |                        |
| (62) | Seventy percent of portable toilet gross rental sales or leases   | Keep  | \$0         |                        |
| (63) | Prescriptions and over the counter medicines and supplies sold to charitable clinics  | Keep (Amend - see side note)                                      | \$0         | Add language from (47) |
| (64) | Sweet grass baskets made by SC artists  | Repeal  | \$30,000    |                        |
| (65) | Computer equipment used in a technology intensive facility  | Keep but amend to ensure updated law passed by GA is incorporated | \$0         |                        |
| (66) | Electricity used by a technology intensive facility   | Keep  | \$0         |                        |
| (67) | Sales tax on construction materials of a single manufacturing or distribution facility with a capital investment of at least \$100 million in real and personal property at a single site.  | Keep but amend to ensure updated law passed by GA is incorporated | \$0         |                        |
| (68) | Any property sold to the public through a sheriff's sale as provided by law   | Repeal  | \$331,872   |                        |
| (69) | The sale or renewal of a warranty, maintenance, or similar service contract if the sale of the personal property is exempt from tax under Chapter 36  | Keep  | \$0         |                        |
| (70) | Gold, silver, or platinum bullion; legal tender coins and currency  | Repeal  | \$82,860    |                        |
| (71) | Any device, equipment, or machinery operated by hydrogen fuel cells, or used to generate, produce, or distribute hydrogen   | Repeal  | \$0         |                        |
| (72) | Building materials used to construct a new or renovated building or any machinery or equipment located in a research district   | Repeal  | \$1,200,000 |                        |
| (73) | Amusement park rides and any parts, machinery, and equipment to assemble and operate a ride or performance venue  | Keep  | \$0         |                        |

## TRAC Sales and Use Tax Exemption Recommendations - Draft Revenue Table

|            |  |   |                  |   |
|------------|--|---|------------------|---|
|            |  |   |                  | Currently, this exemption is only valued at one half of one percent (0.5) as the phase-in trigger test has not been met. This amendment would therefore enhance the current exemption by exempting 50% of the gross proceeds, effectively creating a tax rate of 3% (or less depending on the final rate). This produces a "tax savings" for DME providers of at least \$5 Million (or more as final rate is determined). |
| (74)       | Durable medical equipment which is paid by state or federal Medicaid funds   | Amend (see side note)                                 | (\$5,025,000)    |   |
| (75)       | Unprepared food that may be purchased with United States Department of Agriculture food coupons  | Amend to tax, but continue to exempt 41% of proceeds. | \$250,912,119    | effective tax rate roughly 2.95%. Food stamps remain exempt   |
| (76)       | Sales tax holiday on firearms purchased on the Friday and Saturday after Thanksgiving  | Repeal  | \$0              | Unconstitutional/not in effect (see below Proviso 89.107)   |
| (77)       | Sales tax holiday on noncommercial home and personal energy efficient products meeting or exceeding the requirements of the ENERGY STAR program  | Repeal  | \$1,240,206      | Unconstitutional/not in effect  |
| 12-36-2130 |  |   |                  |   |
| (1)        | Use Tax Exemption  | N/A   | \$0              |   |
| (2)        | Purchases made by museums  | Keep  | \$0              |   |
| 12-36-2610 | Discount for timely filed payment of tax, maximum discount of \$10,000 for voluntarily registered out-of-state retailers and \$3,000 for all other retailers (\$3,100 for retailers filing by EFT) |   |                  | Reduce from 2% to 1% and overall cap from \$3100 to \$1000 (or \$1500 for electronic filing.  |
| 12-36-2620 |  | Amend (see side note)                                 | \$16,000,000     |   |
| (2)        | 1% sales tax exemption for those 85 years and older  | Repeal  | \$5,473,960      |   |
| 12-36-2130 | 85 years and older (accommodations tax)  | Repeal  | To be Determined |   |
| 12-36-2140 | 85 years and older (casual excise tax)   | Repeal  | To be Determined |   |
| 89.47      | Sales and Use Tax Provisos   |   |                  |   |
| 89.79      | Private Schools - Use Tax Exemption  | Repeal  | To be Determined |   |
| 89.77      | Respiratory syncytial virus medicines  | Keep  |                  |   |
|            | Viscosupplementation therapies sales   | Keep  |                  |   |
| 89.107     | Sales tax holiday on firearms purchased on the Friday and Saturday after Thanksgiving  | Repeal  | \$15,000         | See (76) above  |
|            | Ancillary Sales and Use Tax Provisions   |   |                  |   |
| 12-11-30   | Sales Tax on Banks   | Amend   | To be Determined |   |
| 12-13-50   | Sales Tax on S&Ls  | Amend   | To be Determined |   |
| 13-17-90   | Exemption from taxation - SCRA   | Amend   | To be Determined |   |
| 38-29-150  | Exemption of Association from taxes - Life and Accident  | Amend   | To be Determined |   |

TRAC Sales and Use Tax Exemption Recommendations - Draft Revenue Table

|           |   |       |                  |
|-----------|---|-------|------------------|
| 38-31-130 | Exemption of Association from taxes - Prop and Casualty   | Amend | To be Determined |
| 44-7-2120 | Exemption of districts from state and local taxes   | Amend | To be Determined |
|           | Total Repealed or Amended (excluding those To be Determined)  |       | \$614,295,390    |
|           | Total revenue needed for revenue neutrality (FY08-09)   |       | \$3,288,600,635  |
|           | Current Gross Retail Sales Base (excludes current exemptions)   |       | \$54,810,010,583 |
|           | Expanded Sales Tax Base from repealed or amended exemptions   |       | \$10,238,256,505 |
|           | Total revised base  |       | \$65,048,267,088 |
|           | New (Lower) Sales Tax Rate from Broader Base*   |       | 5.06%            |
|           | TRAC Recommendation is to "round down" when setting new rate to**   |       | <b>5.00%</b>     |
|           | *Note: All estimates contained herein are preliminary and unofficial pending requisite analysis by the Board of Economic Advisors |       |                  |
|           | **Rate could/should go "lower" when factoring further expansion of base from "taxation of services" recommendations               |       |                  |
|           |   |       |                  |
|           |   |       |                  |
|           |   |       |                  |
|           |   |       |                  |
|           |   |       |                  |
|           |   |       |                  |

**SALES AND USE TAX EXEMPTIONS FY2008-2009**

| Line | Code Section | Year Enacted | Description of Exemption  | Exemption Estimate (Dollars) | Subtotal (Dollars) |
|------|--------------|--------------|---|------------------------------|--------------------|
| 1    | 12-36-2110   |              | <b>Maximum Sales Tax Caps</b>   |                              |                    |
| 2    | A            | 1984         | Motor vehicles, motorcycles, boats, airplanes, trailer or semitrailer pulled by a truck, horse trailers, recreational vehicles, and self-propelled light construction equipment       | 173,056,796                  |                    |
| 3    | (A)(1)       |              | Airplanes   |                              | 1,215,000          |
| 4    | (A)(2)       |              | Motor Vehicles  |                              | 152,888,972        |
| 5    | (A)(3)       |              | Motorcycles   |                              | 2,331,000          |
| 6    | (A)(4)       |              | Boats   |                              | 4,954,212          |
| 7    | (A)(5)       |              | Semitrailers and Horse Trailers   |                              | 825,527            |
| 8    | (A)(6)       |              | Recreational Vehicles   |                              | 7,912,005          |
| 9    | (A)(7)       |              | Self-propelled light construction equipment with a maximum of 160 net engine horsepower   |                              | 2,930,080          |
| 10   | B            |              | Sale of Manufactured Homes  | 26,600,899                   |                    |
| 11   | C            |              | The sale of musical instruments or office equipment purchased by religious organizations  | 87,000                       |                    |
| 12   | D            |              | Repealed: Machines used in research and development (refer to Section 12-36-2120(56))   | Repealed                     |                    |
| 13   | E            |              | Equipment provided, supplied, or installed on a firefighting vehicle  | 870,000                      |                    |
| 14   |              |              |   |                              |                    |
| 15   | 12-36-2120   |              | <b>Exemptions From Sales Tax</b>  |                              |                    |
| 16   | (1)          | 1951         | Exemptions prohibited by the US or SC Constitutions   | 0                            |                    |
| 17   | (2)          | 1984         | Tangible personal property sold to the federal government   | 253,000,000                  |                    |
| 18   | (3)          | 1951         | Publications and on-line access used in a course of study in all schools or for students' use in the school library   | 21,527,465                   |                    |
| 19   | (4)          | 1951         | Sale of livestock used primarily as beasts of burden and livestock that provide, food, pelts, or fur.   | 58,877,400                   |                    |
| 20   | (5)          | 1951         | Feed for production and maintenance of poultry and livestock  | 16,303,860                   |                    |
| 21   | (6)          | 1951         | Insecticides, chemicals, fertilizers, soil conditioners, seeds, seedlings, or nursery stock, used in production of farm products, or in the cultivation of poultry or livestock feed. | 15,859,740                   |                    |
| 22   | (7)          | 1951         | Containers and labels used for preparing agriculture, dairy, grove, garden, turpentine and gum resin for sale   | 600,000                      |                    |
| 23   | (8)          | 1951         | Newsprint paper, newspapers, religious publications, and Dept. of Agriculture's "Market Bulletin"   | 12,053,089                   |                    |
| 24   |              |              | Newsprint paper   |                              | 5,058,823          |
| 25   |              |              | Newspaper sales   |                              | 6,983,466          |
| 26   |              |              | Market Bulletin   |                              | 10,800             |
| 27   | (9)          | 1951         | Coal, coke, or fuel sold to manufacturers, electric power companies, and transportation companies   | 102,909,706                  |                    |
| 28   |              |              | Electric Utility  |                              | 51,595,731         |
| 29   |              |              | Other Industry  |                              | 51,313,975         |
| 30   |              |              | Transportation  |                              | 0                  |
| 31   | (10)         | 1951         | Meals or foodstuffs used in school meals, for the elderly, disabled, homeless, or needy.  | 7,043,478                    |                    |
| 32   | (11)         | 1986         | Toll charges for transmission of messages and transactions  | 73,649,975                   |                    |
| 33   | (A)          |              | Voice messages between telephone exchanges (long distance)  |                              | 45,768,650         |
| 34   | (B)          |              | Telegraph messages  |                              | negligible         |
| 35   | (C)          |              | Carrier and customer access charges established by FCC or SC Public Service Commission  |                              | 22,883,325         |
| 36   | (D)          |              | Automatic teller machine transactions   |                              | 5,000,000          |
| 37   | (12)         | 1951         | Water sold by public utilities, if rates and charges are the kind determined by the Public Service Commission or sold by a nonprofit corporation falling under Chapter 36 of Title 33 | 27,283,200                   |                    |
| 38   | (13)         | 1951         | Vessel Bunkering  |                              |                    |
| 39   | (14)         | 1951         | Wrapping paper, twine, bags, and containers for sale and delivery of tangible personal property   | 1,527,097                    |                    |
| 40   | (15)         | 1988         | Fuel under Chapter 28 Title 12  | 24,874,700                   |                    |
| 41   | (A)          |              | On-Highway  | 499,687,500                  | 470,600,700        |

SALES AND USE TAX EXEMPTIONS FY2008-2009

| Line | Code Section | Year Enacted | Description of Exemption  | Exemption Estimate (Dollars) | Subtotal (Dollars) |
|------|--------------|--------------|---|------------------------------|--------------------|
| 42   | (A)          |              | Off-Highway   |                              | 29,086,800         |
| 43   | (C)          |              | Farm machinery and tractors   |                              | 4,421,850          |
| 44   | (D)          |              | Commercial fishing vessels  |                              | 12,738,950         |
| 45   |              |              | Construction  |                              | 9,931,500          |
| 46   |              |              | Military  |                              | 1,993,500          |
| 47   | (16)         | 1951         | Farm machinery and replacement parts and attachments used in planting, cultivating or harvesting farm crops, preservation of milk on dairy farms, poultry products on poultry farms, when sold in the original state of production or preparation for sale.   | 7,278,240                    |                    |
| 48   | (17)         | 1951         | Machines used in manufacturing, processing, recycling, compounding, mining, or quarrying tangible personal property for sale  | 63,077,125                   |                    |
| 49   | (18)         | 1951         | Fuel to cure agriculture products   | 750,000                      |                    |
| 50   |              |              | Cure Tobacco  |                              |                    |
| 51   |              |              | Cure Corn   |                              |                    |
| 52   |              |              | Cure Peanuts  |                              |                    |
| 53   | (19)         | 1951         | Electricity for cotton gins, manufacturers, miners, or quarries for the sale of tangible personal property  | 87,573,840                   |                    |
| 54   | (20)         | 1951         | Railroad cars, locomotives and their parts, monorail cars, and engines or motors that propel them, and parts  | 352,710                      |                    |
| 55   | (21)         | 1951         | Vessels and barges more than 50 tons burden   | 169,546                      |                    |
| 56   | (22)         | 1990         | Missile assembly materials used by the Armed Forces of the US   | Classified                   |                    |
| 57   | (23)         | 1951         | Farm, grove, vineyard and garden products sold in original state of production or preparation for sale, when sold by the producer or members of the producers immediately family  | 412,400                      |                    |
| 58   | (24)         | 1986         | Supplies and equipment bought by laundries, dry cleaners, and carpet cleaners   | 3,261,287                    |                    |
| 59   | (25)         | 1985         | Out of state residents of the US Armed Forces vehicle purchases when by reason of orders is located in SC   | 2,225,000                    |                    |
| 60   | (26)         | 1993         | Supplies, technical equipment, machinery, and electricity sold to television and radio stations, and cable television systems   | 9,150,000                    |                    |
| 61   | (27)         | 1990         | Plants and animal sales to public zoo's or gardens or its nonprofit support corporations  | 4,290                        |                    |
| 62   | (28)         | 1976         | Medicine and prosthetic devices sold by prescription, radiopharmaceuticals used in treatment of cancer and other related diseases, free samples donated by manufacturer, and medicines used to prevent respiratory syncytial virus  | 585,340,273                  |                    |
| 63   | (A)          |              | Medicine and prosthetic devices   |                              | 568,543,886        |
| 64   | (B)          |              | Diabetic supplies   |                              | 15,533,652         |
| 65   | (C)          |              | Disposable medical supplies used in the treatment of patient outside of a hospital or skilled nursing facility  |                              | 143,280            |
| 66   | (D)          |              | Prescriptions donated to SC medical schools   |                              | 44,000             |
| 67   | (E)          |              | Dental prosthetics  |                              | 1,075,455          |
| 68   | (29)         | 1996         | Sale of tangible personal property by persons under written contract with the federal government where the property is later transferred to the federal government  | 0                            |                    |
| 69   | (30)         | 1978         | Supplies, commodities, and services resold by Div. of General Services of SC&CB to department and state agencies, if the tax was paid on the divisions original purchase  | 0                            |                    |
| 70   | (31)         | 1979         | Vacation time sharing plans, vacation multiple ownership interests, and exchanges of interests in vacation time sharing plans and vacation multiple ownership interests as provided by Chapter 32 of Title 27, and any other exchange of accommodations in which the accommodations to be exchanged are the primary consideration | 5,316,000                    |                    |
| 71   | (32)         | 1979         | Natural and liquefied petroleum gas and electricity used exclusively in the production of poultry, livestock, swine, and milk   | 1,300,000                    |                    |
| 72   | (33)         | 1979         | Electricity or any combustible heating material or substance use for residential purposes   | 188,223,345                  |                    |
| 73   |              |              | Electricity   |                              | 149,226,240        |
| 74   |              |              | Natural Gas   |                              | 26,250,545         |
| 75   |              |              | Kerosene  |                              | 2,692,127          |
| 76   |              |              | Fuel Oil  |                              | 1,066,673          |
| 77   |              |              | Coal  |                              | 0                  |
| 78   |              |              | LP Gas  |                              | 8,987,760          |

# SALES AND USE TAX EXEMPTIONS FY2008-2009

| Line | Code Section | Year Enacted | Description of Exemption  | Exemption Estimate (Dollars) | Subtotal (Dollars) |
|------|--------------|--------------|---|------------------------------|--------------------|
| 79   | (34)         | 1980         | Modular homes 50% of gross proceeds of the sale   | 1,890,000                    |                    |
| 80   | (35)         | 1983         | Motion picture film sold or rented to or by theaters  | 2,825,765                    |                    |
| 81   | (36)         | 1983         | Tangible personal property sold out of state  | 0                            |                    |
| 82   | (37)         | 1983         | Petroleum asphalt products, used in paving, purchased in this state, which are transported and consumed out of state  | 614,000                      |                    |
| 83   | (38)         | 1985         | Hearing aids  | 2,148,568                    |                    |
| 84   | (39)         | 1986         | Concession sales at a festival by an organization devoted exclusively to public or charitable purposes  | 475,000                      |                    |
| 86   | (40)         | 1988         | Containers and chassis including parts sold to international shipping lines in contract with SCSPA and used for import and export of goods to and from South Carolina   | 550,000                      |                    |
| 96   | (41)         | 1989         | Organizations exempt under 12-37-220(A), (3-4), and B(5-8), (12), (16), (19), (22), and (24) if the net proceeds are used exclusively for exempt purposes and no benefit inures to any individual   | 6,725,000                    |                    |
| 97   | (42)         | 1989         | Depreciable assets used in the operation of a business pursuant to the sale of the business, when the entire business is sold by the owner  | 125,000                      |                    |
| 88   | (43)         | 1991         | All supplies, technical equipment, machinery, and electricity sold to motion picture companies for use in filming or producing a motion picture   | 42,179                       |                    |
| 89   | (44)         | 1991         | Electricity to irrigate crops   | 53,340                       |                    |
| 90   | (45)         | 1991         | Building materials, supplies, fixtures, and equipment for the construction repair or improvement of commercial housing of poultry or livestock  | 63,000                       |                    |
| 91   | (46)         | 1991         | War memorials or monuments affixed to public property   | 50,000                       |                    |
| 92   | (47)         | 1994         | Tangible personal property sold to charitable hospitals serving children where care is provided without charge  | 50,000                       |                    |
| 93   | (48)         | 1994         | Solid waste disposal collection bags when the county or political subdivision requires the purchase of a specific bag for solid waste disposal  | 38,979                       |                    |
| 94   | (49)         | 1994         | Postage paid by a person engaged in the business of selling advertising services for clients  | 825,000                      |                    |
| 95   | (50)         | 1995         | Recycling property  | 2,827,022                    |                    |
| 96   | (51)         | 1996         | Material handling systems and equipment used in distribution facilities   | 1,400,000                    |                    |
| 97   | (52)         | 1996         | Parts and supplies used by business for repairing aircraft owned or leased by commercial carriers   | 561,567                      |                    |
| 98   | (53)         | 1996         | Motor vehicle extended service contracts and warranties   | 1,188,000                    |                    |
| 99   | (54)         | 1999         | Clothing and attire for working in a Class 100 or better clean room environment   | 40,000                       |                    |
| 100  | (55)         | 2000         | Audiovisual masters   | 60,000                       |                    |
| 101  | (56)         | 2000         | Machines used in research and development   | 2,640,000                    |                    |
| 102  | (57)         | 2000         | Sales tax holiday in August   | 2,900,000                    |                    |
| 103  | (58)         | 2000         | Cooperative direct mail promotional advertising materials, and maps, brochures, pamphlets, or discount coupons by nonprofit chambers of commerce or convention and visitor bureaus, delivered to residents of SC from locations inside or outside the State | 800,000                      |                    |
| 104  | (59)         | 2001         | Facilities for transmitting electricity that is transferred, sold, or exchanged to a limited liability company controlling electric transmission assets   | 0                            |                    |
| 105  | (60)         | 2001         | Lottery tickets   | 47,564,188                   |                    |
| 106  | (61)         | 2002         | Copies of or access to legislation or other information documents provided to the general public or any other person by a legislative agency when a charge for these copies is made reflecting the agency's cost of the copies                              | 5,000                        |                    |
| 107  | (62)         | 2003         | Seventy percent of portable toilet gross rental sales or leases   | 332,976                      |                    |
| 108  | (63)         | 2005         | Prescriptions and over the counter medicines and supplies sold to charitable clinics  | 229,700                      |                    |
| 109  | (64)         | 2005         | Sweet grass baskets made by SC artists  | 30,000                       |                    |
| 110  | (65)         | 2006         | Computer equipment used in a technology intensive facility  | 0                            |                    |
| 111  | (66)         | 2006         | Electricity used by a technology intensive facility   | 0                            |                    |
| 112  | (67)         | 2006         | Sales tax on construction materials of a single manufacturing or distribution facility with a capital investment of at least \$100 million in real and personal property at a single site   | 14,160,000                   |                    |
| 113  | (68)         | 2006         | Any property sold to the public through a sheriff's sale as provided by law   | 331,872                      |                    |
| 114  | (69)         | 2006         | The sale or renewal of a warranty, maintenance, or similar service contract if the sale of the personal property is exempt from tax under Chapter 36  | 0                            |                    |
| 115  | (70)         | 2007         | Gold, silver, or platinum bullion; legal tender coins and currency  | 82,860                       |                    |
| 116  | (71)         | 2007         | Any device, equipment, or machinery operated by hydrogen fuel cells, or used to generate, produce, or distribute hydrogen   | 0                            |                    |



SALES AND USE TAX EXEMPTIONS FY2008-2009

| Line | Code Section | Year Enacted | Description of Exemption   | Exemption Estimate (Dollars)   | Subtotal (Dollars) |
|------|--------------|--------------|--|--------------------------------|--------------------|
| 117  | (72)         | 2007         | Building materials used to construct a new or renovated building or any machinery or equipment located in a research district  | 1,200,000                      |                    |
| 118  | (73)         | 2007         | Amusement park rides and any parts, machinery, and equipment to assemble and operate a ride or performance venue   | 3,900,000                      |                    |
| 119  | (74)         | 2007         | Durable medical equipment which is paid by state or federal Medicaid funds   | 2,370,831                      |                    |
| 120  | (75)         | 2007         | Unprepared food that may be purchased with United States Department of Agriculture food coupons  | 354,140,625                    |                    |
| 121  | 12-36-2130   |              |  |                                |                    |
| 122  | (1)          |              | Use Tax Exemption  |                                |                    |
| 123  | (2)          |              | Purchases made by museums  | Included with Sales Tax 51,000 |                    |
| 124  |              |              |  |                                |                    |
| 125  | 12-36-2610   |              | Discount for timely filed payment of tax, maximum discount of \$10,000 for voluntarily registered out-of-state retailers and \$3,000 for all other retailers (\$3,100 for retailers filing by EFT) | 22,075,772                     |                    |
| 126  |              |              |  |                                |                    |
| 127  | 12-36-2620   |              |  |                                |                    |
| 128  | (2)          |              | 1% sales tax exemption for those 85 years and older  | 5,473,960                      |                    |
| 129  |              |              |  |                                |                    |
| 130  |              |              | Provisos   |                                |                    |
| 131  | 72.86        | 2005         | Respiratory syncytial virus medicines  | 2,128,317                      |                    |
| 132  | 72.97        | 2006         | Viscosupplementation therapies sales   | 397,113                        |                    |
| 133  |              |              |  |                                |                    |
| 134  |              |              |  |                                |                    |
| 135  |              |              | Total Sales and Use Tax Exemptions   | \$2,753,712,595                |                    |

# FISCAL FACT

October 2009  
No. 196

## Updated State and Local Option Sales Tax

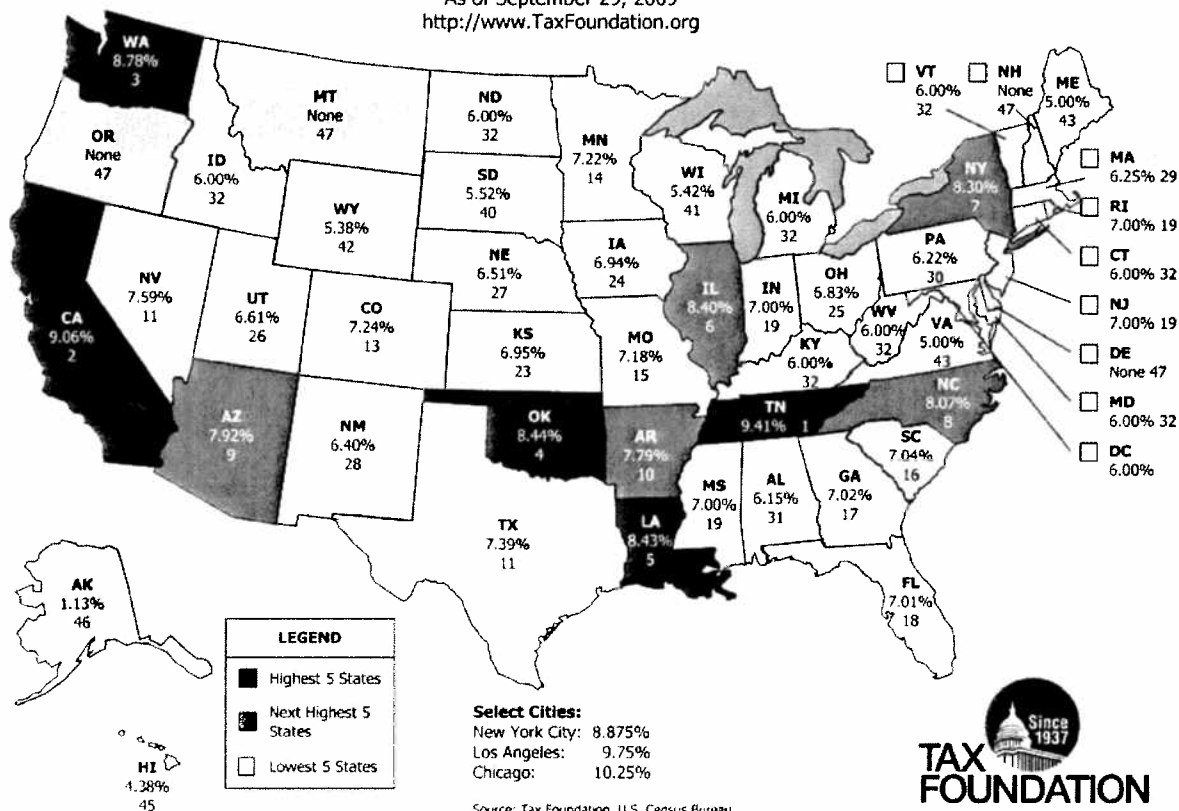
By Kail Padgitt

### Introduction

Sales taxes are paradoxically transparent and non-transparent. A taxpayer can easily see how high the tax is by looking at the receipt for any purchase. It's hard to imagine a more transparent tax.

### Sales Tax: Combined State and Average Local Rates

As of September 29, 2009  
<http://www.TaxFoundation.org>



However, due to the wide variety of local option sales taxes among municipalities, a taxpayer can be puzzled by the many different tax rates his receipts show in various parts of the state.

Making use of newly available data sources, we are now able to update information on average local sales taxes more regularly. Table 1 and the accompanying map show current state sales taxes, average local sales taxes, and the combined rate and state rank.

| <b>Table 1</b><br><b>State and Local Sales Tax Rates</b><br>As of September 29, 2009 |                   |                                       |                 |                              |
|--|-------------------|---------------------------------------|-----------------|------------------------------|
|  | <b>State Rate</b> | <b>Average Local Rate<sup>1</sup></b> | <b>Combined</b> | <b>Rank of Combined Rate</b> |
| Alabama  | 4.00%             | 2.15%                                 | 6.15%           | 31                           |
| Alaska   | none              | 1.13%                                 | 1.13%           | 46                           |
| Arizona  | 5.60%             | 2.32%                                 | 7.92%           | 9                            |
| Arkansas   | 6.00%             | 1.79%                                 | 7.79%           | 10                           |
| California <sup>2</sup>  | 8.25%             | 0.81%                                 | 9.06%           | 2                            |
| Colorado   | 2.90%             | 4.34%                                 | 7.24%           | 13                           |
| Connecticut  | 6.00%             | none                                  | 6.00%           | 32                           |
| Delaware   | none              | none                                  | none            | 47                           |
| Florida  | 6.00%             | 1.01%                                 | 7.01%           | 18                           |
| Georgia  | 4.00%             | 3.02%                                 | 7.02%           | 17                           |
| Hawaii   | 4.00%             | 0.38%                                 | 4.38%           | 45                           |
| Idaho  | 6.00%             | none                                  | 6.00%           | 32                           |
| Illinois   | 6.25%             | 2.15%                                 | 8.40%           | 6                            |
| Indiana  | 7.00%             | none                                  | 7.00%           | 19                           |
| Iowa   | 6.00%             | 0.94%                                 | 6.94%           | 24                           |
| Kansas   | 5.30%             | 1.65%                                 | 6.95%           | 23                           |
| Kentucky   | 6.00%             | none                                  | 6.00%           | 32                           |
| Louisiana  | 4.00%             | 4.43%                                 | 8.43%           | 5                            |
| Maine  | 5.00%             | none                                  | 5.00%           | 43                           |
| Maryland   | 6.00%             | none                                  | 6.00%           | 32                           |
| Massachusetts  | 6.25%             | none                                  | 6.25%           | 29                           |
| Michigan   | 6.00%             | none                                  | 6.00%           | 32                           |
| Minnesota  | 6.88%             | 0.34%                                 | 7.22%           | 14                           |
| Mississippi  | 7.00%             | none                                  | 7.00%           | 19                           |
| Missouri   | 4.23%             | 2.95%                                 | 7.18%           | 15                           |
| Montana  | none              | none                                  | none            | 47                           |
| Nebraska   | 5.50%             | 1.01%                                 | 6.51%           | 27                           |
| Nevada   | 6.85%             | 0.74%                                 | 7.59%           | 11                           |
| New Hampshire  | none              | none                                  | none            | 47                           |
| New Jersey   | 7.00%             | none                                  | 7.00%           | 19                           |
| New Mexico   | 5.00%             | 1.40%                                 | 6.40%           | 28                           |
| New York   | 4.00%             | 4.30%                                 | 8.30%           | 7                            |
| North Carolina   | 5.75%             | 2.32%                                 | 8.07%           | 8                            |

|   |       |       |       |     |
|---|-------|-------|-------|-----|
| North Dakota  | 5.00% | 1.00% | 6.00% | 32  |
| Ohio  | 5.50% | 1.33% | 6.83% | 25  |
| Oklahoma  | 4.50% | 3.94% | 8.44% | 4   |
| Oregon  | none  | none  | none  | 47  |
| Pennsylvania  | 6.00% | 0.22% | 6.22% | 30  |
| Rhode Island  | 7.00% | none  | 7.00% | 19  |
| South Carolina  | 6.00% | 1.04% | 7.04% | 16  |
| South Dakota  | 4.00% | 1.52% | 5.52% | 40  |
| Tennessee   | 7.00% | 2.41% | 9.41% | 1   |
| Texas   | 6.25% | 1.14% | 7.39% | 12  |
| Utah <sup>3</sup>   | 5.95% | 0.66% | 6.61% | 26  |
| Vermont   | 6.00% | none  | 6.00% | 32  |
| Virginia <sup>4</sup>   | 5.00% | none  | 5.00% | 43  |
| Washington  | 6.50% | 2.28% | 8.78% | 3   |
| West Virginia   | 6.00% | none  | 6.00% | 32  |
| Wisconsin   | 5.00% | 0.42% | 5.42% | 41  |
| Wyoming   | 4.00% | 1.38% | 5.38% | 42  |
| District of Columbia  | 6.00% | n/a%  | 6.00% | n/a |
| Source: Sales Tax Clearinghouse; Census Bureau; Departments of Revenue. |       |       |       |     |

### Combined Rates

There are five states that do without a general statewide sales tax: Alaska, Delaware, Montana, New Hampshire and Oregon. Alaska is the only state on this list that allows municipalities to charge a local sales tax, and these can be quite high in some cases. For example, Juneau, the capital, has a city sales tax rate of 5 percent.

Delaware, Montana, New Hampshire and Oregon rank lowest with no state or local sales taxes. Alaska comes next with a combined local and state rate of 1.61 percent, followed by Hawaii (4.38 percent), Maine (5 percent), Virginia (5 percent), Wisconsin (5.42 percent) and Wyoming (5.42 percent). The states with highest combined state-local rates are Tennessee (9.41 percent), California (9.06 percent), Washington (8.78 percent), Oklahoma (8.44 percent) and Louisiana (8.43 percent).

The dubious distinction of having the highest combined sales tax goes to four localities in central Alabama. Brookwood, Coaling, Coker and Vance have a total sales tax of 11 percent. Individuals making purchases in any of these municipalities owe 4 percent to the State of Alabama, 5 percent to Tuscaloosa County, and finally 2 percent to the city.

### State Rates

California has the highest statewide rate of 8.25 percent, including a mandatory 1 percent tax collected by the state but distributed to local governments. (Some sources describe California's statewide sales tax as one percentage point lower for this reason.) Six states tie for the second highest rate of 7 percent: Indiana, North Carolina, Mississippi, New Jersey, Rhode Island, and Tennessee.

The lowest non-zero rate goes to Colorado with a rate of 2.90 percent. There are seven states that are next in line with a 4 percent rate: Alabama, Georgia, Hawaii, Louisiana, New York, South Dakota, and Wyoming.

### Local Rates

As one can see from the table, local rates can make up a large percentage of the overall sales rate. For example, in Colorado the local rate makes up 60 percent of the overall sales tax rate. In Alaska, the local rate is 100 percent of the total sales tax rate. 16 states have no local option general sales tax.

The states with the highest average local sales tax rates are Louisiana (4.43 percent), Colorado (4.34 percent), New York (4.30 percent), Oklahoma (3.94 percent) and Georgia (3.02 percent). The states with the lowest non-zero local rate are Pennsylvania (0.22 percent), Hawaii (0.34 percent), Minnesota (0.34 percent), Wisconsin (0.42 percent) and Utah (0.66 percent).

### Methodology

This report compiles the widely available state sales tax rates from the *Facts and Figures Mid-Year Update*<sup>5</sup> with local sales tax rate data for counties and cities. The city data are reported at the five-digit zip code level.

For example, the table below represents two zip codes in Louisiana that correspond to two different cities in Allen Parish: 70658 is Reeves, LA and 70638 is Elizabeth, LA. Louisiana has a state-wide rate of 4 percent and Allen Parish has a local rate of 4.7 percent. Reeves does not charge a city-level sales tax, but Elizabeth does have a rate of 1.3 percent. The total combined state and local rates for Reeves is 8.7 percent and Elizabeth is an even 10 percent.

| <b>Table 2</b>                                     |                           |              |               |             |                   |                    |                  |
|--|---------------------------|--------------|---------------|-------------|-------------------|--------------------|------------------|
| <b>Example of Local Sales Tax Data by Zip Code</b> |                           |              |               |             |                   |                    |                  |
| <b>Zip</b>   | <b>County<sup>6</sup></b> | <b>State</b> | <b>County</b> | <b>City</b> | <b>State Rate</b> | <b>County Rate</b> | <b>City Rate</b> |
| 70658  | 03                        | LA           | Allen         | Reeves      | 0.04              | 0.047              | 0                |
| 70638  | 03                        | LA           | Allen         | Elizabeth   | 0.04              | 0.047              | 0.013            |
| Source: Sales Tax Clearinghouse.                   |                           |              |               |             |                   |                    |                  |

Since the rates are reported by zip code, and localities may contain all or part of many zip code areas, some inexactitude creeps in during the conversion from zip code to locality. There are at least 40,000 five-digit zip code areas overlapping the more than 8,000 localities in the U.S. We average the zip code rates within each locality. An improvement would be to weight those zip codes by volume of sales or personal income or population, but we are unable to do so for this study. Within each state, however, we average the local rates and weight them by personal income as reported by the Bureau of Economic Analysis within the Department of Commerce.

### Notes

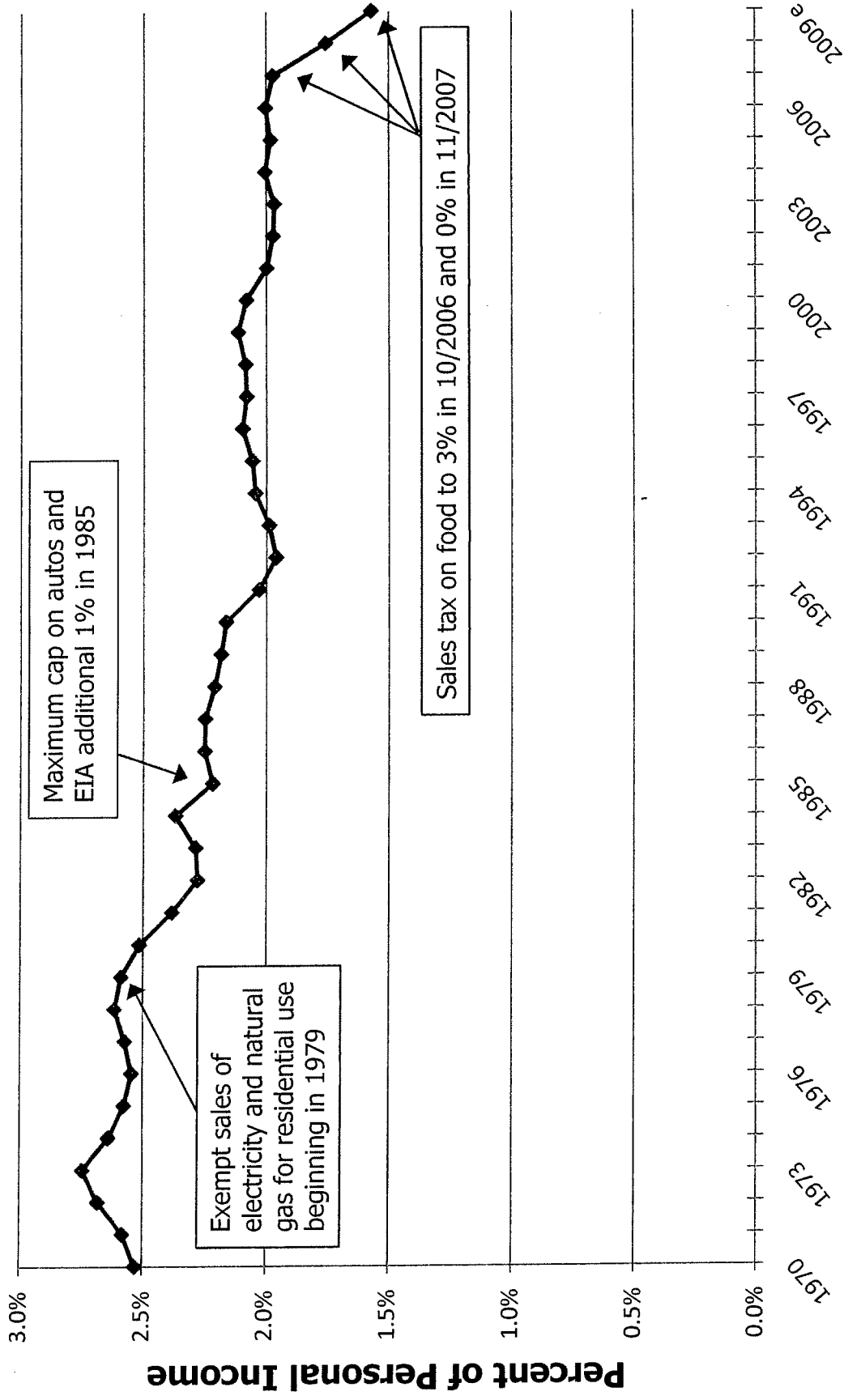
1. Average of all local rates, weighted by personal income.

2. California and Virginia both mandate and collect a 1 percent "local rate" that we list here as part of the state rate because localities do not have the authority to change it.
3. In Utah, the state mandates a 1.25 percent "local" add-on rate. Because localities do not have the authority to amend it, we list it here as part of the state rate.
4. California and Virginia both mandate and collect a 1 percent "local" add-on rate. Because localities do not have the authority to amend it, we list them here as part of the state rate.
5. <http://www.taxfoundation.org/publications/show/2181.html>.
6. Louisiana calls its counties parishes.

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Washington, DC 20045  
Ph: (202) 464-6200

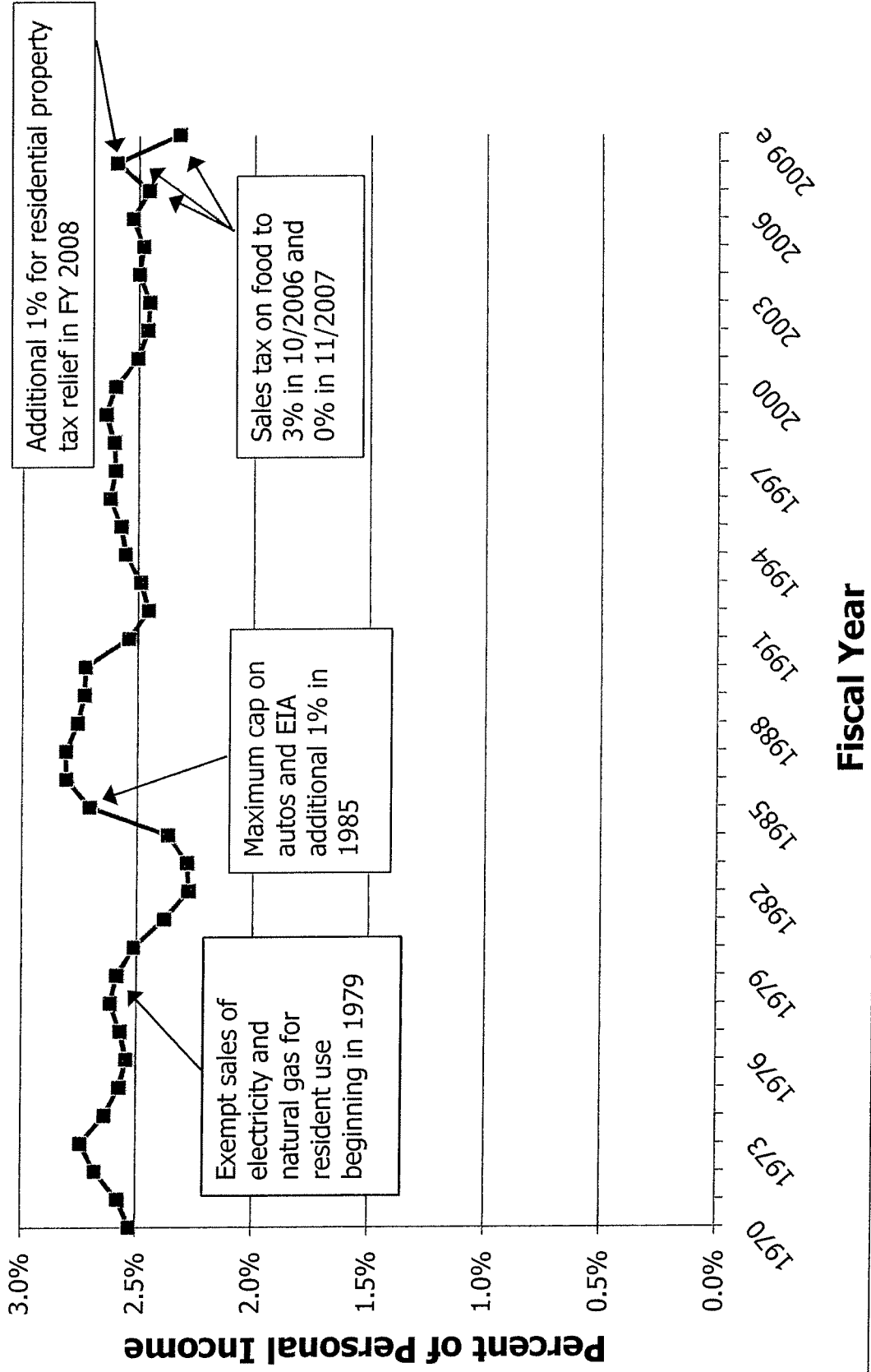
[www.taxfoundation.org](http://www.taxfoundation.org)

# South Carolina General Fund Sales Tax Collections as a Percentage of Total Personal Income



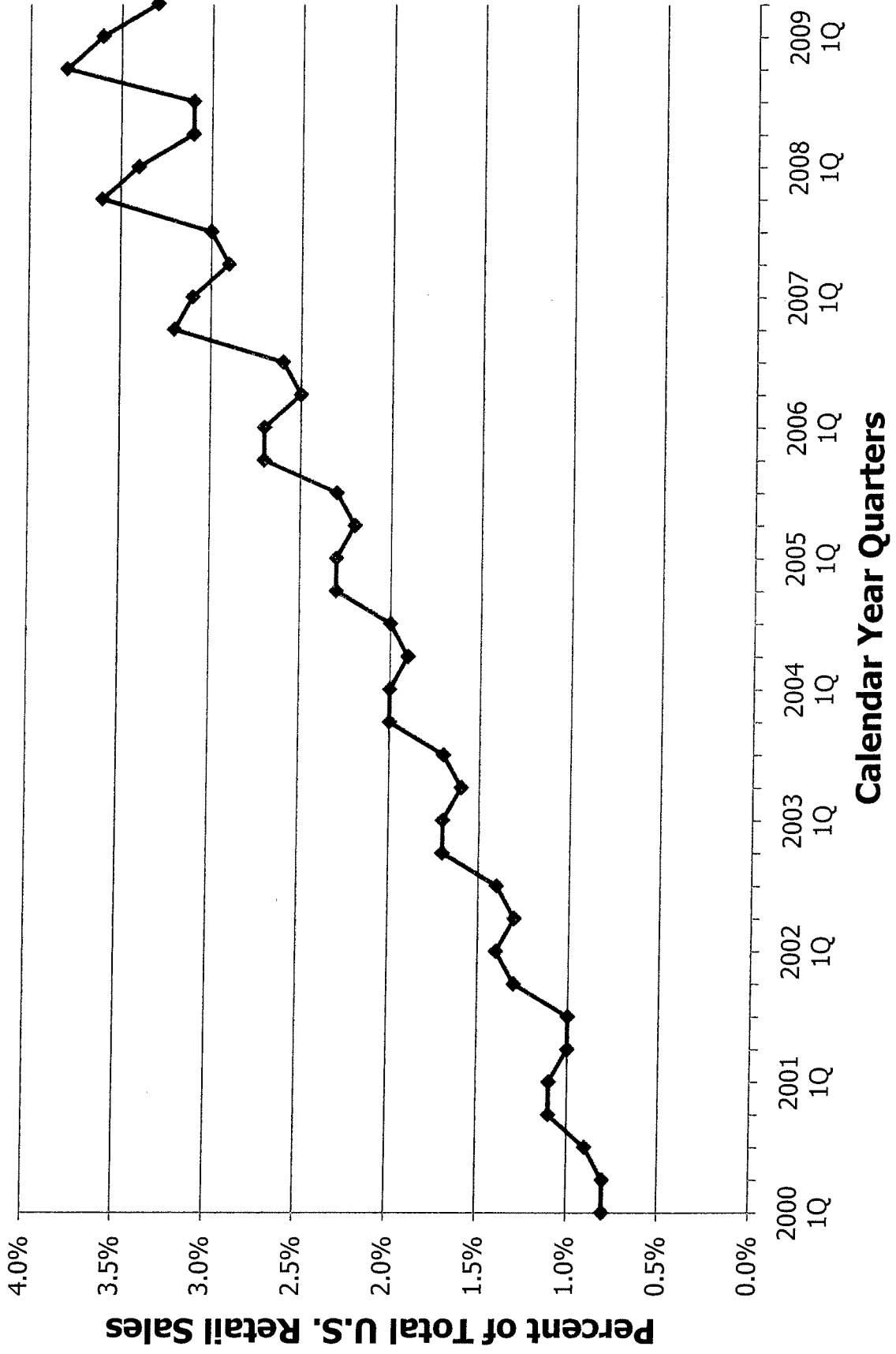
Fiscal Year

# South Carolina Total Sales Tax Collections as a Percentage of Total Personal Income





# U.S. Electronic Commerce as a Percentage of Total U.S. Retail Sales

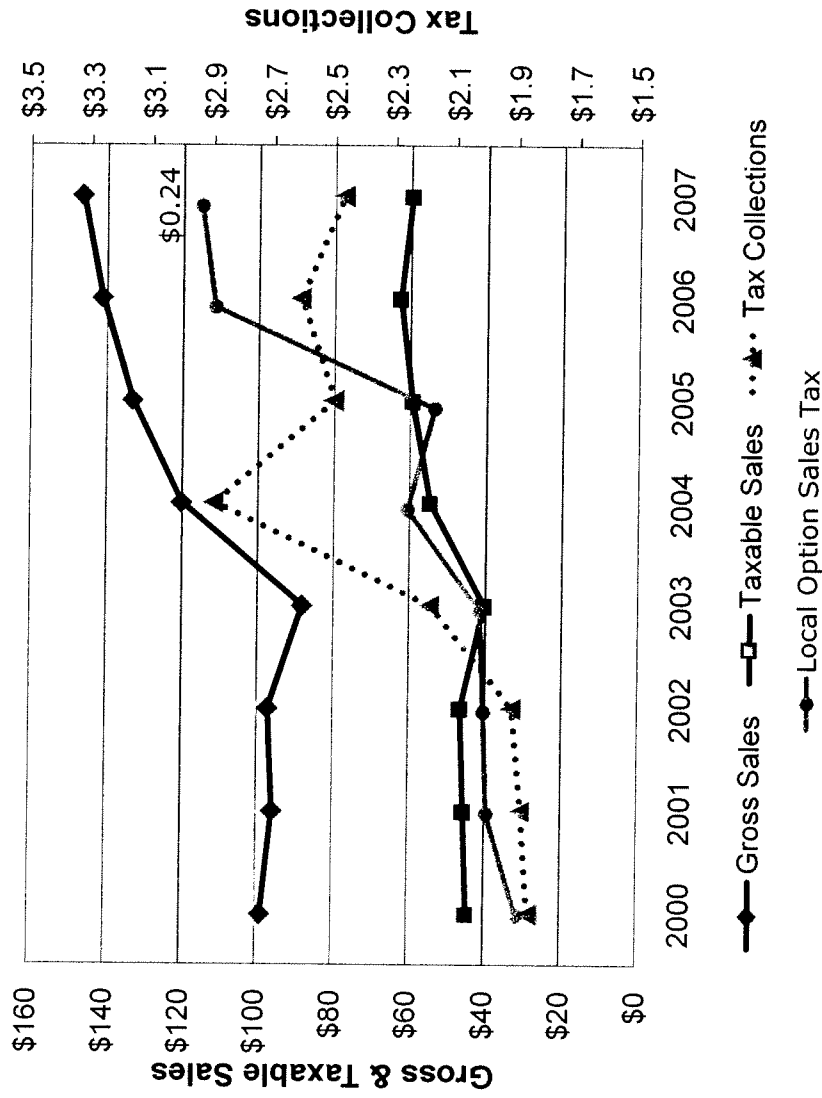




COMMERCE

# Sales Tax

**State Retail Sales and Tax Collections**  
(billions of US \$)



Source: SC Department of Revenue

SC Tax Policy & Economic Development  
A Report to the  
Tax Realignment Commission

## Declining Sales Tax Collections

Since 2004, gross sales have steadily increased (pre-recession) while sales tax collections have declined.

- 10/1/2006: food tax reduced to 3%
- 11/1/2007: food tax reduced to 0%
- In 2007, gross sales increased 4% while tax collections decreased 5%.

BEA estimated \$2.75 billion in tax revenues were not collected on items exempt sales tax in FY 2007-08

## Shifting Consumption Patterns

Consumption patterns have shifted from goods to services in South Carolina.

- In 1965, 54% of consumption was goods while 46% was services.
- In 2008, consumption was comprised of 26% goods and 74% services.



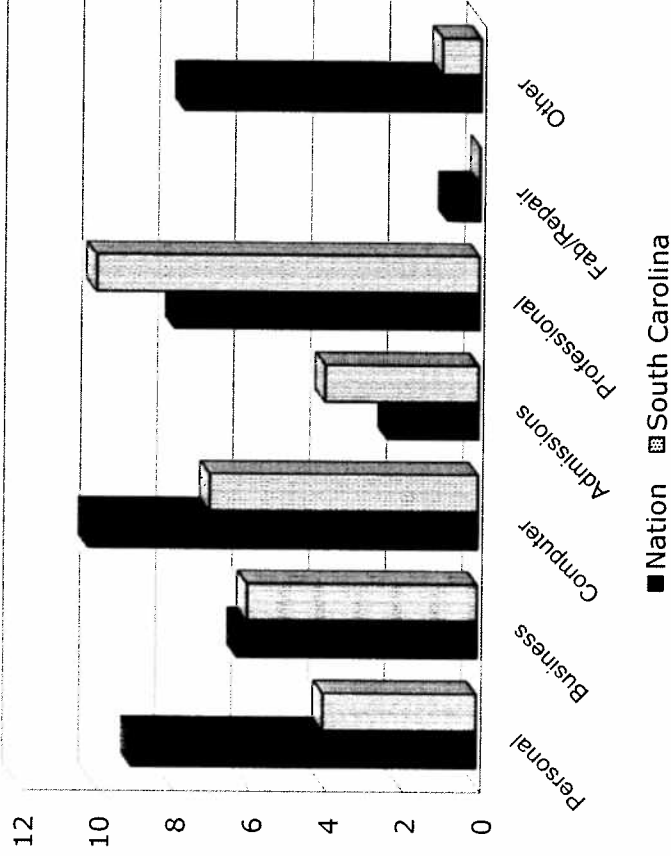
COMMERCE

# Sales Tax

1

## Narrow Range of Taxable Goods and Services

### Taxed Services by Type



Source: FTA

SC Tax Policy & Economic Development  
A Report to the  
Tax Realignment Commission

## EXEMPT GOODS & SERVICES

Of the 168 services that are taxed in the US...

- South Carolina taxes 21%
- National average is 33%

South Carolina currently exempts 120 goods from sales tax.

An estimated 40.8% of gross retail sales were taxed in SC in 2007.

- Down from 50% in 1998-1999.

## IMPLICATIONS

- Sales tax collections will continue decreasing if consumption pattern trends continue.
- High dependence on specific goods which may be more volatile in response to economic conditions.
- Inequity among taxation of goods & services.



COMMERCE

# Sales Tax

## 2

### Tax Caps & Business Inputs

#### SALES TAX CAPS

South Carolina caps on the maximum sales tax paid per transaction currently include...

- Motor Vehicles (airplanes, cars, motorcycles, boats): \$300
- Manufactured Homes: \$300
- Musical Instruments (for religious organizations): \$300
- Firefighting Trucks: Lesser of 5% or \$300

Sales taxes are analyzed and modeled as regressive taxes

- Caps, dependent upon the level and category, can increase the regressive nature of the sales tax

#### BUSINESS INPUTS

Business inputs estimated to account for 50% of sales tax revenue in SC.\*

- Reduces production efficiency (first order distortion)
- Tax pyramiding exists where sales in all facets of production are taxed.
- Encourages vertical integration to avoid taxation.

Prior to sweeping policy change, a thorough evaluation should be made and alternatives considered.

*\*Sources: Cline, R., Neubig, T., and Phillips, A. March 2006. Total State and Local Business Taxes. Ernst & Young Council on State Taxation.*

*Ring, R.J., 1999. Producer's Share and Consumer's Share of the General Sales Tax. National Tax Journal, 52:1, 79-90.*

## Local Option Taxes in South Carolina – A Review

*A Presentation to:  
The SC Taxation Realignment Commission*

Craig H. Parks, MPA  
Sr. Research Analyst  
Senate Finance Committee

January 6, 2010

## Sales Tax in SC – How We Compare (from 30K Ft.)

|  |              |
|--|--------------|
| Avg. State Rate (US):                  | 5.16%        |
| Avg. Local Rate (US):                  | <u>1.13%</u> |
| Tot.:                                  | 6.29%        |
| SC State Rate:                         | 6.00%        |
| Rank = 13 <sup>th</sup> (top quartile) |              |
| SC Avg. Local Rate:                    | <u>1.04%</u> |
| Rank = 21 <sup>st</sup>                |              |
| SC Avg. Overall                        | 7.04%        |
| Rank = 16 <sup>th</sup>                |              |

## Sales Tax in SC – How We Compare (cont.)

A Closer Look...

Of the 50 states...

45 impose at least a "state" sales tax; of those...  
18 don't impose a "local" tax, but those typically have...  
Higher "state" rates (12 of 18)

31 impose BOTH "state" and "local" – SC's "Peers"

## Sales Tax in SC – How We Compare (cont.)

So How Does SC Stack Up Against its Peers?

State Rate (SC): 8th/31 (top quartile)

Local Rate (SC): 20/31 (bottom 1/3)

1.04% vs. 1.13% (All states)

1.04% vs. 1.79% (Peer Group)

42% less

Note: 18 spots (bottom 1/3) at 5% (All states) + 6 more spots at 4%

## Local Taxes in SC – The Menu

“Local Options” – 9 varieties

State Accommodations\*

Local Accommodations

Local Hospitality (almost identical to Local “A”)

\*Not “local”

## “Local Option” Taxes in SC

An Overview

Today, there are 9 different “types” of Local Option taxes/fees that locals (governments, via voters) may impose. Excludes local “A” and “H” taxes (later)

Centrally administered (DOR)

Specific Purposes / Not General Fund\*

7 of 9 (2 not imposed)

First was in 1991 (True “LOST”)

\$548 Million in 2008\*

## “Local Option” Taxes in SC (cont.)

Rate(s): From 0.5% to 2% (typically 1%)

Base: Same as State (typically)  
           Max Taxes  
           Exemptions  
           Groceries? (current vs. future)  
           Check your receipt

## “Local Option” Taxes in SC (cont.)

9 Taxes and still a (be)low average?

Statutory Limits and Voter Control

“Stacking” limits

Voter Referendum\*

\*“Exceptional” exception

## "Local Option" Taxes in SC (cont.)

### Local Option

1% / Referendum / Prop. Tax Credit (all classes)

71% / 29%

Robin Hood

Permanent / Repeal

31 Counties

### Capital Projects

1% / Referendum / Specific Statutory List (last update '09) – Debt Service

Up to 8 yrs.

12 Counties

Can't stack Transport. & School District

### Transportation

Up to 1% / Referendum / Ala "Capital" – Transportation specific

25 yrs.

4 Counties

Can't stack Capital & School District

## "Local Option" Taxes in SC (cont.)

### School District

Typically 1% / Typically Referendum

Debt service of GO Bonds or specific cost of capital improvements

Initiated by Local Delegation

Currently 8 Counties/Districts

"In addition to" / Some groceries, some not

### "Personal" Property Tax Relief – NOT BEING IMPOSED

Up to 2% / Referendum

Purpose: REPLACE car, boat, plane, etc. tax

Stackable

### Local Property Tax – NOT BEING IMPOSED (Act 388)

Up to 1% / Referendum

All Classes (except FILOT) and Jurisdictions / Operating "all other"

Stackable

## "Local Option" Taxes in SC (cont.)

### Catawba Indian Tribal Tax (Lancaster and York only)

Sales and Deliveries on the Reservation

Rate depends on state and local rate in those 2 counties

### Education Capital Improvement (2008)

1% / Referendum

Eligibility: \$7 Million in State Accommodations Tax

School District / Technical / 4-year colleges

Bond Bill / Funding

1 County (Horry)

### Tourism Development Tax/Fee (2009)

1% / Ordinance OR Referendum

Eligibility: \$14 Million in State Accommodations Tax

City or County

Out of State Tourists, yrs. 1 and 2 / Property Tax rollbacks and Cap. Proj. Yrs. 3 and out

"Save the Season"

1 City (Myrtle Beach)

## "State" Accommodations Tax

- Statute calls it "Local", but it's STATE (and statewide)
- Centralized Collection / Distributed\* to Locals
  - \*Robin Hood
- Rate: 2%
  - Added to 5% ST (Act 388)
  - =7% "sales tax" (+ any true Local A Tax + local options)
- Base: Hotel, Motel, Campgrounds, etc. "Stays"
  - Excludes:
    - 6 rooms or less & used as home (B&B)
    - Stays of 90 consecutive days or more
    - Timeshare stays
    - "Additional" guest charges taxed at only 5% rate (movies, meeting rooms, room-service, etc.)
    - Note: Serves as "tax base" for Local A Tax

## "State" Accommodations Tax (cont.)

### So how can the money be spent?

#### Tourism – Bottom Line\*

- 1) First \$25,000 to locals GENERAL FUND (used for ANY purpose)\*
- 2) 5% of the balance to locals GENERAL FUND (used for ANY purpose)\*
- 3) 30% of the balance to a SPECIAL FUND for Tourism Promotion
- 4) 65% to a second SPECIAL FUND for "Tourism Related Expenditures" including:
  - a) advertising and promotion of tourism so as to develop and increase tourist attendance through the generation of publicity;
  - b) promotion of the arts and cultural events;
  - c) construction, maintenance, and operation of facilities for civic and cultural activities including construction and maintenance of access and other nearby roads and utilities for the facilities\*;
  - d) the criminal justice system, law enforcement, fire protection, solid waste collection, and health facilities when required to serve tourists and tourist facilities. This is based on the estimated percentage of costs directly attributed to tourists;
  - e) public facilities such as restrooms, dressing rooms, parks, and parking lots;
  - f) tourist shuttle transportation;
  - g) control and repair of waterfront erosion;
  - h) operating visitor information centers.

\*Debit Service (all other "cash")

## "State" Accommodations Tax (cont.)

### Oversight - Local and State

#### LOCAL LEVEL - Steps before AT revenue can be spent

- (1) Local Govt receives requests from various groups wanting money  
These are usually NON-PROFITS, but can be from within the GOVT itself
- (2) Local Govt forwards requests to a Local Advisory Committee (LAC, aka "A" Tax Committees) for review  
LAC makes recommendations to the Local Govt that are NON-BINDING
- (3) Local Govt makes final determination and disperses the money to recipients

#### STATE LEVEL - The "Tourism Expenditure Review Committee" (TERC)

-TERC is a 11 member committee made up of various officials (2 local govt) and hospitality leaders (8 + PRT ex officio)

-ANNUALLY, local govts submit REQUIRED reports to TERC for review

TERC either:

- (A) Determines an expenditure COMPLIANT or
- (B) NON-COMPLIANT (withheld and redistributed)

## "State" Accommodations Tax (cont.)

### The Money

FY05: \$36.8M  
 FY08: \$45.5M (7%/yr. b/w 05 and 08)  
 FY09: \$41.9M (-8%)  
 FY10: \$44.5M (BEA estimate\*)  
 \*July-Nov "flat" (vs. need 6.1%)

## Local Accommodations Tax

- Aka Local "A" Tax
- 1997 – Brown vs. Horry Co.
- Truly "local" – No Columbia / No Redistribution
- Tax Base? Same as State "A" Tax
- Tax Rate? "May not exceed 3%\*"
  - \*In Co./Unincorporated areas; 1.5% max without city consent
- Can't "piggyback"



### Local Accommodations Tax (cont.)

- Bottom line to Transient?
- 5% State Sales Tax\* (Act 388)
- 2% State "A" Tax
- 1% Local Option (avg.)
- 3% Local "A" Tax (max.)
- = 11%
- Broaden / Lower?

### Local Accommodations Tax (cont.)

#### The Revenue

- FY03: \$25.6 Million
- FY08: \$42.9 Million
- The Players
- FY03: 22 Counties / 66 Cities
- FY08: 22 Counties / 97 Cities

### Local Accommodations Tax (cont.)

- How is the Tax Imposed?
  - Ordinance
    - Positive Majority Vote
- How Can the Money be Spent?
  - TOURISM – Bottom Line\*
- Revenue NOT Placed in GENERAL FUND, rather...

### Local Accommodations Tax (cont.)

- Local "A" Tax Fund, for 6 TOURIST related functions:
  - (1) **tourism-related** buildings including, but not limited to, civic centers, coliseums, and aquariums;
  - (2) **tourism-related** cultural, recreational, or historic facilities;
  - (3) beach access, renourishment, or other **tourism-related** lands and water access;
  - (4) highways, roads, streets, and bridges providing access to **tourist** destinations;
  - (5) advertisements and promotions related to **tourism** development; or
  - (6) water and sewer infrastructure to serve **tourism-related** demand.

### Local Accommodations Tax (cont.)

- Note: 5 of 6 “uses” relate to “capital projects”
- So law allows “construction” of tourism related facilities, but can the funds be used to “operate and maintain” them?
- YES ... with conditions\*
  - \*Big (6) vs. Small Counties (40)
  - <> \$900K

### Local Accommodations Tax (cont.)

- Big Counties
  - Operate and maintain those facilities AND use the funds to provide police, fire protection, emergency medical services, and emergency-preparedness operations directly attendant to those facilities.
    - No Limit
    - Essentially same as “State” A-Tax
- Small Counties
  - Same, but limited to 20% of revenue raised

### Local Accommodations Tax (cont.)

- Oversight
  - TERC / No – This is Local Tax, not State
  - Local Budgetary Process
  - Local Interest and Advocacy Groups
  - AG Opinions
  - Home Rule Act / Annual Financial Audits

### Local Accommodations Tax (cont.)

- Statutory Changes – A Brief History
  - 1<sup>st</sup> enacted in 1997
  - 1999 - Amends 6-1-530(A)(2) by inserting “tourism-related” before “cultural, recreational, or historic facilities”
  - 2002- Expanded definition of beach access and renourishment to include other “tourism-related” lands and water access (lake and/or river).
  - 2006 - Operation and Maintenance provision for smaller counties.
  - 2010 - S. 304?

### Local Accommodations Tax (cont.)

- Our "A" (state and local) Taxes – How we Compare to our Peer Destinations – A snapshot...

|                    |        |
|--------------------|--------|
| – Nashville =      | 14.25% |
| – Virginia Beach = | 14.00% |
| – Orlando =        | 13.50% |
| – Savannah =       | 13.00% |
| – SC (Avg. Max.) = | 11.00% |

### Local Hospitality Tax

- Aka Local "H" Tax
- 1997 – Brown vs. Horry Co.
- Truly "local" – No Columbia / No Redistribution
- No "State" version / rate
- Tax Rate? "May not exceed 2%\*"
  - \*In Co./Unincorporated areas; 1.0% max without city consent
- Can't "piggyback"

### Local Hospitality Tax (cont.)

- Tax Base? What's Taxed?
  - "Prepared" Meals\* and Beverages\*\*
  - \*Full meals, not "components"
  - \*\*Includes both alcoholic and non-alcoholic drinks
- Note: Statute gives locals flexibility to: 1) tax sales in all restaurants, or 2) isolate only bars and/or restaurants serving alcohol

### Local Hospitality Tax (cont.)

- Bottom line to Patron?
- 6% State Sales Tax
- 0% State "H" Tax
- 1% Local Option (avg.)
- 2% Local "H" Tax (max.)
- = 9%

Broaden / Lower?

### Local Hospitality Tax (cont.)

#### The Revenue

- FY03: \$74.0 Million
- FY08: \$143.0 Million
- The Players
  - FY03: 6 Counties / 37 Cities
  - FY08: 12 Counties / 82 Cities

### Local Hospitality Tax (cont.)

- How is the Tax Imposed?
  - Ordinance
    - Positive Majority Vote
  - How Can the Money be Spent?
  - TOURISM – Bottom Line\*
  - Revenue NOT Placed in GENERAL FUND, rather...

### Local Hospitality Tax (cont.)

- Local “A” Tax Fund, for 6 TOURIST related functions:
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  - (3) beach access and renourishment\* (2002)
  - (4) highways, roads, streets, and bridges providing access to **tourist** destinations;
  - (5) advertisements and promotions related to **tourism** development; or
  - (6) water and sewer infrastructure to serve **tourism-related** demand.

### Local Hospitality Tax (cont.)

- Note: 5 of 6 “uses” relate to “capital projects”
- So law allows “construction” of tourism related facilities, but can the funds be used to “operate and maintain” them?
- YES ... with conditions\*
  - \*Big (6) vs. Small Counties (40)
  - <> \$900K (Blue Laws)

### Local Hospitality Tax (cont.)

- Big Counties
  - Operate and maintain those facilities AND use the funds to provide police, fire protection, emergency medical services, and emergency-preparedness operations directly attendant to those facilities.
    - No Limit
- Small Counties
  - Same, but limited to 20% of revenue raised

### Local Hospitality Tax (cont.)

- Oversight
  - TERC / No – This is Local Tax, not State
  - Local Budgetary Process
  - Local Interest and Advocacy Groups
  - AG Opinions
  - Home Rule Act / Annual Financial Audits

### Local Hospitality Tax (cont.)

- Statutory Changes – A Brief History
  - 1<sup>st</sup> enacted in 1997
  - 1999 - Amends 6-1-730(A)(2) by inserting “tourism-related” before “cultural, recreational, or historic facilities”
  - 2006 - Operation and Maintenance provision for smaller counties.
  - 2010 - S. 304?

### Local Hospitality Tax (cont.)

- Our “H” Taxes – How we Compare to our Peer Destinations

|                   |        |
|-------------------|--------|
| – Williamsburg =  | 10.00% |
| – Gatlinburg =    | 9.50%  |
| – Daytona Beach = | 8.50%  |
| – Richmond =      | 8.00%  |
| – SC (Avg. Max) = | 9.00%  |

Broaden / Lower?

QUESTIONS?

Craig Parks  
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## State Sales Tax Applicability to Certain Purchases

| State        | Food | Residential<br>Electricity | Residential<br>Natural Gas | Residential<br>Heating Oil | Residential<br>Water | Inter-State<br>Long Distance | Prescription<br>Drugs |
|--------------|------|----------------------------|----------------------------|----------------------------|----------------------|------------------------------|-----------------------|
| AL           | Yes  | Yes                        | Yes                        | Yes                        | Yes                  | Yes                          | No                    |
| AK           | No   | No                         | No                         | No                         | No                   | No                           | No                    |
| AR           | Yes  | Yes                        | Yes                        | Yes                        | Yes                  | Yes                          | No                    |
| AZ           | No   | Yes                        | Yes                        | Yes                        | Yes                  | No                           | No                    |
| CA           | No   | No                         | No                         | Yes                        | No                   | No                           | No                    |
| CO           | No   | No                         | No                         | No                         | No                   | No                           | No                    |
| CT           | No   | No                         | No                         | No                         | No                   | Yes                          | No                    |
| DE           | No   | No                         | No                         | Yes                        | No                   | No                           | No                    |
| FL           | No   | No                         | No                         | No                         | No                   | No                           | No                    |
| GA           | No   | Yes                        | Yes                        | Yes                        | No                   | No                           | No                    |
| HI           | Yes  | Yes                        | Yes                        | Yes                        | Yes                  | Yes                          | No                    |
| IA           | No   | Yes                        | Yes                        | Yes                        | Yes                  | No                           | No                    |
| ID           | Yes  | No                         | No                         | No                         | No                   | No                           | No                    |
| IL           | Yes  | Yes                        | Yes                        | Yes                        | No                   | Yes                          | Yes                   |
| IN           | No   | Yes                        | Yes                        | Yes                        | Yes                  | No                           | No                    |
| KS           | Yes  | No                         | No                         | No                         | No                   | Yes                          | No                    |
| KY           | No   | No                         | No                         | No                         | No                   | Yes                          | No                    |
| LA           | No   | No                         | No                         | No                         | No                   | Yes                          | No                    |
| ME           | No   | Yes                        | No                         | No                         | No                   | No                           | No                    |
| MD           | No   | No                         | No                         | No                         | No                   | No                           | No                    |
| MA           | No   | No                         | No                         | No                         | No                   | Yes                          | No                    |
| MI           | No   | Yes                        | Yes                        | Yes                        | No                   | Yes                          | No                    |
| MN           | No   | Yes                        | Yes                        | Yes                        | No                   | Yes                          | No                    |
| MS           | Yes  | No                         | No                         | No                         | No                   | Yes                          | No                    |
| MO           | Yes  | No                         | No                         | No                         | No                   | No                           | No                    |
| MT           | No   | Yes                        | Yes                        | No                         | Yes                  | No                           | No                    |
| NE           | No   | Yes                        | Yes                        | Yes                        | Yes                  | No                           | No                    |
| NV           | No   | No                         | No                         | No                         | No                   | No                           | No                    |
| NH           | No   | No                         | No                         | No                         | No                   | Yes                          | No                    |
| NJ           | No   | Yes                        | Yes                        | No                         | No                   | Yes                          | No                    |
| NM           | No   | Yes                        | Yes                        | Yes                        | Yes                  | Yes                          | No                    |
| NY           | No   | No                         | No                         | No                         | No                   | No                           | No                    |
| NC           | No   | Yes                        | No                         | Yes                        | No                   | Yes                          | No                    |
| ND           | No   | No                         | Yes                        | No                         | No                   | No                           | No                    |
| OH           | No   | No                         | No                         | Yes                        | No                   | Yes                          | No                    |
| OK           | Yes  | No                         | No                         | No                         | No                   | Yes                          | No                    |
| OR           | No   | No                         | No                         | No                         | No                   | No                           | No                    |
| PA           | No   | No                         | No                         | No                         | No                   | Yes                          | No                    |
| RI           | No   | No                         | No                         | No                         | No                   | Yes                          | No                    |
| SC           | No   | No                         | No                         | No                         | No                   | No                           | No                    |
| SD           | Yes  | Yes                        | Yes                        | Yes                        | No                   | Yes                          | No                    |
| TN           | Yes  | No                         | No                         | No                         | Yes                  | Yes                          | No                    |
| TX           | No   | No                         | No                         | Yes                        | No                   | Yes                          | No                    |
| UT           | Yes  | Yes                        | Yes                        | Yes                        | No                   | No                           | No                    |
| VT           | No   | No                         | No                         | No                         | No                   | Yes                          | No                    |
| VA           | Yes  | No                         | No                         | No                         | No                   | No                           | No                    |
| WA           | No   | Yes                        | Yes                        | Yes                        | Yes                  | Yes                          | No                    |
| WV           | Yes  | Yes                        | Yes                        | Yes                        | Yes                  | No                           | No                    |
| WI           | No   | Yes                        | Yes                        | No                         | No                   | Yes                          | No                    |
| WY           | No   | Yes                        | Yes                        | Yes                        | No                   | No                           | No                    |
| DC           | No   | Yes                        | Yes                        | Yes                        | No                   | Yes                          | No                    |
| Total Taxing | 14   | 23                         | 22                         | 23                         | 12                   | 27                           | 1                     |

Source: Various Federation of Tax Administrators documents and publications.

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Revised November 4, 2009

## WHICH STATES TAX THE SALE OF FOOD FOR HOME CONSUMPTION IN 2009?

Forty-five states and the District of Columbia levy general sales taxes. Most of those states have eliminated, reduced, or offset the tax as applied to food for home consumption. The relief strategies include full or partial exemptions from the sales tax for food purchased for home consumption and credits or rebates to offset the food tax. Of the states with sales taxes:

- Thirty-one states and the District of Columbia exempt most food purchased for consumption at home from the state sales tax. South Carolina is the state that most recently eliminated its sales tax on food (effective November 1, 2007).
- Seven states tax groceries at lower rates than other goods; they are Arkansas, Illinois, Missouri, Tennessee, Utah, Virginia, and West Virginia.<sup>1</sup>
- Five states — Hawaii, Idaho, Kansas, Oklahoma, and South Dakota — tax groceries fully but offer credits or rebates offsetting some of the taxes paid on food by some portions of the population. These credits or rebates usually are set at a flat amount per family member. The amounts and eligibility rules vary, but may be too narrow and/or insufficient to give eligible households full relief from sales taxes paid on food purchases.
- Two states continue to apply their sales tax fully to food purchased for home consumption without providing any offsetting relief for low- and moderate-income families. They are Alabama and Mississippi.

Local governments, which in many states levy their own sales taxes, usually exempt food if food is fully exempt at the state level. Major exceptions include localities in Arizona, Colorado, Georgia, Louisiana, North Carolina, and South Carolina. Grocery food purchases in those states are fully or partially exempt at the state level, but typically taxed at the local level.

For more details on food tax exemptions and credits, see Nicholas Johnson and Iris J. Lav, *Should States Tax Food? Examining the Policy Issues and Options*, Center on Budget and Policy Priorities, May 1998.

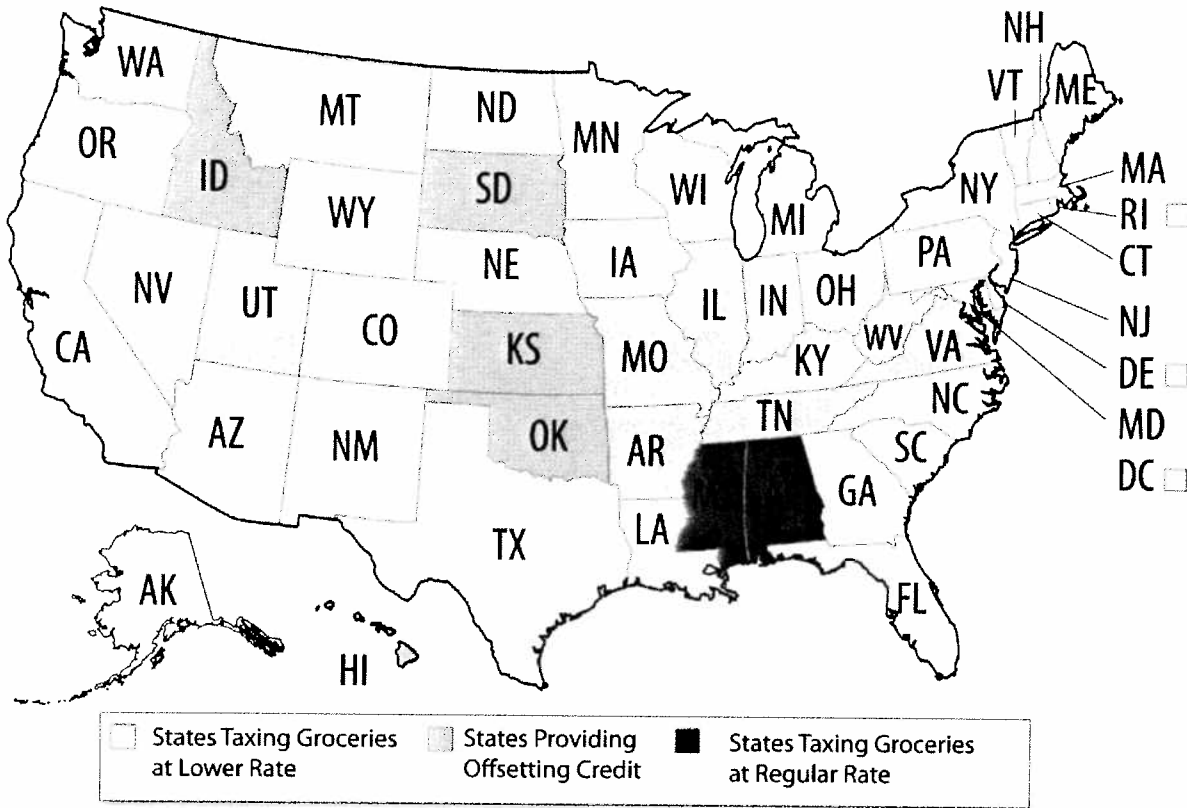
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<sup>1</sup> Food sales tax rates in these states are as follows: Arkansas — 2 percent, Illinois — 1 percent, Missouri — 1.225 percent, Tennessee — 5.5 percent, Utah — 3 percent, Virginia — 2.5 percent, and West Virginia — 3 percent.



FIGURE 1

## State Grocery Tax Provisions



# Motor Vehicle Sales Tax

## Summary

Statute: 12-36-2110

Date Enacted: 1984

Date of last changes: 1984 (capped at \$300)

Rate: the lesser of 5% of sale or \$300

Current Distribution: General Fund

## Fiscal Year Estimated Collections 1/

FY10 \$ 85,800,000

## FY10 Fiscal Impacts as a Result of Change in Current Law

### Revenue Generated From Incremental Increases in Sales Tax Cap on Motor Vehicles With the Sales Tax Rate at 5 Percent

| Sales Tax Cap<br>(Dollars) | Estimated Tax<br>Collections (Millions) | Additional Tax Collections<br>(Millions) |
|----------------------------|---|--|
| \$400                      | \$103.5                                 | \$17.7                                   |
| \$600                      | \$132.0                                 | \$46.2                                   |
| \$800                      | \$152.7                                 | \$66.9                                   |
| \$1,000                    | \$166.3                                 | \$80.5                                   |
| \$1,200                    | \$175.0                                 | \$89.2                                   |
| \$1,400                    | \$180.6                                 | \$94.8                                   |
| \$1,600                    | \$184.1                                 | \$98.3                                   |
| \$1,800                    | \$186.3                                 | \$100.5                                  |
| \$2,000                    | \$187.6                                 | \$101.8                                  |

### Revenue Generated From Replacing the Sales Tax Cap on Motor Vehicles With a Sales Tax on Total Value of Vehicle

| Sales Tax<br>(Percent) | Estimated Tax<br>Collections (Millions) | Additional Tax Collections<br>(Millions) |
|------------------------|---|--|
| 1%                     | \$38.1                                  | (\$47.7)                                 |
| 2%                     | \$76.3                                  | (\$9.5)                                  |
| 3%                     | \$114.4                                 | \$28.6                                   |
| 4%                     | \$152.5                                 | \$66.7                                   |
| 5%                     | \$190.7                                 | \$104.9                                  |
| 6%                     | \$228.8                                 | \$143.0                                  |

Note: The \$300 sales tax cap is revenue neutral at 2.3% sales tax rate.

1/ Sales tax revenue on motor vehicles is not kept by Department of Revenue.

Sources of data: South Carolina Dept. of Motor Vehicles; North Carolina Dept. of Motor Vehicles.

Note: All calculations made by the Board of Economic Advisors.

Table 3

**Additional Revenue Generated From Replacing the Sales Tax Cap  
On Motor Vehicles With a Combination of Exempting  
Vehicle Value and Adding a Sales Tax**  
(Figures are in Millions)

| Sales Tax<br>(Percent) | Exemption of Vehicle Value (Dollars) |          |          |          |
|------------------------|--------------------------------------|----------|----------|----------|
|                        | \$1,000                              | \$5,000  | \$10,000 | \$15,000 |
| 5.0                    | \$103.1                              | \$84.9   | \$57.0   | \$27.0   |
| 4.0                    | \$65.3                               | \$50.8   | \$28.4   | \$4.4    |
| 3.0                    | \$27.5                               | \$16.6   | (\$0.1)  | (\$18.1) |
| 2.0                    | (\$10.2)                             | (\$17.5) | (\$28.7) | (\$40.7) |
| 1.0                    | (\$48.0)                             | (\$51.7) | (\$57.3) | (\$63.3) |
|                        |                                      |          | \$20,000 | \$25,000 |
|                        |                                      |          |          | (\$33.4) |
|                        |                                      |          |          | (\$43.9) |
|                        |                                      |          |          | (\$54.4) |
|                        |                                      |          |          | (\$64.9) |
|                        |                                      |          |          | (\$75.3) |

Table 4

**Revenue Generated From Replacing the Sales Tax Cap  
On Motor Vehicles With a Combination of Exempting  
Vehicle Value and Adding a Sales Tax**  
(Figures are in Millions)

| Sales Tax<br>(Percent) | Exemption of Vehicle Value (Dollars) |         |          |          |
|------------------------|--------------------------------------|---------|----------|----------|
|                        | \$1,000                              | \$5,000 | \$10,000 | \$15,000 |
| 5.0                    | \$188.9                              | \$170.7 | \$142.8  | \$112.8  |
| 4.0                    | \$151.1                              | \$136.6 | \$114.2  | \$90.2   |
| 3.0                    | \$113.3                              | \$102.4 | \$85.7   | \$67.7   |
| 2.0                    | \$75.6                               | \$68.3  | \$57.1   | \$45.1   |
| 1.0                    | \$37.8                               | \$34.1  | \$28.5   | \$22.5   |
|                        |                                      |         | \$20,000 | \$25,000 |
|                        |                                      |         |          | \$52.4   |
|                        |                                      |         |          | \$41.9   |
|                        |                                      |         |          | \$31.4   |
|                        |                                      |         |          | \$20.9   |
|                        |                                      |         |          | \$10.5   |

Notes: All calculations made by the Board of Economic Advisors.

The \$300 sales tax cap currently amounts to an estimated \$85.8 million.

Sources: S.C. Division of Motor Vehicles; N.C. Division of Motor Vehicles; S.C. Code of Laws, 1976.

BEA/RWM/03/08/09

**Table 5**

**Additional Revenue Generated From Removing the Sales Tax Cap on Motor Vehicles  
and Replace With Exempting Specific Value of the Motor Vehicle and Applying a  
5 Percent Sales Tax to Any Remaining Value of the Motor Vehicle**

**(Figures are in Millions)**

| <b>Exemption<br/>Value<br/>(Dollars)</b> | <b>Change in<br/>Current Sales<br/>Tax Revenue<br/>(Millions)</b> |
|--|---|
| \$1,000                                  | \$103.1   |
| \$2,000                                  | \$98.8  |
| \$3,000                                  | \$94.4  |
| \$4,000                                  | \$89.6  |
| \$5,000                                  | \$84.9  |
| \$6,000                                  | \$76.2  |
| \$7,000                                  | \$71.5  |
| \$8,000                                  | \$66.9  |
| \$9,000                                  | \$62.1  |
| \$10,000                                 | \$57.0  |
| \$11,000                                 | \$51.8  |
| \$12,000                                 | \$46.3  |
| \$13,000                                 | \$40.4  |
| \$14,000                                 | \$34.0  |
| \$15,000                                 | \$27.0  |
| \$16,000                                 | \$19.6  |
| \$17,000                                 | \$12.2  |
| \$18,000                                 | \$5.1   |
| \$19,000                                 | (\$1.5)   |
| \$20,000                                 | (\$7.6)   |
| \$21,000                                 | (\$13.2)  |
| \$22,000                                 | (\$18.9)  |
| \$23,000                                 | (\$24.0)  |
| \$24,000                                 | (\$28.9)  |
| \$25,000                                 | (\$33.4)  |

Note: All calculations made by the Board of Economic Advisors.  
The \$300 sales tax cap currently amounts to an estimated \$85.8 million.

Sources: S.C. Division of Motor Vehicles; N.C. Division of Motor Vehicles;  
S.C. Code of Laws, 1976.

BEA/RWM/03/08/09

[Return to FTA Home Page >](#)

**2010 State Sales Tax Holidays**  
[2009 State Sales Tax Holidays]

| State          | Days | Items Included   | Maximum Cost | 1 <sup>st</sup> Year | 2010* Dates      | Information Links *   |
|----------------|------|--|--------------|----------------------|------------------|---|
| Alabama        | 3    | clothing - \$100<br>computers - \$750<br>school supplies - \$50<br>books - \$30  |              | 2006                 | August 6-8       | <a href="http://www.revenue.alabama.gov/">http://www.revenue.alabama.gov/</a>     |
| Connecticut    | 7    | clothing and footwear - \$300  |              | 2001                 | August 15-21     | <a href="http://www.ct.gov/">http://www.ct.gov/</a>                               |
| Florida        | 3    | clothing & Books- \$50<br>school supplies - \$10   |              | 2010+                | August 13-15     | <a href="http://dor.myflorida.com/">http://dor.myflorida.com/</a>                 |
| Illinois       | 10   | clothing, footwear & school supplies - \$100   |              | 2010                 | August 6-15      | <a href="http://www.revenue.state.il.us">http://www.revenue.state.il.us</a>       |
| Iowa           | 2    | clothing - \$100   |              | 2000                 | August 6-7       | <a href="http://www.iowaccess.org/tax/">http://www.iowaccess.org/tax/</a>         |
| Louisiana      | 2    | all TPP - \$2,500  |              | 2007                 | August 6-7       | <a href="http://www.revenue.louisiana.gov/">http://www.revenue.louisiana.gov/</a> |
| Louisiana      | 2    | hurricane preparedness items - \$1,500   |              | 2008                 | May 29-30        | <a href="http://www.revenue.louisiana.gov/">http://www.revenue.louisiana.gov/</a> |
| Louisiana      | 3    | firearms, ammunition and hunting supplies  |              | 2009                 | September 3-5    | <a href="http://www.revenue.louisiana.gov/">http://www.revenue.louisiana.gov/</a> |
| Maryland       | 7    | clothing & footwear - \$100  |              | 2010                 | August 8-14      | <a href="http://www.comp.state.md.us/">http://www.comp.state.md.us/</a>           |
| Maryland       | 3    | energy star products   |              | 2011                 | Feb. 19-21, 2011 | <a href="http://www.comp.state.md.us/">http://www.comp.state.md.us/</a>           |
| Massachussets  | 2    | TPP - \$2,500  |              | 2008                 | August 14-15     | -has not been signed by governor.   |
| Mississippi    | 2    | clothing & footwear - \$100  |              | 2009                 | July 30-31       | <a href="http://www.dor.ms.gov/">http://www.dor.ms.gov/</a>                       |
| Missouri       | 7    | energy star products - \$1,500   |              | 2009                 | April 19-25      | <a href="http://www.dor.mo.gov/tax/">http://www.dor.mo.gov/tax/</a>               |
| Missouri       | 3    | clothing - \$100<br>computers - \$3,500<br>school supplies - \$50  |              | 2004                 | August 6-8       | <a href="http://www.dor.mo.gov/tax/">http://www.dor.mo.gov/tax/</a>               |
| New Mexico     | 3    | clothing - \$100<br>computers - \$1,000<br>school supplies - \$15  |              | 2005                 | August 6-8       | <a href="http://www.tax.newmexico.gov/">http://www.tax.newmexico.gov/</a>         |
| North Carolina | 3    | clothing - \$100<br>school supplies - \$100<br>instructional material - \$300<br>computers - \$3,500<br>other comp. - \$250<br>sports equip - \$50 |              | 2001                 | August 6-8       | <a href="http://www.dornc.com/">http://www.dornc.com/</a>                         |
| North Carolina | 3    | energy star products   |              | 2009                 | November 5-7     | <a href="http://www.dornc.com/">http://www.dornc.com/</a>                         |
| Oklahoma       | 3    | clothing - \$100   |              | 2007                 | August 6-8       | <a href="http://www.tax.ok.gov/">http://www.tax.ok.gov/</a>                       |

|                       |   |  |      |                                    |   |
|-----------------------|---|--|------|------------------------------------|---|
| <b>South Carolina</b> | 3 | clothing<br>school supplies<br>computers<br>other                      | 2000 | August 6-8                         | <a href="http://www.sctax.org/-list-of-qualifying-products-FAQ">http://www.sctax.org/<br/>-list of qualifying products<br/>-FAQ</a> |
| <b>South Carolina</b> | 2 | guns, rifles & handguns  | 2008 | November<br>26-27                  | <a href="http://www.sctax.org/">http://www.sctax.org/</a>   |
| <b>Tennessee</b>      | 3 | clothing - \$100<br>school supplies - \$100<br>computers - \$1,500     | 2006 | August 6-8                         | <a href="http://tn.gov/revenue/">http://tn.gov/revenue/</a>   |
| <b>Texas</b>          | 3 | clothing, backpacks and school<br>supplies- \$100                      | 1999 | August 20-<br>22                   | <a href="http://www.window.state.tx.us/">http://www.window.state.tx.us/</a>   |
| <b>Texas</b>          | 3 | energy star products<br>air conditioners - \$6,000; other -<br>\$2,000 | 2008 | May 29-31                          | <a href="http://www.window.state.tx.us/">http://www.window.state.tx.us/</a>   |
| <b>Vermont</b>        | 1 | Personal Purchase - \$2,000  | 2008 | March 6                            | <a href="http://www.state.vt.us/tax/">http://www.state.vt.us/tax/</a>   |
| <b>Virginia</b>       | 7 | hurricane preparedness items -<br>\$60<br>generators - \$1,000         | 2008 | May 25-31                          | <a href="http://www.tax.virginia.gov/">http://www.tax.virginia.gov/</a>   |
| <b>Virginia</b>       | 3 | clothing - \$100<br>school supplies - \$20                             | 2006 | August 6-8                         | <a href="http://www.tax.virginia.gov/">http://www.tax.virginia.gov/</a>   |
| <b>Virginia</b>       | 4 | energy star products - \$2,500   | 2006 | October 8-<br>11                   | <a href="http://www.tax.virginia.gov/">http://www.tax.virginia.gov/</a>   |
| <b>West Virginia</b>  | 7 | energy star products - \$5,000   | 2008 | September<br>1 -<br>November<br>30 | <a href="http://www.wvtax.gov/">http://www.wvtax.gov/</a>   |

(updated August 3, 2010)

\* dates are for calendar year 2010, as of August 3, 2010. Some state have not published 2010 information on their website; old information may be provided in the links for these states.

\*\* Holiday will only be allowed in years where the South Carolina Board of Economic Advisors certifies sufficient revenue growth.

+ Florida first held a sales tax holiday for school supplies in 2007. This was not re-enacted in 2008-09.

If you have any questions, please direct your inquiry to Ronald Alt.

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State of South Carolina  
Department of Revenue  
301 Gervais Street, P.O. Box 125, Columbia, South Carolina 29214  
Website Address: <http://www.sctax.org>

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SC REVENUE RULING 10-7

**SUBJECT:** Sales Tax Holiday – List  
(Sales and Use Tax)

**EFFECTIVE DATE:** Beginning 12:01 a.m. on the first Friday in August and ending at twelve midnight the following Sunday

**SUPERSEDES:** All previous advisory opinions and any oral directives in conflict herewith.

**REFERENCES:** S. C. Code Ann. Section 12-36-2120(57) (Supp. 2008)

**AUTHORITY:** S. C. Code Ann. Section 12-4-320 (2000)  
S. C. Code Ann. Section 1-23-10(4) (Supp. 2005)  
SC Revenue Procedure #09-3

**SCOPE:** The purpose of a Revenue Ruling is to provide guidance to the public and to Department personnel. It is an advisory opinion issued to apply principles of tax law to a set of facts or general category of taxpayers. It is the Department's position until superseded or modified by a change in statute, regulation, court decision, or another Departmental advisory opinion.

**LAW**

Code Section 12-36-2120(57) exempts from the sales and use tax:

- (a) sales taking place during a period beginning 12:01 a.m. on the first Friday in August and ending at twelve midnight the following Sunday of:
  - (i) clothing;
  - (ii) clothing accessories including, but not limited to, hats, scarves, hosiery, and handbags;
  - (iii) footwear;
  - (iv) school supplies including, but not limited to, pens, pencils, paper, binders, notebooks, books, bookbags, lunchboxes, and calculators;
  - (v) computers, printers and printer supplies, and computer software;
  - (vi) bath wash clothes, blankets, bed spreads, bed linens, sheet sets, comforter sets, bath towels, shower curtains, bath rugs and mats, pillows, and pillow cases.

(b) The exemption allowed by this item does not apply to:

- (i) sales of jewelry, cosmetics, eyewear, wallets, watches;
- (ii) sales of furniture;
- (iii) a sale of an item placed on layaway or similar deferred payment and delivery plan however described;
- (iv) rental of clothing or footwear;
- (v) a sale or lease of an item for use in a trade or business.

(c) Before July tenth of each year, the department shall publish and make available to the public and retailers a list of those articles qualifying for the exemption allowed by this item.

### **EXAMPLES OF EXEMPT AND NON-EXEMPT ITEMS**

Pursuant to Code Section 12-36-2120(57) cited above, the department publishes the following list as examples of items it believes to be exempt and non-exempt:

**Exempt items (Provided the item (1) is not used in a trade or business or (2) is not placed on layaway or similar deferred payment and delivery plan or (3) is not clothing or footwear that is rented) include:**

Adult diapers  
Aerobic clothing  
Antique clothing  
Aprons  
Athletic or sport uniforms or clothing (but not equipment such as mitts, helmets and pads)  
Baby bibs  
Baby clothes  
Baby diapers (cloth or disposable)  
Baby shoes  
Bandanas  
Barrettes  
Bath mats  
Bath rugs  
Bath towels (all sizes, including beach towels)  
Bath wash cloths  
Bathing caps  
Bathing suits  
Bathing trunks  
Beach capes and coats  
Bed comforters and bed comforter sets  
Bed duvets and covers



Bed linens, including baby bumper pads, canopies, baby crib padding, bed skirts, box spring covers, dust ruffles, mattress pads, mattress toppers, pillow covers, and shams (box springs, drapes, mattresses, table cloths, and window curtains and other window treatments are taxable)  
 Bed pillow cases  
 Bed pillows (e.g. baby pillows, body pillows, husband pillows, throw pillows)  
 Bed sheets and bed sheet sets  
 Bed spreads  
 Belt buckles  
 Belts/suspenders  
 Blankets (e.g. afghan, baby, electric, and throw)  
 Blouses  
 Bobby pins  
 Bonnets  
 Boots (climbing, hiking, riding, ski, waders, fishing, cowboy)  
 Bow ties  
 Bras  
 Bridal gowns and veils (must be sold; rentals are taxable)  
 Capri pants  
 Caps  
 Coats, capes and wraps  
 Computer hardware service contracts sold in conjunction with computers  
 Computer software  
 Computer software service contracts sold in conjunction with computer software  
 Computer software service contracts when the true object of the contract is to obtain computer software updates during the contract period  
 Computers<sup>1</sup> (computer parts, such as computer monitors, keyboards and scanners, when not sold in conjunction with a central processing unit (CPU) and accessories are taxable<sup>2</sup>)  
 Corset laces  
 Corsets  
 Costumes (must be sold; rentals are taxable)

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<sup>1</sup> The following are examples of devices that are not considered computers for purposes of the sales tax holiday exemption: (1) cell phones, smartphones or any other handheld devices that allow users to make telephone calls; (2) handheld devices that are primarily used to download and listen to music; (3) handheld devices that are primarily used to download and watch videos; and (4) devices that are primarily used to download and read books (e-books). However, portable devices that have computing and media functions, allow users to access the Internet and have a multitude of software applications (or the capability to download a multitude of software applications) are considered computers for purposes of the sales tax holiday exemption, provided such devices do not allow users to make telephone calls.

<sup>2</sup> Since sales tax is a "transaction tax," and since the law did not exempt computer parts (only computers), then the sale of a computer monitor, keyboard, or scanner by itself would not be exempt during the sales tax holiday. If a monitor, keyboard or scanner is purchased as part of a package which included the computer processing unit (CPU), then that is one transaction to purchase a computer and the sale of the packaged unit (CPU, monitor, keyboard, scanner) is exempt. The sale of a digital music player, digital camera, cell phone or a smartphone, whether or not purchased in conjunction with a computer processing unit (CPU), is not exempt during the sales tax holiday.

Coveralls  
Daily planners or organizers when used by school children as a school supply  
Dress shields  
Dresses  
Earmuffs  
Elastic ponytail holders  
Fishing boots  
Formal clothing (must be sold; rentals are taxable)  
Furs  
Galoshes  
Garters/garter belts  
Girdles  
Gloves (batting, bicycle, dress, garden, golf, ski, tennis)  
Gowns  
Graduation caps and gowns (must be sold; rentals are taxable)  
Gym suits  
Hair bows  
Hair clips  
Hand muffs  
Handbags  
Handkerchiefs  
Hats  
Headbands  
Hosiery  
Hunting vests  
Ice skates (rentals are taxable)  
In-line skates (rentals are taxable)  
Jackets  
Jeans  
Jogging suits  
Jumpers  
Leg warmers  
Leotards and tights  
Lingerie  
Mittens  
Nightgowns  
Overshoes  
Pajamas  
Pants  
Pantsuits  
Panty hose  
Personal Digital Assistants or PDAs (PDAs are hand-held computers used as daily planners. Please note that the exemption does not apply to cell phones with a PDA, computer applications or similar components.)  
Pillow cases  
Pillows (all types)

Ponchos  
Printer supplies (replaceable ink cartridges used in printers are exempt from tax as "printer supplies")  
Printers (replacement parts are taxable)  
Prom dress (must be sold; rentals are taxable)  
Purses  
Raincoats  
Rainwear  
Riding pants  
Robes  
Roller skates (provided the skates are permanently attached to the boots) (rentals are taxable)  
Sandals  
Scarves  
School supplies<sup>3</sup> including, but not limited to, pens, pencils, paper, binders, notebooks, books<sup>4</sup>, blue books<sup>5</sup>, bookbags, lunchboxes, musical instruments<sup>6</sup> and calculators (school office and janitorial supplies are taxable)  
School uniforms  
Scout uniforms  
Shawls and wraps  
Shirts  
Shoes (ballet, baseball, bicycle, boat, boots, bowling (taxed if rented), cleated, cross trainers, flip-flops, football, golf, jazz/dance, soccer, track, in-line skates, ice skates, running, etc.) (rentals are taxable)  
Shorts

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<sup>3</sup> It is the opinion of the department that "school supplies" are items used in the classroom or at home with respect to school assignments and include, but are not limited to, pens, pencils, paper, binders, notebooks, books, bookbags, lunchboxes, and calculators.

Items such as refrigerators, toiletries, bicycles and food purchased by college students are not school supplies and not exempt from the tax.

Attached as **Exhibit "A"** is a statement that a retailer may use to determine if a customer is purchasing an item as a school supply. The form should be attached to the bill of sales for record keeping purposes. Please note that this statement is not required and is merely provided by the department to assist retailers during the sales tax holiday.

<sup>4</sup> Code Section 12-36-2120(2)(a) already exempts from the tax books used as part of a course of study in elementary schools, high schools and institutions of higher learning. The exemption for books during the "sales tax holiday" applies to other books (e.g. dictionaries, thesauruses, encyclopedias, and books used for science projects, book reports, extra credit, and other reading requirements) used for school purposes.

<sup>5</sup> "Blue books" are blank notebooks with blue covers which are typically used to write college examinations.

<sup>6</sup> Musical instruments are exempt as school supplies if used in the classroom or at home with respect to school assignments.

Shoulder pads for dresses, jackets, etc. (but not athletic or sport protective pads)  
Shower curtains and liners (shower curtain hooks and rings and shower curtain rods are taxable)  
Ski boots (snow) (rentals are taxable)  
Ski masks  
Ski suits (snow)  
Skin diving suits  
Skirts  
Sleepwear  
Slippers  
Slips  
Sneakers  
Socks  
Sport clothing and uniforms (but not equipment such as mitts, helmets, and pads)  
Sport jacket  
Stockings  
Suits  
Support hosiery  
Suspenders  
Sweat pants  
Sweat shirts  
Sweat suits  
Sweatbands  
Sweaters  
Ties/neckwear  
Tights  
Towels of all types and sizes, including bath, beach, kitchen, and sport towels (paper towels are taxable)  
T-shirts  
Tuxedo (must be sold; rentals are taxable)  
Umbrellas  
Underwear  
Waders  
Wet and dry suits

Note: Fabric, thread, yarn, buttons, snaps, hooks, zippers and like items which become a physical component part of clothing or bed linens, blankets, comforters, and other exempt items listed above are exempt from tax.

**The following items are not exempt:**

Any clothing or footwear that is rented

Any item (whether sold or leased) used in a trade or business

Any item placed on layaway or similar deferred payment and delivery plan

Backpacks for hiking and camping (bookbags for school are exempt)

Bathroom accessories or supplies (soap, shower curtain hooks and rings, shower curtain rods, toothbrush holders, towel holders, tissue box covers, toilet paper, wastebaskets)

Box springs

Briefcases

Cameras

Cell phones

Change purse

Clocks (alarms clocks, wall clocks, etc.)

Clothing that is rented

Computer parts (such as computer monitors, keyboards and scanners when not sold in conjunction with a central processing unit (CPU)) and accessories other than printers and printer supplies (computers, computer software, printers, and printer supplies are exempt)<sup>7</sup>

Cookware

Cosmetics

Costume rentals (rentals are taxable; must be sold to be exempt)

Daily planners or organizers (whether or not such include a calculator) when not used by school children as a school supply

Digital cameras

Digital music players

Drapes

Employee uniforms

Eyewear

Footwear that is rented

Formal clothing that is rented

Furniture

Gift wrapping paper

Glasses

Goggles

Golf clubs

Greeting cards

Hardware (hand tools, power tools, etc.)

Health food supplements

Helmets (sport, motorcycle, bicycle, etc.)

Hobby equipment, supplies and toys

Housewares

Jewelry

Key cases

Mattresses

Mitts (baseball fielder's, hockey, etc.) (batting, bicycle, dress, garden, golf, ski, tennis, work gloves are exempt)

Music players

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<sup>7</sup> See footnotes #1 and #2.

Music tapes, records and compact discs  
Paper products that are not school supplies (greeting cards, gift wrapping paper, etc.)  
Paper towels  
Personal flotation devices  
Printer replacement parts (printers are exempt)  
Protective masks and goggles (athletic, sport, or occupational)  
Roller skates not permanently attached to the boot  
Safety clothing for use in a trade or business  
Safety glasses and goggles  
Safety shoes for use in a trade or business  
School office and janitorial supplies  
Sewing accessories  
Sheet stretchers  
Shin guards and padding  
Shoulder pads (football, hockey, etc.)  
Shower curtain hooks and rings  
Shower curtain rods  
Sleeping bags  
Smartphones  
Sporting equipment (baseball mitts, golf clubs, helmets, hockey mitts, life jackets and vests, masks, pads, swim fins, swimming masks and goggles)  
Stereo equipment  
Sunglasses  
Table cloths  
Table placemats and other table supplies (napkins, napkin holders)  
Tissue box covers  
Toilet paper  
Toothbrush holders  
Towel holders  
Toys  
Vitamins  
Wallets  
Wastebaskets  
Watch bands  
Watches  
Wigs  
Window curtains  
Window treatments (curtains, drapes, shades, valances)

If you have any questions, you may call the Department of Revenue at (803) 898-5788 or e-mail the Department at [salestax@sctax.org](mailto:salestax@sctax.org).

SOUTH CAROLINA DEPARTMENT OF REVENUE

s/Ray N. Stevens  
Ray N. Stevens, Director

May 18, 2010  
Columbia, South Carolina

**EXHIBIT "A"**

**School Supplies - Information and Purchaser's Statement**

It is the opinion of the department that "school supplies" are items used in the classroom or at home with respect to school assignments and include, but are not limited to, pens, pencils, paper, binders, notebooks, books, bookbags, lunchboxes, and calculators.

Items such as refrigerators, toiletries, bicycles and food purchased by college students are not school supplies and not exempt from the tax.

The **following** is a statement that a retailer may use to determine if a customer is purchasing an item as a school supply. The form should be attached to the bill of sale for record keeping purposes. Please note that this statement is not required and is merely provided by the department to assist retailers during the sales tax holiday.

\*\*\*\*\*

I state that the below-listed item will be used as a school supply and therefore is exempt from the sales tax. I further understand that if it is later determined that it is not used as a school supply and the tax is due, I will reimburse the retailer for the tax.

\_\_\_\_\_  
Item purchased

\_\_\_\_\_  
Signature of purchaser

August\_\_\_\_, \_\_\_\_

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State of South Carolina  
Department of Revenue  
301 Gervais Street, P.O. Box 125, Columbia, South Carolina 29214  
Website Address: <http://www.sctax.org>

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SC REVENUE RULING #10-9

**SUBJECT:** Second Amendment Sales Tax Holiday for 2010  
(Sales and Use Tax)

**EFFECTIVE DATE:** Beginning 12:01 a.m. on the Friday after Thanksgiving 2010 and ending at twelve midnight the following Saturday.

**SUPERSEDES:** SC Revenue Ruling #09-14 and all previous advisory opinions and any oral directives in conflict herewith.

**REFERENCES:** Act 291 of 2010, Part 1B, Section 89, Proviso 89.107 (Enacted June 2010)

**AUTHORITY:** S. C. Code Ann. Section 12-4-320 (2000)  
S. C. Code Ann. Section 1-23-10(4) (Supp. 2009)  
SC Revenue Procedure #09-3

**SCOPE:** The purpose of a Revenue Ruling is to provide guidance to the public and to Department personnel. It is an advisory opinion issued to apply principles of tax law to a set of facts or general category of taxpayers. It is the Department's position until superseded or modified by a change in statute, regulation, court decision, or another Departmental advisory opinion.

**LAW:**

The General Assembly enacted a Second Amendment Sales Tax Holiday for 2010 in the 2010-2011 State Appropriations Act, Act 291 of 2010, Part 1B, Section 89, Proviso 89.107, which states:

The gross proceeds of sales or sales price of handguns as defined pursuant to Section 16-23-10(1) of the 1976 Code, rifles, and shot guns is exempt from the taxes imposed pursuant to Chapter 36, Title 12 of the 1976 Code and Chapter 10, Title 4 of the 1976 Code for sales occurring from 12:01 a.m., Friday, November 26, 2010, through twelve midnight, Saturday, November 27, 2010.

Note: This Second Amendment Sales Tax Holiday is uncodified and will only take place in 2010, unless the General Assembly re-enacts the temporary proviso or codifies this sales tax holiday exemption.



In addition, although the above provision expressly includes only those local sales and use taxes imposed under Chapter 10, Title 4 of the 1976 Code, the Second Amendment Sales Tax Holiday for 2010 will also apply to other local sales and use taxes administered and collected by the SC Department of Revenue since all laws enacting local sales and use taxes require that such local taxes be administered and collected in the same manner as the state sales and use tax.

### **EXEMPT ITEMS**

The items listed below are the only items stated in the law to be exempt during the “Second Amendment Sales Tax Holiday.”

#### **The following items are exempt:**

- handguns as defined pursuant to Code Section 16-23-10(1)<sup>1</sup>
- rifles
- shotguns

### **EXAMPLES OF NON-EXEMPT ITEMS**

Any item that is not a handgun (as defined in Code Section 16-23-10(1)), rifle or shotgun is subject to the tax, unless it is a part or attachment that is pre-packaged with a handgun, rifle or shotgun.<sup>2</sup> The following are examples of items the Department considers to be non-exempt during the “Second Amendment Sales Tax Holiday.” This list is not all-inclusive.

#### **Non-exempt items include the following:**

- ammunition
- archery supplies
- black powder
- books

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<sup>1</sup> Code Section 16-23-10(1) defines a “handgun” as “any firearm designed to expel a projectile and designed to be fired from the hand, but shall not include any firearm generally recognized or classified as an antique, curiosity, or collector's item, or any that does not fire fixed cartridges.”

<sup>2</sup> Some of the items in the non-exempt list are parts and attachments to handguns, rifles or shotguns (e.g., gun barrels, magazines, sights, stocks) and others are not (e.g., ammunition, black powder, carrying cases, holsters, locks, clothing). Since sales tax is a “transaction tax,” and since the law did not exempt parts or attachments (e.g., gun barrels, magazines, sights, stocks) or supplies and accessories (e.g., ammunition, black powder, carrying cases, holsters, locks, clothes), then the sale of a part or attachment, by itself, or the sale of a supply or accessory, by itself, would not be exempt during the “Second Amendment Sales Tax Holiday.” However, if a part or attachment to a handgun, rifle or shotgun (e.g., a sight) is pre-packaged with a handgun, rifle or shotgun, then that is one transaction to purchase a handgun, rifle or shotgun and the sale of the pre-packaged unit would be exempt, provided the transaction meets all the requirements of the exemption as set forth in the law.

carrying cases  
cleaning supplies  
gun barrels  
gun safes  
handguns generally recognized or classified as antique, curiosity, or collector's items  
handguns that do not fire fixed cartridges  
holsters  
hunting clothes  
knives  
lasers  
lights  
locks  
magazines  
range gear  
reloading supplies  
safety vests  
sights  
sporting clays  
stocks  
targets  
toy handguns  
toy rifles  
toy shotguns  
videos

### **QUESTIONS AND ANSWERS:**

The following answers represent the department's opinion with respect to various issues concerning the "Second Amendment Sales Tax Holiday:"

(1) When is the "Second Amendment Sales Tax Holiday?"

The two-day "Second Amendment Sales Tax Holiday" for 2010 will be held beginning at 12:01 a.m., Friday, November 26, 2010, through twelve midnight, Saturday, November 27, 2010.

(2) Must the eligible item being sold be delivered to the customer during the two-day "Second Amendment Sales Tax Holiday" in order for the exemption to apply?

An item qualifying for the "Second Amendment Sales Tax Holiday" will be exempt if:

- (a) the eligible item is both delivered to and paid for by the customer during the two days of the "Second Amendment Sales Tax Holiday"; or
- (b) the eligible item is ordered and paid for by the customer and the order is accepted by the retailer during the "Second Amendment Sales Tax Holiday" for immediate shipment or delivery, even if delivery is made after the "Second Amendment Sales Tax Holiday." An order is accepted by the retailer when it has taken an action to fill the order for immediate shipment or delivery.

Actions to fill an order include placing an "in date" stamp on a mail order or assigning an order number to a telephone order. An order is for immediate shipment or delivery when delayed shipment or delivery is not requested by the customer and is for immediate shipment or delivery, notwithstanding that the shipment or delivery may be delayed because of a backlog of orders or because stock is currently unavailable to, or on back order by, the retailer.

(3) Does the "Second Amendment Sales Tax Holiday" apply to sales made by mail order, Internet or similar retailers?

Yes, provided the item sold is one qualifying for the exemption and the sale occurs during the two days of the "Second Amendment Sales Tax Holiday" as discussed in Question #2.

(4) Does the "Second Amendment Sales Tax Holiday" apply to custom or special orders?

Yes, provided the item sold is one qualifying for the exemption and the sale occurs during the two days of the "Second Amendment Sales Tax Holiday" as discussed in Question #2.

(5) Does the "Second Amendment Sales Tax Holiday" apply to sales made to a trade or business (e.g., security firm, etc.) or to a government agency (e.g., police department, sheriff's office, etc.)?

Yes, provided the item sold is one qualifying for the exemption and the sale occurs during the two days of the "Second Amendment Sales Tax Holiday" as discussed in Question #2.

(6) Does the "Second Amendment Sales Tax Holiday" apply to rentals?

Yes, provided the item rented is one qualifying for the exemption, the rental agreement is signed during the two days of the "Second Amendment Sales Tax Holiday" whereby the customer is bound by the rental agreement (creating an obligation to pay the periodic rental payments), and the rental transaction meets all the requirements discussed in Question #2.

Note: If the rental agreement is later renewed, then the renewal, and all periodic payments under the renewal, are subject to the sales and use tax.

(7) Are delivery charges subject to the tax during the "Second Amendment Sales Tax Holiday?"

Most delivery charges are included in the tax base for the sales tax and the use tax. If an item qualifies for the exemption under the "Second Amendment Sales Tax Holiday," then all delivery charges associated with that sale are exempt. For example, if a retailer sells a rifle during the sales tax holiday for \$2,000 and also charges \$55 to deliver the rifle, then the entire charge of \$2,055 is exempt from the sales or use tax.

(8) Are engraving charges for handguns, rifles, and shotguns sold during the “Second Amendment Sales Tax Holiday” subject to the tax?

If an item qualifies for the exemption under the “Second Amendment Sales Tax Holiday,” then all engraving charges associated with that sale are exempt. For example, if a retailer sells a rifle during the “Second Amendment Sales Tax Holiday” for \$2,000 and also charges \$50 to engrave a name on the stock, then the entire charge of \$2,050 is exempt from the sales or use tax.

(9) How are exchanges of items purchased during the "sales tax holiday" handled when returned after the “Second Amendment Sales Tax Holiday?”

If a customer purchases an exempt item during the “Second Amendment Sales Tax Holiday” and later exchanges the item for the same item (different caliber, different brand, etc.) with no additional payment due as a result of the exchange, then no additional tax will be due even if the exchange is made after the “Second Amendment Sales Tax Holiday.”

For example: If the customer purchased a \$500 handgun during the “Second Amendment Sales Tax Holiday” and later exchanges it for another handgun (\$500 or less) but one of a different caliber, then no additional tax will be due even if the exchange is made after the “Second Amendment Sales Tax Holiday.”

However, if the customer returns the item after the “Second Amendment Sales Tax Holiday” and is allowed a credit for the sales price of the item that can be used to purchase of a different item, the sales or use tax will apply to the sale of the newly purchased item.

For example: If the customer purchased a \$500 handgun during the “Second Amendment Sales Tax Holiday” and later returns it after the “Second Amendment Sales Tax Holiday” and receives a credit for \$500 that is used to purchase a rifle, shotgun or other item, then the sales or use tax will apply to the sale of the newly purchased rifle, shotgun or other item.

(10) How are exchanges of items purchased before the “Second Amendment Sales Tax Holiday” handled when returned during the “Second Amendment Sales Tax Holiday?”

If a customer purchases an item before the “Second Amendment Sales Tax Holiday” and later exchanges the item during the “Second Amendment Sales Tax Holiday” for the handgun, rifle or shotgun that qualifies for the exemption, no additional tax will be due since the item received in the exchange is one that qualifies for the exemption.

(11) How will the “Second Amendment Sales Tax Holiday” apply to rain checks?

The issuance of a rain check during the “Second Amendment Sales Tax Holiday” will not qualify an item for the exemption if the item is actually purchased after the “Second Amendment Sales Tax Holiday.”

Items that qualify for the exemption which are purchased during the "Second Amendment Sales Tax Holiday" using a rain check will be exempt from sales or use tax regardless of when the rain check was issued.

(12) Does an item placed on lay-away during the "Second Amendment Sales Tax Holiday" qualify for the exemption?

Yes, provided the item sold is one qualifying for the exemption, the sale occurs during the two days of the "Second Amendment Sales Tax Holiday," the terms of the lay away agreement create an absolute obligation to pay for the customer, and the sale meets the requirements discussed in Question #2.

Note: If the terms of the lay away agreement do not create an absolute obligation to pay for the customer, then the sale is subject to the sales and use tax even if it occurs during the "Second Amendment Sales Tax Holiday" since the sale has not met the requirements of the exemption as discussed in Question #2.

(13) Does the "Second Amendment Sales Tax Holiday" apply to local sales and use taxes collected by the department on behalf of counties that have imposed such local sales and use taxes?

Yes, provided the item sold is one qualifying for the exemption and the sale occurs during the two days of the "Second Amendment Sales Tax Holiday" as discussed in Question #2.<sup>3</sup>

(14) How should retailers report sales exempt during the "Second Amendment Sales Tax Holiday?"

With respect to the return filed for November, all sales, whether or not exempt from the tax, should be reported on Line 1 of the Worksheet on the back of the sales and use tax return. Sales of items exempt from the tax during the "Second Amendment Sales Tax Holiday" should be listed as one of the deductions in the space provided for allowable deductions (i.e., Line 4 of the ST-3 Worksheet) on the sales and use tax return and listed as "Second Amendment Sales Tax Holiday Exemption."

(15) Can retailers elect not to participate in the "Second Amendment Sales Tax Holiday" and collect the sales tax from their customers on eligible items during the two days of the "Second Amendment Sales Tax Holiday?"

No. Retailers may only "pass on" to their customers sales taxes that are legally due.

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<sup>3</sup> Although the temporary proviso for the "Second Amendment Sales Tax Holiday" expressly includes only those local sales and use taxes imposed under Chapter 10, Title 4 of the 1976 Code, the Second Amendment Sales Tax Holiday for 2010 will also apply to all other local sales and use taxes administered and collected by the SC Department of Revenue since all laws enacting local sales and use taxes require that such local taxes be administered and collected in the same manner as the state sales and use tax.

The department may revoke any and all licenses issued by the department and held by a retailer, and impose any applicable penalties, if the retailer passes on sales taxes that are not legally due.

(16) Is the sale of an exempt item on a "90 days same as cash" basis exempt from tax if purchased during the "Second Amendment Sales Tax Holiday?"

Yes, provided the contract obligating the buyer to pay is signed during the "Second Amendment Sales Tax Holiday" and delivery of the item is made during the "Second Amendment Sales Tax Holiday" or the retailer accepts the order during the "Second Amendment Sales Tax Holiday" for immediate shipment, even if delivery is made after "Second Amendment Sales Tax Holiday." See Question #2 for what is meant by "immediate shipment or delivery."

If you have any questions, you may call the Department of Revenue at (803) 898-5788 or e-mail the Department at [salestax@sctax.org](mailto:salestax@sctax.org).

**Note: The advisory opinion only concerns the application of the "Second Amendment Sales Tax Holiday" exemption for certain handguns, rifles and shotguns and does not concern the laws and regulations for the sale, delivery or shipment of such handguns, rifles, or shotguns by retailers. Retailers or other persons with non-tax questions concerning federal, state or local laws or regulations regarding the sale, or method of shipment or delivery, of a handgun, rifle or shotgun should research such laws or regulations, contact the applicable federal, state or local authorities or obtain professional advice concerning such non-tax matters.**

SOUTH CAROLINA DEPARTMENT OF REVENUE

s/Ray N. Stevens  
Ray N. Stevens, Director

October 27 2010  
Columbia, South Carolina

# STATE SALES TAX RATES AND VENDOR DISCOUNTS

(January 1, 2010)

| STATE          | STATE SALES<br>TAX RATE | RANK | VENDOR<br>DISCOUNT | MAX/MIN             |
|----------------|-------------------------|------|--------------------|---------------------|
| ALABAMA        | 4.0%                    | 38   | 5.0%-2.0% (1)      | \$400/month (max)   |
| ALASKA         |                         | N/A  |                    |                     |
| ARIZONA        | 5.6%                    | 27   | 1.0%               | \$10,000/year (max) |
| ARKANSAS       | 6.0%                    | 13   | 2.0%               | \$1,000/month (max) |
| CALIFORNIA     | 8.25%                   | 1    | None               |                     |
| COLORADO       | 2.9%                    | 46   | None (4)           |                     |
| CONNECTICUT    | 6.0%                    | 13   | None               |                     |
| DELAWARE       |                         | N/A  |                    |                     |
| FLORIDA        | 6.0%                    | 13   | 2.5%               | \$30/report (max)   |
| GEORGIA        | 4.0%                    | 38   | 3.0%-0.5% (1)      |                     |
| HAWAII         | 4.0%                    | 38   | None               |                     |
| IDAHO          | 6.0%                    | 13   | None (5)           |                     |
| ILLINOIS       | 6.25%                   | 10   | 1.75%              | \$5/year (min)      |
| INDIANA (2)    | 7.0%                    | 2    | 0.83%              |                     |
| IOWA           | 6.0%                    | 13   | None               |                     |
| KANSAS         | 5.3%                    | 30   | None               |                     |
| KENTUCKY       | 6.0%                    | 13   | 1.75%-1.0% (1)     |                     |
| LOUISIANA      | 4.0%                    | 38   | 1.1%               |                     |
| MAINE          | 5.0%                    | 31   | None (5)           |                     |
| MARYLAND       | 6.0%                    | 13   | 1.2%-0.90% (1)     |                     |
| MASSACHUSETTS  | 6.25%                   | 10   | None               |                     |
| MICHIGAN       | 6.0%                    | 13   | 0.5% (6)           | \$6/month (min)     |
| MINNESOTA      | 6.875%                  | 7    | None               |                     |
| MISSISSIPPI    | 7.0%                    | 2    | 2.0%               | \$50/month (max)    |
| MISSOURI       | 4.225%                  | 37   | 2.0%               |                     |
| MONTANA        |                         | N/A  |                    |                     |
| NEBRASKA       | 5.5%                    | 28   | 2.5%               | \$75/month (max)    |
| NEVADA         | 6.85%                   | 7    | 0.25%              |                     |
| NEW HAMPSHIRE  |                         | N/A  |                    |                     |
| NEW JERSEY     | 7.0%                    | 2    | None               |                     |
| NEW MEXICO     | 5.0%                    | 31   | None               |                     |
| NEW YORK       | 4.0%                    | 38   | 5.0%               | \$200/quarter (max) |
| NORTH CAROLINA | 5.75%                   | 26   | None               |                     |
| NORTH DAKOTA   | 5.0%                    | 31   | 1.5%               | \$85/month (max)    |
| OHIO           | 5.5%                    | 28   | 0.75%              |                     |
| OKLAHOMA       | 4.5%                    | 36   | 1.25% (9)          | \$3,300/month (max) |
| OREGON         |                         | N/A  |                    |                     |
| PENNSYLVANIA   | 6.0%                    | 13   | 1.0%               |                     |
| RHODE ISLAND   | 7.0%                    | 2    | None               |                     |
| SOUTH CAROLINA | 6.0%                    | 13   | 3.0%-2.0% (1)      | \$3,100/year (max)  |
| SOUTH DAKOTA   | 4.0%                    | 38   | None               |                     |
| TENNESSEE      | 7.0%                    | 2    | None (10)          |                     |
| TEXAS          | 6.25%                   | 10   | 0.5% (7)           |                     |
| UTAH           | 4.7%                    | 35   | 1.31%              |                     |
| VERMONT        | 6.0%                    | 13   | None (5)           |                     |
| VIRGINIA (3)   | 4.0%                    | 38   | 3.0%-1.5% (8)      |                     |
| WASHINGTON     | 6.5%                    | 9    | None               |                     |
| WEST VIRGINIA  | 6.0%                    | 13   | None               |                     |
| WISCONSIN      | 5.0%                    | 31   | 0.5%               | \$10/period (min)   |
| WYOMING        | 4.0%                    | 38   | None               |                     |

DIST. OF COLUMBIA

6.0%

13

None

U. S. MEDIAN

5.75%

25 states allow vendor discounts

(1) In some states, the vendors' discount varies by the amount paid. In AL and SC, the larger discounts apply to the first \$100. In GA, the larger discount applies to the first \$3,000. In KY, the larger discounts apply to the first \$1,000, while MD applies the larger discount to annual collections of \$6,000. The lower discounts apply to the remaining collections above these amounts.

(2) Utilities are not permitted to take discount. Collection allowances are 0.73% if total sales tax collected is less than \$60,000; 0.53% if total taxes is between \$60,000 and \$600,000; 0.26% if total sales tax collected is more than \$600,000

(3) Rate does not include a statewide local rate of 1.0% in VA.

(4) State discount of 3.33% has been suspended through 1/1/11. Local option sales tax discount varies from 0% to 3.33%.

(5) Vendors are allowed to keep any excess collections prescribed under the bracket system.

(6) Vendor discount only applies to the first 4.0% of the tax. A 0.75% discount if paid by the 7th of the month.

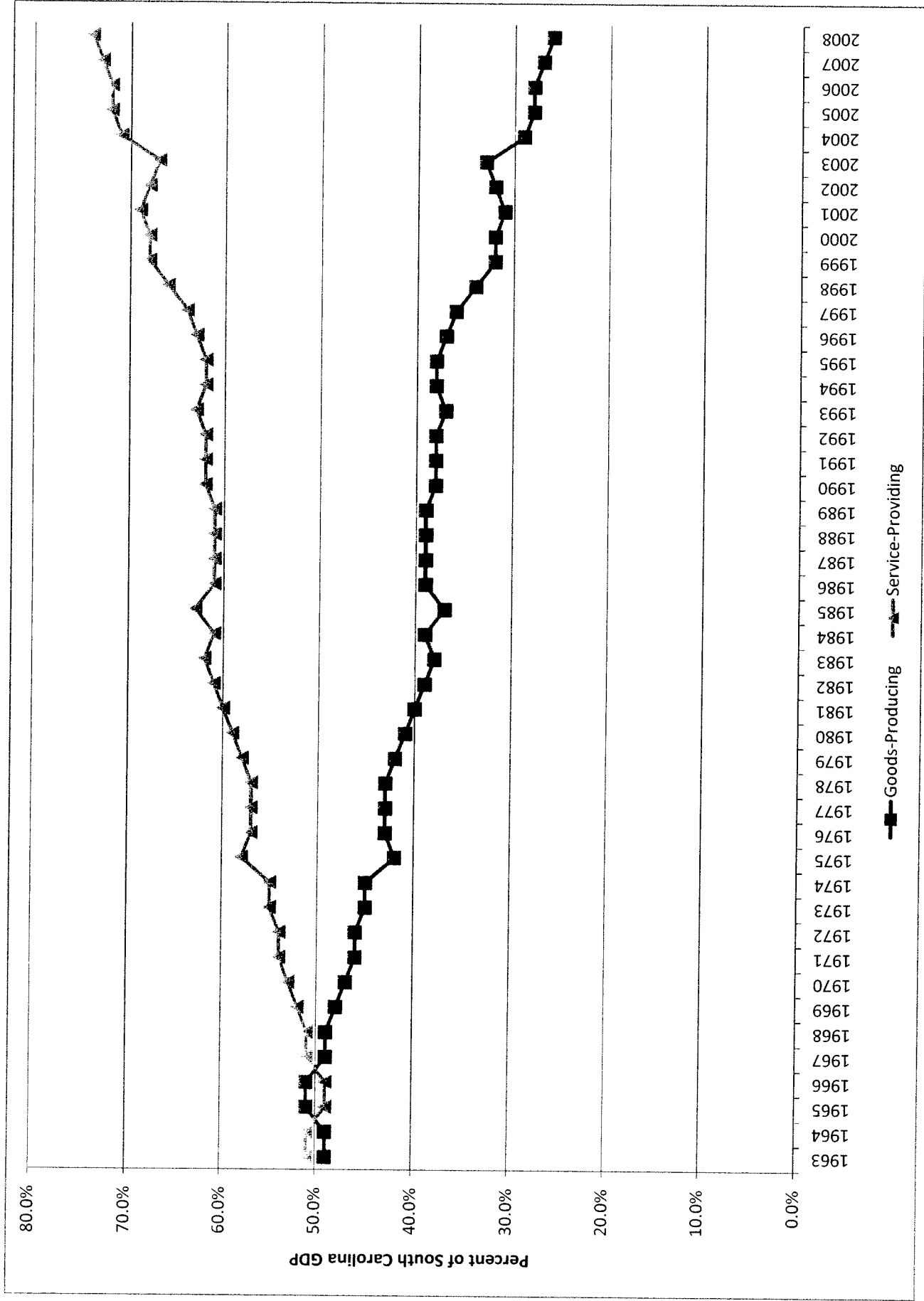
(7) An additional discount of 1.25% applies for early payment.

(8) Discount varies; 3% (4% for food) of the first \$62,500, 2.75% (3%) of the amount to \$208,000, and 1.5% (2%) of the remainder. Applies to the state tax only.

(9) Vendors are allowed a 2.25% discount if they file and pay electronically.

(10) Out-of-state vendors are allowed discounts of 2% for first \$2,500 and 1.15% of the rest.

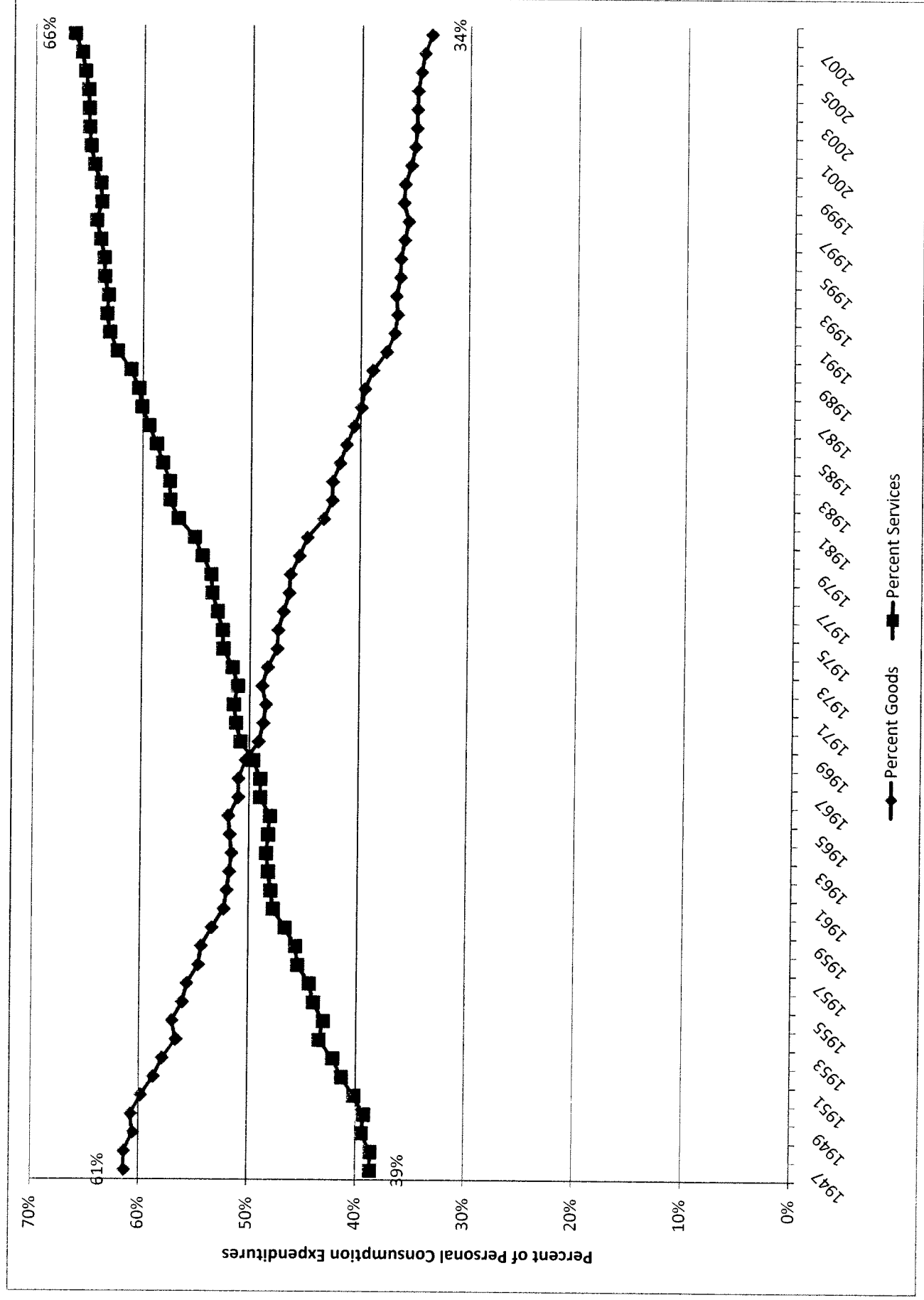
# Goods/Services in GDP South Carolina



Source: US Bureau of Economic Analysis, Compiled by SC DOC



# Personal Consumption Trends United States



**Department of Revenue Unofficial Analysis of:**

**Services Taxed in South Carolina if SC Tax Realignment Committee  
Recommendations are Enacted (Services and Intangibles Subcommittee Draft  
Report of August 10, 2010 and Draft Legislation of June 28, 2010)**

The following is a modified version of the FTA Survey on services. It is intended to more fully explain the services that would be taxed if the proposed draft recommendations of the SC Tax Realignment Committee were adopted. This chart will only provide general guidance and is not intended to be the Department of Revenue's official opinion on the application of the sales and use tax to the committee's recommendations if they are adopted by the General Assembly. The following provides a brief explanation of the chart:

**6:** Items with a tax rate of 6% are transactions currently subject to the 6% state sales and use tax.

**5:** Items with a tax rate of 5% are transactions currently subject to the 5% state admissions tax.

**TRAC:** Items with "TRAC" listed under the tax rate are transactions that would be subject to the state sales and use tax under the proposed draft recommendations of the SC Tax Realignment Committee.

**TRAC(\*):** Items with "TRAC(\*)" listed under the tax rate are transactions that are partially taxed under the current sales and use tax law and would be subject to the state sales and use tax more fully under the proposed draft recommendations of the SC Tax Realignment Committee. For example, the sale of a new part for an automobile is currently subject to the tax; the applicable separately stated installation charges are not. The proposed draft would tax the installation charges.

| Service   | Tax Rate | Notes        |
|---|----------|--------------|
| 000 - Retail Sales Tax Rate                             | ?        | <sup>1</sup> |
| <b><u>Agricultural Services</u></b>                     |          |              |
| 001 - Soil prep., custom baling, other ag. services     | E        |              |
| 002 - Veterinary services (both large and small animal) | E        |              |
| 003 - Horse boarding and training (not race horses)     | TRAC     |              |
| 004 - Pet grooming                                      | TRAC     |              |
| 005 - Landscaping services (including lawn care)        | E        |              |

<sup>1</sup> The present state rate is 6%.

**Industrial and Mining Services**

|  |   |
|--|---|
| 006 - Metal, non-metal and coal mining services            | E |
| 007 - Seismograph & Geophysical Services                   | E |
| 008 - Oil Field Services                                   | E |
| 009 - Typesetting service; platemaking for the print trade | E |

**Construction**

|   |   |
|---|---|
| 010 - Gross Income of Construction Contractors          | E |
| 011 - Carpentry, painting, plumbing and similar trades. | E |
| 012 - Construction service (grading, excavating, etc.)  | E |
| 013 - Water well drilling                               | E |

**Transportation Services**

|  |                |
|--|----------------|
| 014 - Income from intrastate transportation of persons | TRAC           |
| 015 - Local transit (intra-city) buses                 | TRAC           |
| 016 - Income from taxi operations                      | TRAC           |
| 017 - Intrastate courier service                       | ? <sup>2</sup> |
| 018 - Interstate air courier (billed in-state)         | E              |

**Storage**

|   |                   |
|---|-------------------|
| 019 - Automotive storage                                  | TRAC              |
| 020 - Food storage  | TRAC              |
| 021 - Fur storage   | TRAC <sup>3</sup> |
| 022 - Household goods storage                             | TRAC              |
| 023 - Mini -storage                                       | TRAC              |
| 024 - Cold storage  | TRAC              |
| 025 - Marina Service (docking, storage, cleaning, repair) | TRAC              |
| 026 - Marine towing service (incl. tugboats)              | TRAC              |
| 027 - Travel agent services                               | E                 |
| 028 - Packing and crating                                 | E                 |

**Utility Service – Industrial Use**

|  |         |
|--|---------|
| 029 - Intrastate telephone & telegraph | TRAC(*) |
| 030 - Interstate telephone & telegraph | TRAC    |

<sup>2</sup> It is unclear as to whether the imposition of the tax on "intra-state transportation" in the committee's recommendation applies to transportation of property as well as persons. The committee may want to review this issue.

<sup>3</sup> Charges for cleaning, glazing or dyeing furs are taxable. If charges for storing a fur is separate from the cleaning, glazing or dyeing charges, then such storage charges are not taxable

|   |         |              |
|---|---------|--------------|
| 031 - Cellular telephone services                     | 6       |              |
| 032 - Electricity                                     | E       | <sup>4</sup> |
| 033 - Water   | TRAC    |              |
| 034 - Natural gas                                     | E       | <sup>5</sup> |
| 035 - Other fuel (including heating oil)              | E       | <sup>6</sup> |
| 036 - Sewer and refuse, industrial                    | E       |              |
| <b><u>Utility Service – Residential Use</u></b>       |         |              |
| 037 - Intrastate telephone & telegraph                | 6       |              |
| 038 - Interstate telephone & telegraph                | TRAC    |              |
| 039 - Cellular telephone services                     | 6       |              |
| 040 - Electricity                                     | TRAC    |              |
| 041 - Water   | TRAC    |              |
| 042 - Natural gas                                     | TRAC    |              |
| 043 - Other fuel (including heating oil)              | TRAC    |              |
| 044 - Sewer and refuse, residential                   | E       |              |
| <b><u>Finance, Insurance and Real Estate</u></b>      |         |              |
| 045 - Service charges of banking institutions         | E       |              |
| 046 - Insurance services                              | E       |              |
| 047 - Investment counseling                           | E       |              |
| 048 - Loan broker fees                                | E       |              |
| 049 - Property sales agents (real estate or personal) | E       |              |
| 050 - Real estate management fees (rental agents)     | E       |              |
| 051 - Real estate title abstract services             | E       |              |
| 052 - Tickertape reporting (financial reporting)      | E       | <sup>7</sup> |
| <b><u>Personal Services</u></b>                       |         |              |
| 053 - Barber shops and beauty parlors                 | TRAC    |              |
| 054 - Carpet and upholstery cleaning                  | TRAC    |              |
| 055 - Dating services                                 | E       |              |
| 056 - Debt counseling                                 | E       |              |
| 057 - Diaper service                                  | 6       |              |
| 058 - Income from funeral services                    | TRAC(*) | <sup>8</sup> |

<sup>4</sup> Electricity, natural gas, and other fuels used in manufacturing, processing, mining and quarrying tangible personal property for sale are exempt. Electricity used by radio and TV stations to produce, broadcast or distribute programs exempt. See SC Regulation 117-302 and 117-328 for more details. Fuel used by transportation companies for motive power exempt. Fuel used in farm machinery and farm tractors exempt. Fuel used in commercial fishing vessels exempt. Fuel used to cure agricultural products or to irrigate crops exempt.

<sup>5</sup> See Footnote #4.

<sup>6</sup> See Footnote #4.

<sup>7</sup> Taxable if it is a charge to access or use an online database. Charges to access or use an online database/information service are taxable. For examples of taxable and non-taxable communication services, see SC Revenue Ruling #06-8.

<sup>8</sup> Presently, charges for tangible personal property are taxable (caskets, etc.). Charges for services are not taxable. See SC Regulation 117-309.8. Under the TRAC recommendations, some services will be taxed.

|  |                       |
|--|-----------------------|
| 059 - Fishing and hunting guide services               | E                     |
| 060 - Garment services (altering & repairing)          | TRAC                  |
| 061 - Gift and package wrapping service                | E <sup>9</sup>        |
| 062 - Health clubs, tanning parlors, reducing salons   | TRAC(*) <sup>10</sup> |
| 063 - Laundry and dry cleaning services, coin-op       | TRAC                  |
| 064 - Laundry and dry cleaning services, non-coin op   | TRAC(*) <sup>11</sup> |
| 065 - Massage services                                 | TRAC                  |
| 066 - 900 Number services                              | 11                    |
| 067 - Personal instruction (dance, golf, tennis, etc.) | E                     |
| 068 - Shoe repair                                      | TRAC                  |
| 069 - Swimming pool cleaning & maintenance             | TRAC                  |
| 070 - Tax return preparation                           | E                     |
| 071 - Tuxedo rental                                    | 6                     |
| 072 - Water softening and conditioning                 | E                     |
| <b><u>Business Services</u></b>                        |                       |
| 073 - Billboards                                       | E                     |
| 074 - Radio & television, national advertising         | E                     |
| 075 - Radio & television, local advertising            | E                     |
| 076 - Newspaper  | TRAC                  |
| 077 - Magazine   | 6                     |
| 078 - Advertising agency fees (not ad placement)       | E                     |
| 079 - Armored car services                             | E                     |
| 080 - Bail bond fees                                   | E                     |
| 081 - Check & debt collection                          | E                     |
| 082 - Commercial art and graphic design.               | 6 <sup>12</sup>       |
| 083 - Commercial linen supply                          | 6                     |
| 084 - Credit information, credit bureaus               | 6 <sup>13</sup>       |
| 085 - Employment agencies                              | E                     |
| 086 - Interior design and decorating                   | E                     |
| 087 - Maintenance and janitorial services              | TRAC                  |
| 088 - Lobbying and consulting                          | E                     |

<sup>9</sup> Taxable if associated with the sale of tangible property.

<sup>10</sup> Presently, health clubs are subject to the state admissions tax; however, many fall within an exemption in the state admissions tax law. Under the TRAC recommendation, health clubs would be subject to the sales tax and in some cases both the sales tax and the admissions tax. The committee may want to review this issue.

<sup>11</sup> Presently, garment cleaning services are taxed under the law. This would expand the tax to adjustments, changes, restoration, coloring and custom fitting and design of garments. Also, some drycleaning facilities are required to remit an additional 1% environmental surcharge.

<sup>12</sup> Taxable if true object of the transaction is the sale of tangible personal property.

<sup>13</sup> Taxable if it is a charge to access or use an online database. Charges to access or use an online database/information service are taxable. For examples of taxable and non-taxable communication services, see SC Revenue Ruling #06-8.

|  |      |               |
|--|------|---------------|
| 089 - Marketing                                  | E    |               |
| 090 - Packing and crating                        | E    |               |
| 091 - Exterminating (includes termite services)  | TRAC |               |
| 092 - Photocopying services                      | 6    |               |
| 093 - Photo finishing                            | TRAC |               |
| 094 - Printing                                   | 6    | <sup>14</sup> |
| 095 - Private investigation (detective) services | E    |               |
| 096 - Process server fees                        | E    | <sup>15</sup> |
| 097 - Public relations, management consulting    | E    |               |
| 098 - Secretarial and court reporting services   | E    |               |
| 099 - Security services                          | TRAC |               |
| 100 - Sign construction and installation         | 6    | <sup>16</sup> |
| 101 - Telemarketing services on contract         | E    |               |
| 102 - Telephone answering service                | 6    |               |
| 103 - Temporary help agencies                    | E    |               |
| 104 - Test laboratories (excluding medical)      | E    |               |
| 105 - Tire recapping and repairing               | TRAC |               |
| 106 - Window cleaning                            | TRAC |               |

### **Computer**

|   |         |               |
|---|---------|---------------|
| 107 - Software - package or canned program              | TRAC(*) |               |
| 108 - Software - modifications to canned program        | TRAC(*) |               |
| 109 - Software - custom programs - material             | TRAC(*) |               |
| 110 - Software - custom programs - professional serv.   | TRAC(*) |               |
| 111 - Internet Service Providers-Dialup                 | E       |               |
| 112 - Internet Service Providers-DSL or other broadband | E       |               |
| 113 - Information services                              | 6       |               |
| 114 - Data processing services                          | TRAC    |               |
| 115 - Mainframe computer access and processing serv.    | 6       | <sup>17</sup> |

### **Computer Online Services**

|   |      |  |
|---|------|--|
| 116 - Online Data processing services New     | TRAC |  |
| 117 - Software - Downloaded New               | TRAC |  |
| 118 - Books - Downloaded New                  | TRAC |  |
| 119 - Music - Downloaded New                  | TRAC |  |
| 120 - Movies/Digital Video - Downloaded New   | TRAC |  |
| 121 - Other Electronic Goods - Downloaded New | TRAC |  |

<sup>14</sup> Taxable if printer produces such items as brochures, letterheads, envelopes, circulars, etc.

<sup>15</sup> Taxable if it is a charge to access or use an online database. Charges to access or use an online database/information service are taxable. For examples of taxable and non-taxable communication services, see SC Revenue Ruling #06-8.

<sup>16</sup> Installation not taxed if separately billed

<sup>17</sup> Presently, SC taxes charges to access or use a website. If computer mainframe access is the same as accessing and using a website, this charge is subject to the tax.

**Automotive Services**

|   |                 |
|---|-----------------|
| 122 - Automotive washing and waxing.                      | TRAC            |
| 123 - Automotive road service and towing services         | TRAC            |
| 124 - Auto service, except repairs, incl. painting & lube | TRAC            |
| 125 - Parking lots & garages                              | ? <sup>18</sup> |
| 126 - Automotive rustproofing & undercoating.             | TRAC            |

**Admissions and Amusements**

|   |   |
|---|---|
| 127 - Pari-mutuel racing events.                    | E |
| 128 - Amusement park admission & rides              | 5 |
| 129 - Billiard parlors                              | E |
| 130 - Bowling alleys                                | 5 |
| 131 - Cable TV services                             | 6 |
| 132 - Direct Satellite TV                           | 6 |
| 133 - Circuses and fairs -- admission and games     | 5 |
| 134 - Coin operated video games                     | E |
| 135 - Admission to school and college sports events | 5 |
| 136 - Membership fees in private clubs.             | 5 |
| 137 - Admission to cultural events                  | 5 |
| 138 - Pinball and other mechanical amusements       | E |
| 139 - Admission to professional sports events       | 5 |
| 140 - Rental of films and tapes by theaters         | E |
| 141 - Rental of video tapes for home viewing        | 6 |

**Professional Services**

|  |   |
|--|---|
| 142 - Accounting and bookkeeping       | E |
| 143 - Architects                       | E |
| 144 - Attorneys                        | E |
| 145 - Dentists                         | E |
| 146 - Engineers                        | E |
| 147 - Land surveying                   | E |
| 148 - Medical test laboratories        | E |
| 149 - Nursing services out-of-hospital | E |
| 150 - Physicians                       | E |

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<sup>18</sup> If charges for using a parking garage are considered "vehicle storage," then such charges would be subject to the sales tax under the TRAC recommendations.

**Lease and Rentals<sup>19</sup>**

|  |      |
|--|------|
| 151 - Personal property, short term (generally)          | 6    |
| 152 - Personal property, long term (generally)           | 6    |
| 153 - Bulldozers, draglines and const. mach., short term | 6    |
| 154 - Bulldozers, draglines and const. mach., long term  | 6    |
| 155 - Rental of hand tools to licensed contractors.      | 6    |
| 156 - Short term automobile rental                       | 6    |
| 157 - Long term automobile lease                         | 6    |
| 158 - Limousine service (with driver)                    | TRAC |
| 159 - Aircraft rental to individual pilots, short term   | 6    |
| 160 - Aircraft rental to individual pilots, long term    | 6    |
| 161 - Chartered flights (with pilot)                     | TRAC |
| 162 - Hotels, motels, lodging houses                     | 7    |
| 163 - Trailer parks - overnight                          | 7    |

**Fabrication, Installation, and Repair Services**

|  |      |               |
|--|------|---------------|
| 164 - Custom fabrication labor                           | E    | <sup>20</sup> |
| 165 - Repair material, generally                         | 6    |               |
| 166 - Repair labor, generally                            | TRAC |               |
| 167 - Labor charges on repair of aircraft                | TRAC |               |
| 168 - Labor charges - repairs to interstate vessels      | TRAC |               |
| 169 - Labor charges - repairs to intrastate vessels      | TRAC |               |
| 170 - Labor - repairs to commercial fishing vessels      | TRAC |               |
| 171 - Labor charges on repairs to railroad rolling stock | TRAC |               |
| 172 - Labor charges on repairs to motor vehicles         | TRAC |               |
| 173 - Labor on radio/TV repairs; other electronic equip. | TRAC |               |
| 174 - Labor charges - repairs other tangible property    | TRAC |               |
| 175 - Labor - repairs or remodeling of real property     | TRAC | <sup>21</sup> |
| 176 - Labor charges on repairs delivered under warranty  | TRAC |               |
| 177 - Service contracts sold at the time of sale of      | 6    |               |

<sup>19</sup> A maximum tax is established for sales or long term (90 + days) rentals of aircraft, motor vehicles, boats, motorcycles, trailers, RV's, and light construction equipment. See Section 12-36-2110

<sup>20</sup> Taxable if part of the charge (sale) of tangible personal property. Exempt if not part of the charge (sale) of tangible personal property.

<sup>21</sup> Only certain limited repairs to real property would be taxable under the TRAC recommendations.



|   |      |               |
|---|------|---------------|
| TPP.  |      |               |
| 178 - Installation charges by persons selling property  | TRAC |               |
| 179 - Installation charges - other than seller of goods | TRAC |               |
| 180 - Custom processing (on customers property)         | E    |               |
| 181 - Custom meat slaughtering, cutting and wrapping    | E    |               |
| 182 - Taxidermy   | TRAC |               |
| 183 - Welding labor (fabrication and repair)            | TRAC |               |
| <b><u>Other Taxed Services</u></b>                      |      |               |
| 184 - Other Services-not listed                         | 6    | <sup>22</sup> |
| 185 - Other Services-not listed (2)                     |      |               |

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<sup>22</sup> Charges for certain communication services (see SC Revenue Ruling #06-8); Charges for laundering , dry cleaning and pressing services (see SC Regulation 117-303); Charges for the sale or renewal of warranty, maintenance and similar contracts for tangible personal property; Charges for furnishing accommodations; and Charges for additional guest services at a place furnishing accommodations. Also, services sold in conjunction with the sale of tangible personal property are subject to the tax as part of the gross proceeds of sales of the tangible personal property, unless otherwise exempted or excluded.

## Should Sales Taxes Apply to Services?

General sales taxes are an important revenue source for state governments, accounting for close to a quarter of state tax collections nationwide. But these taxes have a potentially damaging structural flaw: the tax typically applies to most sales of goods, such as books and computers, but exempts services such as haircuts and car repairs. This omission is not the result of conscious policy choices, but a historical accident: when most state sales taxes were enacted in the 1930s, services were a relatively small part of consumer spending. In recent years, however, spending on services has skyrocketed: in 2007, services represented almost 60 percent of personal consumption nationally. Few states have successfully adapted to this change in consumption: only Hawaii, New Mexico, and South Dakota tax services comprehensively, and the Federation of Tax Administrators estimates that only nine states tax more than half of the services that are potentially taxable. This policy brief surveys arguments in favor of taxing services—and assesses potential pitfalls in attempts to tax services.

### Taxing Services = A Fairer Tax

Sales taxes generally create two types of unfairness in the tax code—and taxing services can help eliminate each of them. First, sales taxes are *regressive*, requiring low-income taxpayers to pay more of their income in sales tax than wealthier taxpayers. Second, sales taxes generally include a wide variety of special exemptions, which often discriminate between similar taxpayers in ways that are not defensible from a tax fairness standpoint. Exemptions for services are a good example of this sort of unfairness: exempting services discriminates against individuals who consume more goods than services. The first type of unfairness is called *vertical equity* because it compares the treatment of taxpayers at different income levels; the second type is called *horizontal equity* because it compares the treatment of taxpayers at the same income level.

Taxing services can help to reduce each of these problems. Expanding the base to include personal services results in a slightly less regressive sales tax compared to a goods based tax because many of these services are consumed disproportionately by wealthier taxpayers. And treating consumer services the same way as consumer goods will eliminate discrimination in the tax code between goods-consuming and service-consuming taxpayers.

### Taxing Services Will Not Eliminate Unfairness

However, the fairness gains from taxing services are likely to be limited in practice. First, low-income taxpayers spend more of their income than do wealthier taxpayers, who are more likely to be able to save some income. No expansion of the tax base is likely to change this basic relationship between consumption and income. Second, the impact of taxing services on tax fairness can vary depending on which services are taxed. Taxing services such as housing, utilities, and other necessities can actually make the sales tax more regressive because these services are basic staples of consumer spending, not high-end luxuries. And it may be politically more difficult to tax services consumed by the wealthy than to tax services consumed by low-income taxpayers.

Taxing services can also have a negative impact on fairness if the services taxed include services consumed by businesses. Economists agree that items purchased by

*When properly done, expanding the sales tax base to include services is simply good tax policy: taxing services can make sales taxes less regressive, less discriminatory and more responsive to economic growth.*

wholesalers for resale, and items purchased by businesses for use in producing other products, should not be taxed. Legal and accounting services are examples of "business to business" transactions. Taxing these services will make sales taxes more unfair because "business to business" sales taxes are ultimately passed through to consumers in the form of higher prices. These passed-through taxes are invisible to the consumer, and have unpredictable effects on tax fairness (since the amount passed through depends on the number of stages of production that were taxed). For this reason, sales tax base expansion efforts should focus on services that are consumed by individuals rather than businesses.

### **Taxing Services = Higher Revenue and Faster Growth**

**A**s a practical matter, state policymakers see taxing services as a desirable policy option because it allows states to increase tax revenues in the short run without increasing tax rates. Expanding the tax base to include more services will increase the amount of taxes collected for each percentage point of the sales tax rate—a critical consideration in states where increasing tax rates is politically difficult. But taxing services will also pay long-term dividends: as consumers spend more of their income on services, states taxing these services will see faster growth in sales tax revenues. And broadening the tax base makes sales tax revenues more stable in the long run, because declines in one area of consumption will be offset by gains in another area. In other words, adding services to the tax base helps achieve adequate revenues in both the short run and the long run—and will be satisfactory to both political leaders and economists.

### **Approaches to Taxing Services**

**L**awmakers seeking to expand the sales tax base face three policy choices: which services to tax, whether or not to couple any base expansion with a cut in the tax rate, and whether to provide targeted tax relief to partially offset this regressive tax hike.

Expanding the sales tax base will increase tax revenues if no other changes are made. However, if raising new revenue is not an immediate goal, combining a sales tax base expansion with a tax rate reduction can be an appropriate step. A "revenue-neutral" tax change of this kind, which expands the tax base and reduces the sales tax rate to leave total sales tax collections unchanged, will likely result in higher tax revenues over the long run, since consumption of services generally grows faster than consumption of goods.

One way to reduce the regressive impact of taxing services is a targeted tax credit. Twenty-three states and the District of Columbia now allow an Earned Income Tax Credit, designed to reduce taxes on low-income working families, and a few states allow sales tax credits, designed to offset part of the sales tax liability on low-income taxpayers. Either approach will provide targeted tax relief to those most affected by regressive sales taxes, at a relatively low cost to the state. (*ITEP Policy Brief #14 discusses options for sales tax relief, and Policy Brief #15 discusses the Earned Income Tax Credit.*)

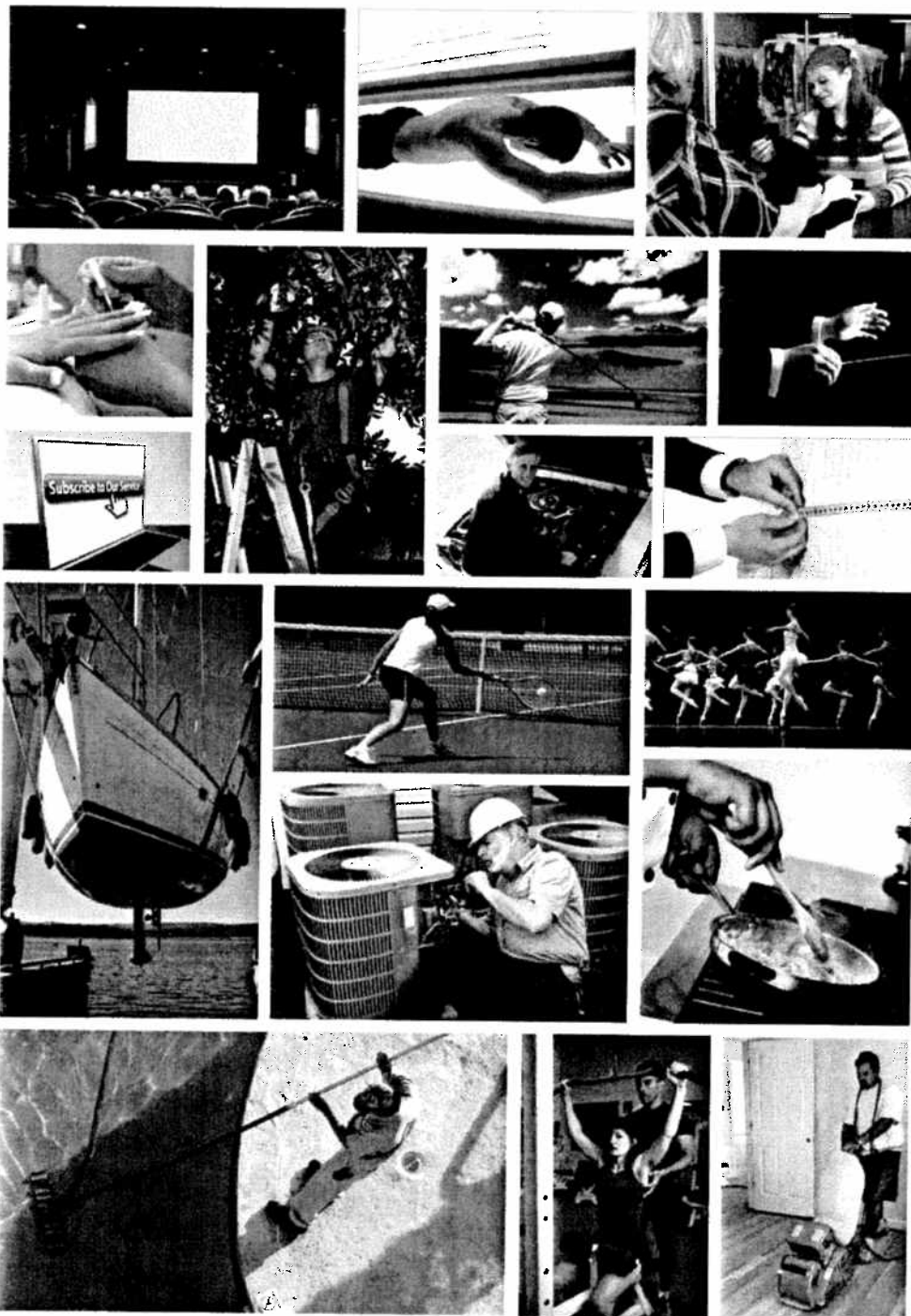
### **Conclusion**

**T**axing services is attractive to policy makers because it allows revenue-raising without highly-visible increases in tax rates, and is attractive for consumers because it avoids discriminating between taxpayers. When properly done, expanding the tax base is simply good policy: taxing services can make sales taxes less regressive, less discriminatory and more responsive to economic growth. But sales taxes remain regressive—which means that provisions for low-income tax relief through an Earned Income Tax Credit or sales tax credit may be appropriate.

*To find out more about this issue, contact ITEP at (202) 299-1060.*

# Expanding Sales Taxation of Services: Options and Issues

Michael Mazerov  
July 2009



## Summary

Sales of tangible goods dominate most states' sales tax bases; only a few states impose their sales taxes on a broad array of services. Sales of “non-durable goods” like clothing and light bulbs and “durable goods” like cars and computers generate the vast majority of state sales tax receipts. According to the Federation of Tax Administrators, a majority of states apply their sales tax to less than one-third of 168 potentially-taxable services. Five of the 45 states with sales taxes impose them on fewer than 20 services.<sup>1</sup>

Most states could improve their sales taxes and their tax systems in general with some expansion of the tax base to include services. Levying sales taxes on services makes state tax systems fairer, more stable, more economically neutral, and easier to administer. Moreover, because state sales taxes are a major source of funding for schools, universities, health care, public safety, and other functions of state and local government, adding services to state sales tax bases can help states maintain their support for those functions, for instance during an economic downturn when state revenues are declining. Broadening the sales tax base can also avert other, less sound tax increases that otherwise might be enacted when a state needs new revenue. There are significant economic, administrative, and legal issues that must be addressed in expanding the sales taxation of services. The barriers are not insurmountable, however, and the benefits from a broader sales tax base outweigh the challenges.

## Why Tax Services?

Public finance economists and other tax experts have been urging states for decades to include more services in the sales tax base.<sup>2</sup> Levying a sales tax on services satisfies all the criteria by which state tax policy options are normally evaluated.

- **Taxing additional services can generate substantial new sales tax revenue.** Table 1 (see page 5 in the body of the report) indicates that the annual, nationwide revenue yield from taxing all services purchased by households except health care, education, housing, and a few others would be on the order of \$87 billion. The new revenue from taxing household services would be less than this, since most states do tax services to some extent. Table 1 suggests, however, that states that do not tax services to any significant degree at present — such as California, Illinois, Massachusetts, and Virginia — probably could increase their sales tax revenue by more than one-third if they taxed services purchased by households comprehensively.

Some states have prepared their own estimates of the revenue gained by expanding the sales taxation of services. In June 2009, Maine became the most recent state to broaden its sales tax base significantly; it expects to generate \$41 million in annual revenue by levying its sales tax on

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<sup>1</sup> Federation of Tax Administrators, *Sales Taxation of Services: 2007 Update*, October 2008; [www.taxadmin.org/fta/pub/services/services.html](http://www.taxadmin.org/fta/pub/services/services.html). See report for extensive footnotes that affect classification as taxable or exempt.

<sup>2</sup> In a majority of states with sales taxes, some local governments are also authorized to impose them. In most instances, the local sales tax base — the group of items subject to tax — is substantially similar or identical to the state sales tax base. In the interest of readability, this report will refer to “state” sales taxes, but nearly all of the discussion applies to local sales taxes as well (including the sales tax of the District of Columbia).

## Sales and Use Taxes: An Introduction

Most people are familiar with the sales tax, the charge that is added to the cost of goods and some services purchased in retail stores. The tax is calculated as a percentage of the sales price, collected from the purchaser at the time of sale, and remitted weekly or monthly by the retailer to the state tax agency. Forty-five states and thousands of local governments use sales tax revenue to pay for K-12 education, higher education, public health, public safety, transportation, parks, and a range of other services.

How much revenue is generated by the sales tax depends on both the percentage tax rate and the “tax base” — the goods and services that are subject to taxation. Besides omitting most services from the tax base, many states exempt from taxation categories of goods viewed as necessities of life, such as food and medicine.

In addition to taxing goods and a few services purchased by households at retail stores, sales taxes often apply to purchases by businesses from other businesses. A retailer’s purchases from a manufacturer or wholesaler of items for resale usually are not subject to sales taxation, nor are a manufacturer’s purchases of items that are directly incorporated into its output. Nonetheless, goods and services purchased by businesses that do not fall into either of these categories — such as manufacturing equipment, electricity, and office furniture — are often subject to sales taxation. The policy issues raised by the taxation of such “business-to-business” sales will be discussed at length in the body of this report.

Sales taxes are charged when the seller and buyer are in the same state. States levy “compensating use taxes” on purchases of goods when the seller and buyer are in different states. The use tax is almost always identical to the sales tax with respect to both rate and base. The purpose of the use tax is to eliminate the possibility of avoiding sales tax by purchasing from an out-of-state vendor — and thereby eliminate the incentive to do so. In some cases, the out-of-state seller charges the use tax to the buyer just as if the tax were a sales tax, and the buyer is unaware of the distinction. Even if the seller does not charge the use tax, the buyer is legally obligated to pay the use tax directly to the state in which the purchase will be used. (This obligation is largely ignored by individual consumers but frequently fulfilled by businesses that buy from out-of-state vendors.) Use taxes are imposed only rarely on interstate purchases of services; as will be discussed elsewhere in this report, one consequence of expanding sales taxation of services may be a need to reconsider that policy.

Some states levy special taxes on particular services in lieu of or in addition to the sales tax. For example, some states impose special taxes on car and hotel rentals, admission charges for entertainment and cultural events, and utility services like telephone and electricity. Where such taxes are not imposed in lieu of some other business tax (such as the corporate income tax), and where they legally may be passed on to purchasers like the sales tax through itemization on the bill or invoice, these special taxes may be thought of as sales taxes for purposes of much of the analysis contained in this report.

The District of Columbia and forty-five states — all except Alaska, Delaware, Montana, New Hampshire, and Oregon — levy sales taxes. They are a critical revenue source for state governments, supplying \$236 billion in state tax revenue in 2007 — 31 percent of total state taxes. In many states, local governments also levy sales taxes.



entertainment admissions, auto and equipment repairs, and such other services as laundry and car washes. This \$41 million represents a 4.4 percent boost in its sales tax collections. In 2006, New Jersey added roughly one dozen services to its sales tax base. The state said this would yield more than \$400 million in new revenue each year, a 5 percent increase in sales tax receipts. Note that the Maine and New Jersey expansions covered some but not all potentially taxable services. Other states have estimated the revenue that could be gained by expanding the taxation of services much more extensively than did Maine or New Jersey; these estimates (a sampling of which is shown in Table 4 of this report) confirm that states are losing billions of dollars a year due to the tax-exempt status of most services.

- **Taxing services broadly is essential if the long-run revenue adequacy of the sales tax is to be maintained.** Household spending has been shifting from goods to services for decades. The traditional sales tax base, purchases of durable goods plus non-durable goods except groceries (which the majority of states exempt), fell from 39 percent of household consumption in 1970 to 32 percent in 2007. Over the same interval, consumption of services rose from 31 percent to 45 percent of total household purchases.<sup>3</sup> (See Figure 1, p. 12.) Largely to compensate for this trend, states have increased sales tax rates sharply over this period. The ability of states to continue raising rates is constrained, however, by such factors as the ease with which consumers can shift their purchases to the Internet — where sales taxes often are not charged. If consumption continues to shift toward services, including services in the tax base will be essential to maintaining sales tax revenues over the long term.
- **Bringing services into the sales tax base may reduce the year-to-year volatility of sales tax collections.** Sales tax bases are dominated by purchases of “big-ticket” durable goods (such as cars, appliances, and furniture), which often decline sharply during economic downturns. Limited research finds that purchases of some services do not fall as precipitously as durable goods purchases do when the economy slows nor rise as rapidly when the economy is booming. The research suggests that including more services in the sales tax base could moderate slightly the volatility of sales tax revenues over the course of the business cycle.
- **Expanding the taxation of services will make the sales tax fairer.** The sales tax is intended to be a general tax on consumption. There is little reason to distinguish between consumption of goods and consumption of services, which in fact can be substitutes for one another. For example, it is not equitable — it violates the principle of “horizontal equity” — to tax the person who rents a videotape but not the person who watches a pay-per-view movie on cable TV.

Moreover, sales taxes are regressive; that is, they absorb a greater share of the income of lower-income taxpayers than of higher-income taxpayers. This is largely because higher-income persons do not consume their entire incomes; the portion of their incomes that they save is not subject to sales or other consumption taxes. Ideally, states could consider reducing the regressivity of sales taxes by expanding the sales tax to services purchased primarily by the affluent. While worth doing, the revenue gain would not be substantial. To broadly tax services, states must include services purchased by low-, moderate- and middle-income

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<sup>3</sup> The remaining household consumption not accounted for in these figures is composed of housing and food for use at home. The source of the data is the personal consumption expenditures component of the Gross Domestic Product Accounts published by the Commerce Department.

households as well as those purchased by high-income people. In general, a broad expansion of the sales tax to services will not change relative tax burdens.<sup>4</sup>

There is one circumstance, however, in which expansion of the sales tax to services could make a state's overall tax system somewhat less equitable. That can occur if taxing services raises the proportion of total state revenue that is derived from the sales tax and thereby lowers the proportion that is derived from more progressive sources such as personal and corporate income taxes. There are a number of ways this potential to increase the regressivity of the tax system as a whole can be avoided. The sales tax base expansion can be balanced with other changes in the tax code, such as a reduction in the sales tax rate or an increase in the personal income tax. Alternatively, targeted credits administered through the income tax or rebates of sales taxes paid can be used to mitigate the increased sales tax burden low-income families could experience when a sales tax is broadly expanded to include services.

- **Imposing a sales tax on services can improve the allocation of economic resources.** The failure to tax services while most goods are taxed subtly distorts resource allocation throughout the economy by creating an artificial incentive to purchase services rather than goods. For example, some consumers may be encouraged to repair older cars and appliances rather than replace them with more energy-efficient and less polluting alternatives — although the effect is probably modest. The failure to tax services has also contributed to steady increases in sales tax rates, which create their own economic distortions. Unnecessarily high tax rates on goods resulting from under-taxation of services stimulate such wasteful activities as tax-motivated interstate shopping.
- **Expanding the taxation of services can simplify the process of administering and complying with the sales tax.** Expanding the taxation of services can reduce the effort and costs entailed in enforcing and complying with the sales tax. When retailers sell taxable goods as well as tax-exempt services, it can be difficult and costly for tax administrators and merchants alike to ensure that the proper amount of tax has been collected and remitted. If all of a retailer's sales are subject to tax, many accounting burdens and disputes diminish or disappear.

Expanded sales taxation of services can contribute to the realization of all of these arguably desirable tax policy objectives. There are tradeoffs involved, however. For example, moving toward very comprehensive taxation of services with less than 12-18 months of lead-time could strain the administrative capabilities of state tax departments since many businesses that previously did not collect sales tax would need to be brought into the sales tax system. Thus, achieving an optimal balancing of these goals requires an understanding of all of the potential effects of expanding taxation of services and careful choices about which services to tax.

### **Which Services Could States Tax? Which Services Should They Tax?**

As policymakers contemplate which currently-exempt services they might bring into the sales tax base, it can be useful to think of services as falling into three categories:

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<sup>4</sup> Such generalized taxation of services would have to exempt health care services for this statement to be fully accurate, however. Research suggests that imposing sales taxes on health care services in addition to most other household services would increase the regressivity of the sales tax.



- services primarily purchased by businesses, such as payroll processing and television advertising;
- services primarily purchased by households, such as diaper service and cable TV; and
- services frequently purchased by both households and businesses, such as landscaping and pest control.

Economists generally counsel states to forgo taxing the first category of services, so-called “business-to-business” sales. They point out that taxing the goods and services businesses buy to use as inputs into the production of other goods and services often leads to “tax pyramiding.” Tax pyramiding refers to the situation in which an input is taxed when purchased and then effectively taxed again when its cost is passed through into the price of a taxable good or service into which it has been incorporated. Tax pyramiding results in the actual sales tax imposed on a particular good or service bought by a household being higher than what is added at the cash register. Because the sales taxes imposed on inputs are hidden in the selling price of the item, states may tend to rely on this revenue source more than they otherwise would. Moreover, some research suggests that the hidden sales taxes are even more burdensome for low-income families than the visible sales tax that is imposed on the final sale, because necessities like food and utilities that often are tax-exempt nonetheless can have substantial sales taxes hidden in their prices.

Taxation of business inputs also tends to complicate sales tax administration. For example, rules need to be developed for taxing services like accounting that are purchased by businesses for company-wide use in multiple states.

The greatest concern of economists regarding sales taxation of services purchased by businesses is that it can distort the allocation of economic resources. Since services provided to an employer by an employee are rarely subject to sales tax, taxation of business-to-business sales of services can encourage businesses to provide services using their own employees even if they could be produced more efficiently by an independent firm. In addition, if purchases of services subject to sales tax are major cost items for a business (for example, data processing services for a financial institution), a more efficient business that tries to pass those taxes into its prices could lose business to a less efficient competitor located in another state that exempts those inputs from sales taxation. Alternatively, a business that makes substantial purchases of taxable services might choose to expand in a state that is sub-optimal from an economic efficiency standpoint but that exempts those services from sales tax.

While these arguments against taxing business purchases of services have merit, there are at least two countervailing considerations:

- State sales taxes already apply to numerous purchases of goods by businesses. Assuming that the concerns of economists about the distorting effect on resource allocation of taxing business inputs are valid, economic theory implies that the distortion grows as the tax rate increases. If the choice is between increasing the tax rate at which business-to-business sales of goods are taxed and taxing some business-to-business sales of services in order to hold down the tax rate, the latter could actually have a less adverse impact on the efficient allocation of resources.
- In an economy in which a growing number of people run their own businesses, exempting all

purchases of goods and services by businesses would open the door to substantial tax evasion. Business owners could claim that purchases of many services — such as telecommunications, hotel rentals, and auto and computer repair — were for business use when they were actually for personal use. Preventing this abuse would require that substantial additional resources for tax enforcement be provided to state tax departments. The costs of preventing tax evasion could exceed the economic benefits of exempting business inputs from taxation.

In broadening their states' taxation of services, policymakers generally have struck what arguably is a reasonable balance among the resource allocation issues raised by economists, their states' revenue needs, and practical tax enforcement considerations. States largely have avoided taxing services purchased almost exclusively by businesses (like advertising and accounting); instead, to the extent they have taxed services, states have targeted household services (like haircuts) or mixed household/business services (like landscaping). Where a particular industry has made a credible case that taxation of a service in the latter category has an adverse economic impact (for example, telecommunications purchased by a bank's "call center"), elected officials also have been willing to enact industry-specific exemptions. Such an approach may make more sense than an across-the-board exemption for all services that happen to be purchased by both businesses and households.

Even if states forgo taxing services that are predominantly purchased by businesses, there is a wide array of services to which the sales tax can be applied. Appendix I of this report lists over 200 types of services purchased by households or by both households and businesses, organized into 20 broad categories including personal care, home cleaning and maintenance, recreation and travel, and lawn and garden. As entrepreneurs perceive new profit-making opportunities, new services will continue to be invented. States can either implement taxation of services in a way that will incorporate newly emerging services or can monitor the evolution of the service sector and update their tax policies accordingly.

## **The Legal Mechanics of Imposing a Sales Tax on Services**

Legislators can expand the taxation of services in two different ways. The comprehensive approach is to apply to services the typical language used to tax goods. Under most state sales tax laws, all sales of goods are taxable unless they are explicitly identified as exempt. Hawaii, New Mexico, and South Dakota apply this same treatment to sales of services. Hawaii and New Mexico adopted this approach from the inception of their sales taxes; South Dakota did so to expand the taxation of services well after the sales tax had been enacted.

The remaining states that tax services do so by specifically enumerating taxable services. The enumeration often can be found in the definition of a taxable "retail sale."

Each approach to taxing services has its own advantages and disadvantages. A key advantage of the comprehensive approach, for example, is that newly-developed services are immediately taxable without legislative action. This is appropriate given the role of the sales tax as a general tax on consumption. It also ensures that the revenue yield of the sales tax is maintained as new services displace old goods and services (for example, as downloading an update for a GPS device substitutes for buying a new road atlas).

The major disadvantage of the comprehensive approach to expanding the sales taxation of services is that it is likely to bring a large number of services into the sales tax base in one fell swoop. The services subjected to taxation are likely to include many business-to-business services that policymakers might not wish to tax because of the potentially adverse economic effects discussed previously. Moreover, state revenue departments may not be equipped to integrate numerous new services and the merchants selling them into their sales tax administration systems in a short period of time. These factors likely explain why all the states that have expanded their taxation of services in recent years did so incrementally, a few services at a time.

The greatest challenge facing legislators who choose to extend their state's sales tax to specifically-enumerated services is defining unambiguously the services they intend to tax. Many services are technologically complex and industry-specific, and legislators and their staffs cannot be expected to be business experts. Clear definitions are essential, however, because providers of a newly-taxed service often will look for every legal opportunity to avoid having to add a 4-10 percent sales tax to their prices. In a 2009 case, for example, a bank disputed New York's claim that an online credit scoring service to which it subscribed constituted a taxable information service rather than a tax-exempt consulting service. An explicit reference to credit-scoring services as taxable would have made it less likely that the bank would have brought the case.

A question often arises as to whether it is preferable to write the law to identify taxable services in broad terms (such as "fees for participant sports") or specifically (such as "admissions, equipment rental, and other fees for bowling, batting cages, skiing . . ."). The answer is that states would be well-advised to do both. ("Taxable sales include admission, equipment rental, and other fees for participant sports, which include but are not limited to bowling, batting cages, skiing. . .") Broad definitions can serve as a good "backstop" for more specific listings that may inadvertently omit a particular service. A broad definition can also provide a basis for taxing a newly-invented service until such time as the legislature has an opportunity to identify it explicitly. Nonetheless, broad definitions are not sufficient to ensure taxability in the face of a taxpayer determined not to charge sales tax.

One promising approach to enumerating taxable services is to piggyback on standardized lists and definitions developed for other purposes. The North American Industry Classification System (successor to the well-known SIC system) and the North American Product Classification System (under development) could be referenced for sales taxation purposes.<sup>5</sup> South Dakota's sales tax statute already references SIC definitions, for example. In addition to taking advantage of careful definitional work, using NAICS or NAPCS to establish the state sales tax base could make it easier to gauge the revenue impact of taxing services; state-by-state data on the dollar volume of sales of services are already categorized by NAICS and will be further categorized by NAPCS beginning with the upcoming release of data from the 2007 economic census.

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<sup>5</sup> Information about NAICS is available at [www.census.gov/eos/www/naics/](http://www.census.gov/eos/www/naics/). Information about NAPCS is available at [www.census.gov/eos/www/napcs/napcs.htm](http://www.census.gov/eos/www/napcs/napcs.htm).

**Table 1: Estimated State Sales Tax Revenue Yield from Taxing All "Feasibly-Taxable"\* Services**  
(\$ millions)

|                | Share of<br>2007 Ntl.<br>Personal<br>Income | Estimated<br>Purchases of<br>"Feasibly-taxable"<br>Services | Jan. 1 2007<br>State Sales<br>Tax Rate | Maximum<br>Revenue from<br>Taxing<br>Services | FY07 State<br>General Sales<br>Tax Revenue | Revenue from<br>Services as<br>Percent of Current<br>Revenue |
|----------------|---|---|--|---|--|--|
|                | (1)   | (2)   | (3)                                    | (4)   | (5)  | (6)  |
| United States  | 100.00%                                     | 1,621,600   | 5.387%                                 | 87,358  | 239,560                                    | 36%  |
| Alabama        | 1.29%                                       | 20,906  | 4.000%                                 | 836   | 2,349                                      | 36%  |
| Arizona        | 1.79%                                       | 29,075  | 5.600%                                 | 1,628   | 5,640                                      | 29%  |
| Arkansas       | 0.73%                                       | 11,906  | 6.000%                                 | 714   | 2,904                                      | 25%  |
| California     | 13.07%                                      | 211,964   | 6.250%                                 | 13,248  | 32,669                                     | 41%  |
| Colorado       | 1.71%                                       | 27,804  | 2.900%                                 | 806   | 2,219                                      | 36%  |
| Connecticut    | 1.65%                                       | 26,744  | 6.000%                                 | 1,605   | 3,030                                      | 53%  |
| D. of Columbia | 0.32%                                       | 5,120   | 5.750%                                 | 294   | 960  | 31%  |
| Florida        | 6.01%                                       | 97,452  | 6.000%                                 | 5,847   | 21,749                                     | 27%  |
| Georgia        | 2.74%                                       | 44,465  | 4.000%                                 | 1,779   | 6,382                                      | 28%  |
| Hawaii         | 0.43%                                       | 6,987   | 4.000%                                 | 279   | 2,446                                      | 11%  |
| Idaho          | 0.41%                                       | 6,632   | 6.000%                                 | 398   | 1,278                                      | 31%  |
| Illinois       | 4.52%                                       | 73,315  | 6.250%                                 | 4,582   | 7,817                                      | 59%  |
| Indiana        | 1.81%                                       | 29,332  | 6.000%                                 | 1,760   | 5,424                                      | 32%  |
| Iowa           | 0.90%                                       | 14,519  | 5.000%                                 | 726   | 1,833                                      | 40%  |
| Kansas         | 0.87%                                       | 14,139  | 5.300%                                 | 749   | 2,242                                      | 33%  |
| Kentucky       | 1.12%                                       | 18,200  | 6.000%                                 | 1,092   | 3,229                                      | 34%  |
| Louisiana      | 1.32%                                       | 21,395  | 4.000%                                 | 856   | 3,481                                      | 25%  |
| Maine          | 0.38%                                       | 6,232   | 5.000%                                 | 312   | 1,055                                      | 30%  |
| Maryland       | 2.24%                                       | 36,394  | 5.000%                                 | 1,820   | 4,248                                      | 43%  |
| Massachusetts  | 2.72%                                       | 44,169  | 5.000%                                 | 2,208   | 4,233                                      | 52%  |
| Michigan       | 2.97%                                       | 48,217  | 6.000%                                 | 2,893   | 7,983                                      | 36%  |
| Minnesota      | 1.83%                                       | 29,691  | 6.500%                                 | 1,930   | 5,003                                      | 39%  |
| Mississippi    | 0.72%                                       | 11,620  | 7.000%                                 | 813   | 3,162                                      | 26%  |
| Missouri       | 1.72%                                       | 27,828  | 4.225%                                 | 1,176   | 3,273                                      | 36%  |
| Nebraska       | 0.55%                                       | 8,971   | 5.500%                                 | 493   | 1,484                                      | 33%  |
| Nevada         | 0.87%                                       | 14,189  | 6.500%                                 | 922   | 3,213                                      | 29%  |
| New Jersey     | 3.68%                                       | 59,714  | 7.000%                                 | 4,180   | 8,346                                      | 50%  |
| New Mexico     | 0.52%                                       | 8,407   | 5.000%                                 | 420   | 1,979                                      | 21%  |
| New York       | 7.74%                                       | 125,557   | 4.000%                                 | 5,022   | 10,194                                     | 49%  |
| North Carolina | 2.62%                                       | 42,514  | 4.250%                                 | 1,807   | 5,202                                      | 35%  |
| North Dakota   | 0.20%                                       | 3,208   | 5.000%                                 | 160   | 564  | 28%  |
| Ohio           | 3.40%                                       | 55,141  | 5.500%                                 | 3,033   | 7,781                                      | 39%  |
| Oklahoma       | 1.09%                                       | 17,600  | 4.500%                                 | 792   | 1,964                                      | 40%  |
| Pennsylvania   | 4.14%                                       | 67,154  | 6.000%                                 | 4,029   | 8,662                                      | 47%  |
| Rhode Island   | 0.36%                                       | 5,846   | 7.000%                                 | 409   | 876  | 47%  |
| South Carolina | 1.18%                                       | 19,096  | 5.000%                                 | 955   | 3,256                                      | 29%  |
| South Dakota   | 0.24%                                       | 3,966   | 4.000%                                 | 159   | 767  | 21%  |
| Tennessee      | 1.77%                                       | 28,622  | 7.000%                                 | 2,004   | 6,764                                      | 30%  |
| Texas          | 7.60%                                       | 123,239   | 6.250%                                 | 7,702   | 23,760                                     | 32%  |
| Utah           | 0.68%                                       | 11,097  | 4.750%                                 | 527   | 1,954                                      | 27%  |
| Vermont        | 0.20%                                       | 3,243   | 6.000%                                 | 195   | 530  | 37%  |
| Virginia       | 2.76%                                       | 44,775  | 4.000%                                 | 1,791   | 3,539                                      | 51%  |
| Washington     | 2.28%                                       | 37,039  | 6.500%                                 | 2,408   | 7,951                                      | 30%  |
| West Virginia  | 0.46%                                       | 7,412   | 6.000%                                 | 445   | 1,303                                      | 34%  |
| Wisconsin      | 1.75%                                       | 28,306  | 5.000%                                 | 1,415   | 4,159                                      | 34%  |
| Wyoming        | 0.21%                                       | 3,431   | 4.000%                                 | 137   | 698  | 20%  |

\* "Feasibly-taxable" services consist of all services consumed by households except: housing, health care, education, transit, legal, funeral, and certain banking and insurance services. See text for description of data sources.

# **State and Local Government Sales Tax Revenue Losses from Electronic Commerce<sup>1</sup>**

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# State and Local Government Sales Tax Revenue Losses from Electronic Commerce

## EXECUTIVE SUMMARY

The development of new technologies and digital processes has had a profound effect on the U.S. economy as e-commerce sales have grown from \$995.0 billion in 1999 to \$2,385 billion by 2006. The rapid growth in e-commerce affects state and local economies in several important ways. First, state and local governments continue to lose sales and use tax revenues because of the inability to collect taxes that are due. Second, firms change their best business practices to avoid creating a collection responsibility in certain states. Firms choose to locate their selling or warehousing activities to avoid creating nexus rather than locating where they can operate most efficiently. Also, local vendors face a competitive disadvantage to e-commerce competitors as consumers browse in shops on Main Street but then make their purchases online to evade the tax. Finally, there may be distributional consequences if lower-income consumers are more likely to make purchases in local stores where the tax is collected.

We estimate state and local sales tax losses arising from e-commerce for 46 states and the District of Columbia using both a baseline forecast and an optimistic forecast for e-commerce growth. B2B (business-to-business) sales account for approximately 93 percent of total e-commerce. In the baseline case, we estimate that annual national state and local sales tax losses on e-commerce will grow to \$11.4 billion by 2012 for a six-year total loss of \$52 billion. The more optimistic growth case estimates losses to reach \$12.65 billion by 2012 and an aggregate loss of \$56.3 billion.

We view our estimates as lower bounds on the expected sales tax revenue losses. First, we use a conservative methodology for forecasting e-commerce. Second, we did not seek to account for the additional losses associated with non-registered vendors operating in the states. Third, we assume that the taxability of e-commerce transactions is the same as for overall commerce, even though we suspect that the ability to evade the tax should shift the mix of e-commerce more towards taxable sales.

Changing the law to require remote vendors to collect sales and use taxes would recover a significant portion of the estimated losses, although we acknowledge that some noncompliance would remain. More importantly, our estimates are revenue losses associated with e-commerce and not all remote sales, and yet the proposed legislation covers other types of remote commerce, such as mail order, telephone orders, and deliveries made across state lines by unregistered businesses. Estimating the sales tax revenue losses associated with all remote commerce is beyond the scope of this study, but we believe the revenue implications are much larger than for e-commerce alone. For example,

applying the methodology we used to estimate e-commerce losses, we estimate losses relating only to the B2C (business-to-consumer) component of mail orders sales to be \$6.8 billion by 2012. As a result, total revenue gains from requiring various forms of remote vendors to collect sales and use tax will be significantly larger than what we estimate in this report for e-commerce.

**Table 3: Total State and Local Sales and Use Taxes Due on E-Commerce (\$millions)**

|                      | Baseline Scenario |                 |                 |                 |                 |                 | Total            |
|----------------------|-------------------|-----------------|-----------------|-----------------|-----------------|-----------------|------------------|
|                      | 2007              | 2008            | 2009            | 2010            | 2011            | 2012            |                  |
| Alabama              | 429.7             | 458.2           | 412.3           | 511.2           | 601.1           | 675.7           | 3,088.2          |
| Alaska               | 3.8               | 4.0             | 3.6             | 4.5             | 5.3             | 6.0             | 27.3             |
| Arizona              | 928.2             | 989.8           | 890.5           | 1,104.3         | 1,298.5         | 1,459.5         | 6,670.8          |
| Arkansas             | 285.5             | 304.4           | 273.9           | 339.7           | 399.4           | 448.9           | 2,051.7          |
| California           | 4,898.3           | 5,223.3         | 4,699.5         | 5,827.8         | 6,852.3         | 7,702.0         | 35,203.2         |
| Colorado             | 438.0             | 467.0           | 420.2           | 521.1           | 612.7           | 688.6           | 3,147.5          |
| Connecticut          | 161.3             | 172.0           | 154.7           | 191.9           | 225.6           | 253.6           | 1,159.0          |
| District of Columbia | 90.1              | 96.0            | 86.4            | 107.2           | 126.0           | 141.6           | 647.3            |
| Florida              | 2,056.0           | 2,192.4         | 1,972.5         | 2,446.1         | 2,876.1         | 3,232.7         | 14,775.7         |
| Georgia              | 1,043.5           | 1,112.8         | 1,001.2         | 1,241.5         | 1,459.8         | 1,640.8         | 7,499.6          |
| Hawaii               | 149.5             | 159.4           | 143.4           | 177.9           | 209.2           | 235.1           | 1,074.5          |
| Idaho                | 117.1             | 124.9           | 112.4           | 139.3           | 163.8           | 184.2           | 841.7            |
| Illinois             | 1,299.9           | 1,386.1         | 1,247.1         | 1,546.5         | 1,818.4         | 2,043.9         | 9,341.8          |
| Indiana              | 497.2             | 530.2           | 477.0           | 591.5           | 695.5           | 781.8           | 3,573.3          |
| Iowa                 | 223.0             | 237.8           | 214.0           | 265.3           | 312.0           | 350.7           | 1,602.7          |
| Kansas               | 380.0             | 405.2           | 364.6           | 452.1           | 531.6           | 597.5           | 2,731.2          |
| Kentucky             | 291.5             | 310.9           | 279.7           | 346.9           | 407.8           | 458.4           | 2,095.3          |
| Louisiana            | 989.1             | 1,054.7         | 948.9           | 1,176.8         | 1,383.6         | 1,555.2         | 7,108.4          |
| Maine                | 80.6              | 85.9            | 77.3            | 95.9            | 112.7           | 126.7           | 579.1            |
| Maryland             | 467.3             | 498.3           | 448.3           | 556.0           | 653.7           | 734.7           | 3,358.3          |
| Massachusetts        | 331.7             | 353.7           | 318.3           | 394.7           | 464.0           | 521.6           | 2,384.0          |
| Michigan             | 360.0             | 383.9           | 345.4           | 428.3           | 503.6           | 566.1           | 2,587.3          |
| Minnesota            | 590.1             | 629.3           | 566.2           | 702.1           | 825.5           | 927.9           | 4,241.1          |
| Mississippi          | 338.4             | 360.9           | 324.7           | 402.7           | 473.4           | 532.2           | 2,432.3          |
| Missouri             | 534.9             | 570.4           | 513.2           | 636.4           | 748.3           | 841.1           | 3,844.4          |
| Nebraska             | 153.9             | 164.1           | 147.6           | 183.1           | 215.3           | 242.0           | 1,105.9          |
| Nevada               | 431.3             | 460.0           | 413.8           | 513.2           | 603.4           | 678.2           | 3,099.9          |
| New Jersey           | 513.4             | 547.5           | 492.6           | 610.9           | 718.3           | 807.3           | 3,690.0          |
| New Mexico           | 304.0             | 324.1           | 291.6           | 361.6           | 425.2           | 477.9           | 2,184.4          |
| New York             | 2,334.3           | 2,489.1         | 2,239.5         | 2,777.2         | 3,265.4         | 3,670.3         | 16,775.8         |
| North Carolina       | 545.7             | 581.9           | 523.6           | 649.3           | 763.4           | 858.1           | 3,921.9          |
| North Dakota         | 39.9              | 42.6            | 38.3            | 47.5            | 55.9            | 62.8            | 287.1            |
| Ohio                 | 783.0             | 834.9           | 751.2           | 931.6           | 1,095.3         | 1,231.2         | 5,627.2          |
| Oklahoma             | 354.6             | 378.2           | 340.2           | 421.9           | 496.1           | 557.6           | 2,548.7          |
| Pennsylvania         | 871.2             | 929.0           | 835.8           | 1,036.5         | 1,218.7         | 1,369.9         | 6,261.2          |
| Rhode Island         | 72.0              | 76.7            | 69.0            | 85.6            | 100.7           | 113.1           | 517.1            |
| South Carolina       | 315.0             | 335.9           | 302.2           | 374.7           | 440.6           | 495.2           | 2,263.5          |
| South Dakota         | 72.2              | 77.0            | 69.3            | 85.9            | 101.0           | 113.5           | 519.0            |
| Tennessee            | 1,047.7           | 1,117.2         | 1,005.1         | 1,246.5         | 1,465.6         | 1,647.3         | 7,529.3          |
| Texas                | 2,230.4           | 2,378.3         | 2,139.8         | 2,653.6         | 3,120.0         | 3,506.9         | 16,029.1         |
| Utah                 | 224.8             | 239.7           | 215.7           | 267.4           | 314.5           | 353.4           | 1,615.5          |
| Vermont              | 60.7              | 64.7            | 58.2            | 72.2            | 84.9            | 95.4            | 436.1            |
| Virginia             | 528.1             | 563.1           | 506.7           | 628.3           | 738.8           | 830.4           | 3,795.4          |
| Washington           | 753.3             | 803.2           | 722.7           | 896.2           | 1,053.7         | 1,184.4         | 5,413.6          |
| West Virginia        | 126.0             | 134.3           | 120.9           | 149.9           | 176.2           | 198.1           | 905.4            |
| Wisconsin            | 360.1             | 384.0           | 345.5           | 428.5           | 503.8           | 566.2           | 2,588.1          |
| Wyoming              | 70.5              | 75.2            | 67.7            | 83.9            | 98.7            | 110.9           | 506.9            |
| <b>TOTAL</b>         | <b>29,176.8</b>   | <b>31,112.6</b> | <b>27,992.3</b> | <b>34,713.2</b> | <b>40,815.2</b> | <b>45,876.6</b> | <b>209,686.7</b> |



**Table 4: Total State and Local Sales and Use Tax Collections on E-Commerce Sales (\$millions)**

|                      | Baseline Scenario |                 |                 |                 |                 |                 | Total            |
|----------------------|-------------------|-----------------|-----------------|-----------------|-----------------|-----------------|------------------|
|                      | 2007              | 2008            | 2009            | 2010            | 2011            | 2012            |                  |
| Alabama              | 321.4             | 342.7           | 308.3           | 382.3           | 449.6           | 505.3           | 2,309.6          |
| Alaska               | 2.8               | 3.0             | 2.7             | 3.4             | 4.0             | 4.5             | 20.4             |
| Arizona              | 693.0             | 739.0           | 664.9           | 824.5           | 969.5           | 1,089.7         | 4,980.5          |
| Arkansas             | 213.1             | 227.2           | 204.4           | 253.5           | 298.1           | 335.0           | 1,531.2          |
| California           | 3,687.1           | 3,931.7         | 3,537.4         | 4,386.7         | 5,157.9         | 5,797.5         | 26,498.4         |
| Colorado             | 328.1             | 349.9           | 314.8           | 390.4           | 459.0           | 515.9           | 2,358.0          |
| Connecticut          | 120.7             | 128.7           | 115.8           | 143.6           | 168.9           | 189.8           | 867.5            |
| District of Columbia | 67.5              | 71.9            | 64.7            | 80.3            | 94.4            | 106.1           | 484.8            |
| Florida              | 1,544.8           | 1,647.3         | 1,482.0         | 1,837.9         | 2,161.0         | 2,428.9         | 11,101.8         |
| Georgia              | 782.6             | 834.5           | 750.8           | 931.1           | 1,094.8         | 1,230.5         | 5,624.4          |
| Hawaii               | 111.4             | 118.7           | 106.8           | 132.5           | 155.8           | 175.1           | 800.3            |
| Idaho                | 87.6              | 93.5            | 84.1            | 104.3           | 122.6           | 137.8           | 629.8            |
| Illinois             | 977.5             | 1,042.4         | 937.8           | 1,163.0         | 1,367.4         | 1,537.0         | 7,025.2          |
| Indiana              | 373.0             | 397.7           | 357.8           | 443.8           | 521.8           | 586.5           | 2,680.5          |
| Iowa                 | 166.6             | 177.7           | 159.9           | 198.2           | 233.1           | 262.0           | 1,197.5          |
| Kansas               | 289.1             | 308.3           | 277.4           | 344.0           | 404.5           | 454.6           | 2,077.9          |
| Kentucky             | 221.6             | 236.3           | 212.6           | 263.7           | 310.0           | 348.5           | 1,592.7          |
| Louisiana            | 737.3             | 786.2           | 707.4           | 877.2           | 1,031.4         | 1,159.3         | 5,298.9          |
| Maine                | 60.2              | 64.2            | 57.7            | 71.6            | 84.2            | 94.6            | 432.6            |
| Maryland             | 350.2             | 373.4           | 336.0           | 416.6           | 489.9           | 550.6           | 2,516.7          |
| Massachusetts        | 248.2             | 264.7           | 238.2           | 295.3           | 347.3           | 390.3           | 1,784.0          |
| Michigan             | 270.0             | 287.9           | 259.1           | 321.3           | 377.7           | 424.6           | 1,940.6          |
| Minnesota            | 440.5             | 469.7           | 422.6           | 524.1           | 616.2           | 692.6           | 3,165.7          |
| Mississippi          | 252.7             | 269.4           | 242.4           | 300.6           | 353.4           | 397.3           | 1,815.8          |
| Missouri             | 400.9             | 427.5           | 384.6           | 477.0           | 560.9           | 630.4           | 2,881.4          |
| Nebraska             | 114.9             | 122.5           | 110.2           | 136.7           | 160.7           | 180.6           | 825.6            |
| Nevada               | 323.9             | 345.4           | 310.8           | 385.4           | 453.1           | 509.3           | 2,327.8          |
| New Jersey           | 384.7             | 410.2           | 369.1           | 457.7           | 538.1           | 604.8           | 2,764.5          |
| New Mexico           | 227.3             | 242.4           | 218.1           | 270.5           | 318.0           | 357.5           | 1,633.9          |
| New York             | 1,783.8           | 1,902.2         | 1,711.4         | 2,122.3         | 2,495.4         | 2,804.9         | 12,820.1         |
| North Carolina       | 409.8             | 436.9           | 393.1           | 487.5           | 573.2           | 644.3           | 2,944.8          |
| North Dakota         | 30.2              | 32.2            | 29.0            | 35.9            | 42.2            | 47.5            | 217.0            |
| Ohio                 | 587.2             | 626.1           | 563.3           | 698.6           | 821.4           | 923.2           | 4,219.7          |
| Oklahoma             | 265.1             | 282.7           | 254.3           | 315.4           | 370.8           | 416.8           | 1,905.2          |
| Pennsylvania         | 651.2             | 694.4           | 624.8           | 774.8           | 911.0           | 1,024.0         | 4,680.3          |
| Rhode Island         | 53.5              | 57.0            | 51.3            | 63.6            | 74.8            | 84.1            | 384.4            |
| South Carolina       | 235.7             | 251.4           | 226.2           | 280.5           | 329.8           | 370.7           | 1,694.3          |
| South Dakota         | 53.3              | 56.8            | 51.1            | 63.4            | 74.5            | 83.8            | 382.9            |
| Tennessee            | 786.4             | 838.6           | 754.5           | 935.6           | 1,100.1         | 1,236.5         | 5,651.6          |
| Texas                | 1,676.8           | 1,788.1         | 1,608.7         | 1,995.0         | 2,345.7         | 2,636.5         | 12,050.8         |
| Utah                 | 168.5             | 179.7           | 161.7           | 200.5           | 235.8           | 265.0           | 1,211.2          |
| Vermont              | 44.7              | 47.7            | 42.9            | 53.2            | 62.5            | 70.3            | 321.3            |
| Virginia             | 396.5             | 422.8           | 380.4           | 471.7           | 554.6           | 623.4           | 2,849.3          |
| Washington           | 574.0             | 612.0           | 550.7           | 682.9           | 802.9           | 902.5           | 4,124.9          |
| West Virginia        | 93.8              | 100.0           | 90.0            | 111.6           | 131.2           | 147.5           | 674.0            |
| Wisconsin            | 269.7             | 287.6           | 258.8           | 320.9           | 377.3           | 424.1           | 1,938.4          |
| Wyoming              | 52.3              | 55.8            | 50.2            | 62.3            | 73.2            | 82.3            | 376.1            |
| <b>TOTAL</b>         | <b>21,931.2</b>   | <b>23,386.3</b> | <b>21,040.8</b> | <b>26,092.7</b> | <b>30,679.5</b> | <b>34,483.9</b> | <b>157,614.4</b> |

**Table 5: Total State and Local Sales and Use Tax Revenue Losses from E-Commerce Sales (\$millions)**

|                      | Baseline Scenario |                |                |                |                 |                 | Total           |
|----------------------|-------------------|----------------|----------------|----------------|-----------------|-----------------|-----------------|
|                      | 2007              | 2008           | 2009           | 2010           | 2011            | 2012            |                 |
| Alabama              | 108.3             | 115.5          | 103.9          | 128.9          | 151.6           | 170.4           | 778.6           |
| Alaska               | 1.0               | 1.0            | 0.9            | 1.1            | 1.3             | 1.5             | 6.8             |
| Arizona              | 235.2             | 250.8          | 225.6          | 279.8          | 329.0           | 369.8           | 1,690.3         |
| Arkansas             | 72.4              | 77.2           | 69.5           | 86.2           | 101.3           | 113.9           | 520.4           |
| California           | 1,211.2           | 1,291.6        | 1,162.1        | 1,441.1        | 1,694.4         | 1,904.5         | 8,704.8         |
| Colorado             | 109.9             | 117.1          | 105.4          | 130.7          | 153.7           | 172.7           | 789.5           |
| Connecticut          | 40.6              | 43.2           | 38.9           | 48.3           | 56.7            | 63.8            | 291.5           |
| District of Columbia | 22.6              | 24.1           | 21.7           | 26.9           | 31.6            | 35.5            | 162.5           |
| Florida              | 511.2             | 545.1          | 490.4          | 608.2          | 715.1           | 803.8           | 3,673.9         |
| Georgia              | 260.9             | 278.2          | 250.3          | 310.4          | 365.0           | 410.3           | 1,875.2         |
| Hawaii               | 38.2              | 40.7           | 36.6           | 45.4           | 53.4            | 60.0            | 274.2           |
| Idaho                | 29.5              | 31.4           | 28.3           | 35.1           | 41.2            | 46.4            | 211.9           |
| Illinois             | 322.3             | 343.7          | 309.3          | 383.5          | 450.9           | 506.8           | 2,316.6         |
| Indiana              | 124.2             | 132.5          | 119.2          | 147.8          | 173.8           | 195.3           | 892.8           |
| Iowa                 | 56.4              | 60.1           | 54.1           | 67.1           | 78.9            | 88.7            | 405.3           |
| Kansas               | 90.9              | 96.9           | 87.2           | 108.1          | 127.1           | 142.9           | 653.2           |
| Kentucky             | 69.9              | 74.6           | 67.1           | 83.2           | 97.8            | 109.9           | 502.5           |
| Louisiana            | 251.8             | 268.5          | 241.6          | 299.6          | 352.2           | 395.9           | 1,809.5         |
| Maine                | 20.4              | 21.7           | 19.6           | 24.3           | 28.5            | 32.1            | 146.6           |
| Maryland             | 117.1             | 124.9          | 112.4          | 139.3          | 163.8           | 184.1           | 841.6           |
| Massachusetts        | 83.5              | 89.0           | 80.1           | 99.3           | 116.8           | 131.3           | 600.0           |
| Michigan             | 90.0              | 96.0           | 86.3           | 107.1          | 125.9           | 141.5           | 646.7           |
| Minnesota            | 149.6             | 159.6          | 143.6          | 178.0          | 209.3           | 235.3           | 1,075.3         |
| Mississippi          | 85.8              | 91.5           | 82.3           | 102.1          | 120.0           | 134.9           | 616.5           |
| Missouri             | 134.0             | 142.9          | 128.6          | 159.4          | 187.5           | 210.7           | 963.0           |
| Nebraska             | 39.0              | 41.6           | 37.4           | 46.4           | 54.6            | 61.3            | 280.4           |
| Nevada               | 107.4             | 114.6          | 103.1          | 127.8          | 150.3           | 168.9           | 772.1           |
| New Jersey           | 128.8             | 137.3          | 123.5          | 153.2          | 180.1           | 202.5           | 925.5           |
| New Mexico           | 76.6              | 81.7           | 73.5           | 91.1           | 107.2           | 120.5           | 550.5           |
| New York             | 550.4             | 586.9          | 528.1          | 654.9          | 770.0           | 865.5           | 3,955.7         |
| North Carolina       | 136.0             | 145.0          | 130.4          | 161.8          | 190.2           | 213.8           | 977.1           |
| North Dakota         | 9.8               | 10.4           | 9.4            | 11.6           | 13.6            | 15.3            | 70.1            |
| Ohio                 | 195.8             | 208.8          | 187.9          | 233.0          | 274.0           | 307.9           | 1,407.5         |
| Oklahoma             | 89.5              | 95.5           | 85.9           | 106.5          | 125.3           | 140.8           | 643.5           |
| Pennsylvania         | 220.0             | 234.6          | 211.0          | 261.7          | 307.7           | 345.9           | 1,580.9         |
| Rhode Island         | 18.5              | 19.7           | 17.7           | 22.0           | 25.8            | 29.0            | 132.7           |
| South Carolina       | 79.2              | 84.5           | 76.0           | 94.2           | 110.8           | 124.5           | 569.3           |
| South Dakota         | 18.9              | 20.2           | 18.2           | 22.5           | 26.5            | 29.8            | 136.1           |
| Tennessee            | 261.3             | 278.6          | 250.7          | 310.9          | 365.5           | 410.8           | 1,877.7         |
| Texas                | 553.6             | 590.3          | 531.1          | 658.6          | 774.4           | 870.4           | 3,978.3         |
| Utah                 | 56.3              | 60.0           | 54.0           | 66.9           | 78.7            | 88.5            | 404.3           |
| Vermont              | 16.0              | 17.0           | 15.3           | 19.0           | 22.3            | 25.1            | 114.8           |
| Virginia             | 131.6             | 140.4          | 126.3          | 156.6          | 184.1           | 207.0           | 946.0           |
| Washington           | 179.3             | 191.2          | 172.0          | 213.3          | 250.8           | 281.9           | 1,288.7         |
| West Virginia        | 32.2              | 34.3           | 30.9           | 38.3           | 45.0            | 50.6            | 231.4           |
| Wisconsin            | 90.4              | 96.4           | 86.7           | 107.6          | 126.5           | 142.1           | 649.7           |
| Wyoming              | 18.2              | 19.4           | 17.5           | 21.6           | 25.4            | 28.6            | 130.7           |
| <b>TOTAL</b>         | <b>7,245.6</b>    | <b>7,726.3</b> | <b>6,951.4</b> | <b>8,620.4</b> | <b>10,135.8</b> | <b>11,392.7</b> | <b>52,072.2</b> |

**Table 6: Total State and Local Sales and Use Tax Revenue Losses from E-Commerce Sales as a Percentage of 2007 Sales and Use Tax Collections**

|                      | Baseline Scenario |      |      |      |      |      |
|----------------------|-------------------|------|------|------|------|------|
|                      | 2007              | 2008 | 2009 | 2010 | 2011 | 2012 |
| Alabama              | 2.67              | 2.84 | 2.56 | 3.17 | 3.73 | 4.19 |
| Alaska               | 0.56              | 0.59 | 0.53 | 0.66 | 0.78 | 0.87 |
| Arizona              | 3.00              | 3.20 | 2.88 | 3.57 | 4.19 | 4.71 |
| Arkansas             | 1.92              | 2.05 | 1.84 | 2.29 | 2.69 | 3.02 |
| California           | 2.96              | 3.16 | 2.84 | 3.52 | 4.14 | 4.65 |
| Colorado             | 2.25              | 2.39 | 2.15 | 2.67 | 3.14 | 3.53 |
| Connecticut          | 1.34              | 1.43 | 1.28 | 1.59 | 1.87 | 2.10 |
| District of Columbia | 2.77              | 2.95 | 2.65 | 3.29 | 3.87 | 4.35 |
| Florida              | 2.22              | 2.37 | 2.13 | 2.65 | 3.11 | 3.50 |
| Georgia              | 2.50              | 2.67 | 2.40 | 2.97 | 3.50 | 3.93 |
| Hawaii               | 1.56              | 1.66 | 1.50 | 1.86 | 2.18 | 2.45 |
| Idaho                | 2.31              | 2.46 | 2.21 | 2.75 | 3.23 | 3.63 |
| Illinois             | 3.53              | 3.76 | 3.39 | 4.20 | 4.94 | 5.55 |
| Indiana              | 2.29              | 2.44 | 2.20 | 2.73 | 3.20 | 3.60 |
| Iowa                 | 2.44              | 2.60 | 2.34 | 2.90 | 3.41 | 3.83 |
| Kansas               | 3.05              | 3.25 | 2.93 | 3.63 | 4.27 | 4.79 |
| Kentucky             | 2.16              | 2.30 | 2.07 | 2.57 | 3.02 | 3.39 |
| Louisiana            | 3.76              | 4.01 | 3.60 | 4.47 | 5.26 | 5.91 |
| Maine                | 1.93              | 2.06 | 1.85 | 2.30 | 2.70 | 3.04 |
| Maryland             | 2.30              | 2.45 | 2.20 | 2.73 | 3.21 | 3.61 |
| Massachusetts        | 1.97              | 2.10 | 1.89 | 2.35 | 2.76 | 3.10 |
| Michigan             | 1.13              | 1.20 | 1.08 | 1.34 | 1.58 | 1.77 |
| Minnesota            | 2.95              | 3.14 | 2.83 | 3.50 | 4.12 | 4.63 |
| Mississippi          | 2.71              | 2.89 | 2.60 | 3.23 | 3.79 | 4.26 |
| Missouri             | 2.57              | 2.74 | 2.47 | 3.06 | 3.60 | 4.05 |
| Nebraska             | 2.25              | 2.40 | 2.16 | 2.67 | 3.14 | 3.53 |
| Nevada               | 3.19              | 3.40 | 3.08 | 3.79 | 4.46 | 5.01 |
| New Jersey           | 1.54              | 1.65 | 1.48 | 1.84 | 2.16 | 2.43 |
| New Mexico           | 2.73              | 2.91 | 2.62 | 3.25 | 3.82 | 4.29 |
| New York             | 2.79              | 2.97 | 2.68 | 3.32 | 3.90 | 4.39 |
| North Carolina       | 1.83              | 1.95 | 1.75 | 2.17 | 2.56 | 2.87 |
| North Dakota         | 1.45              | 1.54 | 1.39 | 1.72 | 2.03 | 2.28 |
| Ohio                 | 2.12              | 2.26 | 2.03 | 2.52 | 2.96 | 3.33 |
| Oklahoma             | 2.59              | 2.76 | 2.48 | 3.08 | 3.62 | 4.07 |
| Pennsylvania         | 2.48              | 2.64 | 2.38 | 2.95 | 3.47 | 3.90 |
| Rhode Island         | 2.11              | 2.25 | 2.02 | 2.51 | 2.95 | 3.32 |
| South Carolina       | 2.37              | 2.53 | 2.28 | 2.82 | 3.32 | 3.73 |
| South Dakota         | 1.84              | 1.96 | 1.76 | 2.18 | 2.57 | 2.89 |
| Tennessee            | 3.04              | 3.24 | 2.91 | 3.61 | 4.25 | 4.78 |
| Texas                | 1.89              | 2.02 | 1.81 | 2.25 | 2.64 | 2.97 |
| Utah                 | 2.29              | 2.44 | 2.19 | 2.72 | 3.20 | 3.60 |
| Vermont              | 2.56              | 2.73 | 2.45 | 3.04 | 3.58 | 4.02 |
| Virginia             | 2.38              | 2.54 | 2.28 | 2.83 | 3.33 | 3.74 |
| Washington           | 1.92              | 2.05 | 1.84 | 2.28 | 2.68 | 3.02 |
| West Virginia        | 2.47              | 2.64 | 2.37 | 2.94 | 3.46 | 3.89 |
| Wisconsin            | 2.04              | 2.18 | 1.96 | 2.43 | 2.86 | 3.21 |
| Wyoming              | 2.03              | 2.16 | 1.94 | 2.41 | 2.83 | 3.19 |
| TOTAL                | 2.43              | 2.60 | 2.33 | 2.90 | 3.40 | 3.83 |

Note: 2007 Collections are actually the adjusted 2007 state base multiplied by the sum of the state and local sales and use tax rates. The lone exception is Alaska, for which actual 2007 collections are used.



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July 23, 2009

## NEW YORK'S "AMAZON LAW": AN IMPORTANT TOOL FOR COLLECTING TAXES OWED ON INTERNET PURCHASES

By Michael Mazerov

### Summary

The inability to collect all sales taxes that are legally due on purchases made over the Internet costs states billions of dollars a year in lost revenue. In 2008, New York State enacted an innovative law that helps to address this problem. Rhode Island adopted a similar measure this year. All states with sales taxes should give serious consideration to doing so as well.

New York and Rhode Island's new laws are directed toward online retailers that are located outside the state and do not collect the sales tax that is due on sales to in-state customers. The laws rely on the fact that many such out-of-state retailers enlist independent in-state websites known as "affiliates" to promote sales. Affiliates place links on their websites to the retailer's site and receive a commission when someone follows the link and buys something from the retailer. The states determined that this relationship with affiliates satisfies the requirement set down by the U.S. Supreme Court that states can require sales tax collections only from retailers with in-state property, employees, or independent sales representatives. A New York court has already upheld the law, and the Tennessee attorney general has issued a formal opinion that a version introduced there was constitutional.

New York's measure — an amendment to the state's sales tax code — has been dubbed the "Amazon law" because Amazon.com is the nation's largest Internet retailer and until passage of New York's law did not collect sales taxes from any New York customers. In addition to Amazon, scores of other online retailers are potentially affected. New York's law is already raising tens of millions of dollars a year — enough to pay the salaries of hundreds of schoolteachers, firefighters and police officers.

Legislators in at least seven other states introduced similar bills this year. The California and Hawaii legislatures approved them but did not override their governors' vetoes. A similar bill is still pending in North Carolina, and press reports indicate the legislature is likely to approve it.

Sales taxes are already legally due on Internet sales if the item is taxable in a local store. The consumer is supposed to pay the tax directly to the state, but by far the most effective way to obtain the revenue is to require the seller to charge the tax. Because the measure enacted in New York and

Rhode Island extends such responsibility to the large number of Internet merchants with affiliate programs, it represents a valuable tool to begin to chip away at the problem of untaxed Internet sales. The law:

- Mitigates states' loss of much-needed revenue;
- Reduces the competitive disadvantage faced by local merchants and those Internet sellers (like Amazon competitors Barnes & Noble and Best Buy) that do collect sales taxes; and
- Reduces the disproportionate impact of sales taxes on low-income persons arising from their frequent inability to buy online and thus avoid the taxes.

Because most of the largest Internet retailers operate affiliate programs, a significant portion of the revenue loss arising from untaxed Internet sales could be avoided if numerous states enacted and enforced similar laws. Those online retailers that choose to drop their in-state affiliates rather than collect taxes seem likely to lose market share to local merchants and to online sellers that *do* collect taxes. If a significant number of the largest states enact these laws, it seems likely that many Internet retailers will eventually reinstate their affiliate programs and begin collecting the sales tax.

Not every Internet retailer operates an affiliate program, so emulating New York's law is only a partial response to the Internet sales tax problem. A comprehensive solution will require a federal law empowering states and localities that have simplified and harmonized their sales taxes to require all large remote sellers to collect sales taxes, whether or not they are physically present in their customers' states. Bills to do this have been introduced in Congress for many years, but they have not advanced.<sup>1</sup> In the meantime, the action taken by New York and Rhode Island is an important strategy for states to adopt on their own behalf.

### **Failure to Tax Internet Sales Is Harmful and Inequitable**

The current state of affairs, where some Internet retailers collect sales tax and some do not, has prevailed for far too long. The failure to collect taxes owed on Internet sales costs states and local governments billions of dollars a year in lost revenue, making it harder to fund critical public services like education and health care.<sup>2</sup> It forces lower-income households to shoulder an unfairly large share of sales tax obligations as more affluent consumers avoid sales taxes by shopping online.<sup>3</sup>

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<sup>1</sup> The most recent such bill was H.R. 3396, introduced in 2007. Reintroduction of similar legislation is expected in the current session of Congress in the next few months.

<sup>2</sup> A recent study by economists at the University of Tennessee estimated that state and local governments lost a minimum of \$7.2 billion in uncollected sales taxes on e-commerce in 2007, and that this will rise to \$11.4 billion by 2012. See: Donald Bruce, William F. Fox, and LeAnn Luna, "State and Local Government Sales Tax Revenue Losses from Electronic Commerce," April 13, 2009; [www.streamlinedsalestax.org/Executive%20Committee/Previous\\_meetings/4\\_13\\_09/SSTP%20e-commerce%202009%20REV041309.pdf](http://www.streamlinedsalestax.org/Executive%20Committee/Previous_meetings/4_13_09/SSTP%20e-commerce%202009%20REV041309.pdf). These estimates do not include lost revenue from catalog, TV home shopping, and other forms of interstate or "remote" sales.

<sup>3</sup> The most recent data available from the U.S. Census Bureau indicate that in 2005, only 33 percent of people with incomes in the lowest 20 percent of the income distribution used the Internet for any purpose (including shopping), compared to 80 percent of people in the highest-income 20 percent. [www.census.gov/population/socdemo/computer/2007/tab04.xls](http://www.census.gov/population/socdemo/computer/2007/tab04.xls).

It also undermines local businesses. Remote sellers get a 5 percent to 10 percent price advantage over “Main Street” businesses when they do not charge sales tax. Given the inherently narrow profit margins in retailing, the loss of sales to remote sellers resulting from this price advantage can make it much harder for some local businesses to survive.<sup>4</sup>

Adding to the inequity of the current situation is the fact that remote sellers benefit extensively from the public services their customers’ home states provide. States and localities play a critical role in providing the range of safeguards and services that permit interstate commerce to flourish. For example, they furnish the roads that enable goods to travel between remote sellers and their customers, as well as the police and fire protection for the goods in transit. Buyers and sellers thousands of miles apart are willing to do business because they know that consumer protection agencies and courts of the purchaser’s state can adjudicate disputes over product quality and payment obligations.

Perhaps unsurprisingly, not every online retailer shares this view. The CEO of Overstock.com, an outspoken opponent of the new law, claims it would be “patently unfair” to have to collect California sales taxes under a proposed law in that state because “[W]e don’t impose the same burdens on local state infrastructure that locally based business do.”<sup>5</sup> Yet Overstock.com does, in fact, benefit from California tax-funded services — as one example, it is using the tax-funded California court system to pursue a litigation campaign against hedge funds and brokerage firms it alleges are attempting to drive down the value of its stock.<sup>6</sup>

It can be argued that booksellers in particular benefit heavily from the public services their customers’ states provide: tax-supported public schools are where most Americans learn to read. In light of the benefits remote sellers receive from public services in their customers’ states, at least large remote sellers should collect sales tax from their customers on behalf of the states. And if there is a legal means of achieving this, states are justified in pursuing it.

## **How New York’s Law Works**

The New York law requires many Internet retailers operating “affiliate programs” in the state to charge sales tax on the retailer’s sales to New York residents. These affiliates — which can be local bloggers, newspapers, nonprofit organizations, and other types of businesses — post on their websites links to online retailers and receive a commission when purchases are made through those

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<sup>4</sup> Numerous studies have confirmed that the possibility of avoiding sales taxes motivates some people to make purchases from online sellers. See, for example, Glenn Ellison and Sara Fisher Ellison, “Tax Sensitivity and Home State Preferences in Internet Purchasing,” August 2008 (unpublished, <http://econ-www.mit.edu/files/3201>).

<sup>5</sup> “Overstock.com Drops Internet Affiliate Advertisers in California, Hawaii, North Carolina, and Rhode Island,” Overstock.com press release, July 1, 2009. Overstock.com CEO Patrick Byrne also stated: “[P]oliticians have to remember that a tax is the price that government charges for a service, and when they raise their prices, we’re going to buy less of their services.” “Buy” implies payment, but Overstock.com pays these states nothing for the services it receives; it does not have to pay a corporate income tax in states in which it has customers because of federal Public Law 86-272, nor does it collect sales and use taxes on behalf of such states.

<sup>6</sup> *Overstock.com, Inc. et al. v. Gradient Analytics, Inc. et al.*, California Court of Appeal Case A113397. *Overstock.com, Inc. et al. v. Morgan Stanley & Co., Incorporated et al.*, Superior Court of California, County of San Francisco, Case Number: CGC-07-460147.

connections. New York's law requires retailers making more than \$10,000 in annual sales in the state through New York affiliates to charge New York sales tax on *all* sales in the state, not just those resulting from the affiliate program. The retailer can avoid this obligation, however, if it can demonstrate that its New York-based affiliates do nothing to encourage such sales other than place a link to the retailer on their websites.

The law is a response to the difficulty states have in compelling many out-of-state Internet (and catalog) retailers to collect and remit their sales taxes. Two U.S. Supreme Court decisions have held that states can impose such an obligation only on a retailer with some type of "physical presence" in the state.<sup>7</sup> While that would seem to bar states from requiring retailers with no presence in the state to collect sales taxes, two other Supreme Court decisions clearly establish that an out-of-state seller *is* deemed to have a physical presence in a state if it uses in-state third parties to help "establish and maintain a market" for its goods within the state.<sup>8</sup> New York's law is grounded in these latter decisions.

Many retailers are complying with New York's law. Among them is Amazon.com, but Amazon also has challenged the law in court. The initial trial court upheld the constitutionality of the law in January 2009; Amazon has appealed.

### **The Law Helps States Collect Taxes Already Due**

Though states lack the legal authority to require *sellers* who do not have a physical presence in the state to charge sales tax, every state requires *purchasers* to remit the tax directly to their state department of revenue. (Technically, the tax is an equivalent "use tax" rather than a sales tax.<sup>9</sup>) A state use tax is always due on an item purchased from an out-of-state Internet or catalog merchant if state sales tax is due on the same item when purchased in a local store.

However, very few consumers fulfill this obligation to self-remit use taxes, and states cannot collect this revenue from individual households cost-effectively unless they can compel the seller to collect it from the purchaser at the time of sale. Courts have long recognized the legitimacy and practical necessity of imposing the collection obligation on sellers if they have a connection or "nexus" with the state. That is what the new law does. It does not impose a new tax. Rather, it simply helps states collect taxes that are already legally due.

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<sup>7</sup> The more recent of the two decisions is *Quill Corporation vs. North Dakota*, 1992.

<sup>8</sup> *Scripto* (1960) and *Tyler Pipe* (1987) establish, respectively, that in-state solicitation of sales by independent contractors and other in-state activities conducted by third parties that are "significantly associated with the [out-of-state] taxpayer's ability to establish and maintain a market in this state for [its] sales" create a tax collection or payment obligation for the out-of-state company. Both decisions were explicitly cited in the 1992 *Quill* decision as examples of the "physical presence" required under the Commerce Clause of the Constitution to obligate an out-of-state company to collect a use tax on behalf of its customers' states. For example, the Court wrote: "Like other bright-line tests, the [physical presence] rule appears artificial at its edges; whether or not a State may compel a vendor to collect a sales or use tax may turn on the presence in the taxing State of a small sales force, plant, or office. Cf. . . . *Scripto, Inc. v. Carson*. . ."

<sup>9</sup> At least 22 states now include a line on the state personal income tax form to permit the simultaneous payment of the income tax and use taxes.



For large Internet retailers, at least, a nationwide responsibility to collect and remit sales taxes is not unreasonably burdensome. Many large online merchants already collect sales taxes on behalf of nearly all states; indeed, Amazon calculates and collects sales tax in every state except Vermont on behalf of Target, which sells on Amazon's website.<sup>10</sup> Several companies sell software that substantially automates the process, and other companies enable retailers to outsource the collection process — just as many Internet retailers outsource operation of their affiliate programs.<sup>11</sup>

### **Courts Likely to Uphold Law, and States Face Little Risk if They Do Not**

Considerable evidence suggests that courts will continue to uphold these affiliate nexus laws as a legal solution to part of the Internet sales tax problem:

- It has long been established that states can require out-of-state sellers to collect sales taxes if they use independent in-state representatives paid on commission to solicit business.<sup>12</sup> While the courts will have to decide whether New York's law as applied is consistent with these decisions — and there is certainly room for debate — the initial trial court decision in New York dismissed Amazon's claim that the law is *inherently* unconstitutional.
- The New York Department of Taxation and Finance is interpreting and enforcing the law in a narrow way that makes it even more likely that higher courts will uphold it. New York is *not* taking the position that the mere presence of a member of an affiliate program in the state obligates the out-of-state retailer to collect and remit New York sales taxes. Rather, the New York affiliates must engage in additional in-state activities aimed at encouraging their readers to buy through the affiliates' links to the retailer (such as targeted mailings).<sup>13</sup>
- The attorney general of Tennessee issued a formal letter opining that Tennessee's proposed (but ultimately not enacted) version of the New York's law, H.B. 1947, was constitutional.<sup>14</sup>
- Finally, two prominent legal scholars have written that courts seem likely to uphold the law as constitutional as applied to at least some factual circumstances. Walter Hellerstein and John

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<sup>10</sup> <http://www.amazon.com/gp/help/customer/display.html?ie=UTF8&nodeId=468512&qid=1245865150&sr=1-1>.

<sup>11</sup> Examples of some of these companies may be found at <http://www.streamlinedsalestax.org/certified%20service%20provider.htm>.

<sup>12</sup> See Note 8.

<sup>13</sup> See: New York State Department of Taxation and Finance, Office of Tax Policy Analysis, Taxpayer Guidance Division, "New Presumption Applicable to Definition of Sales Tax Vendor," May 8, 2008, and "Additional Information on How Sellers May Rebut the New Presumption Applicable to the Definition of Sales Tax Vendor as Described in TSB-M-08(3)S," June 30, 2008.

<sup>14</sup> Opinion No. 09-101, May 28, 2009.

Swain wrote that there are “plausible factual scenarios under which substantial nexus will exist” in the states in which Internet retailers operate affiliate programs.<sup>15</sup>

The fact that Amazon.com, the nation’s largest Internet retailer, decided to comply with New York’s law is further evidence of its likely legality. So are the decisions of some retailers to end their affiliate programs in New York, Rhode Island, and other states rather than flout the law (see below).

Even were a state court or the U.S. Supreme Court to overturn a state’s law, it is unlikely the state would have to refund any revenue collected in the interim. The decision would only address the issue of whether the companies were obligated to collect the tax. Since any tax that had been collected was, in fact, legally payable by consumers, it is unlikely that courts would order refunds. In fact, in its New York litigation, Amazon.com is not seeking a refund of the taxes it is collecting in the state.

### **If Widely Adopted, Law Could Close Significant Part of Internet Sales Tax Gap**

Should a large number of states enact and achieve broad compliance with laws dealing with in-state affiliates of Internet retailers, the sales tax revenues collected could make a meaningful dent in the Internet sales tax gap. Affiliate programs are a widespread and critical mechanism by which Internet merchants promote sales. At least 210 of the 250 largest Internet retailers operate affiliate programs.<sup>16</sup> Many of these retailers at present collect sales tax in only a handful of states. Amazon reported having 500,000 affiliates in its “Associates” program in 2000<sup>17</sup> and likely has many more today; accordingly, it likely has many affiliates in every state levying a sales tax.

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<sup>15</sup> Hellerstein and Swain go on to predict that if a court were to overturn the Amazon law, it would likely do so because of the burden of proof the law places on Internet retailers to demonstrate that their affiliates are not engaged in additional in-state activities beyond placing links on their websites (in which case the law would not apply to them), not because the court determined that the New York affiliate did not effectively constitute physical presence of the retailer in the state.

Notwithstanding their assessment that courts are likely to uphold the legality of the Amazon law as applied in at least some circumstances, Hellerstein and Swain appear to believe personally that the mere presence of an affiliate in a state should not create nexus for the retailer:

Because we doubt that an out-of-state vendor has substantial nexus in New York from posting advertisements on a New York resident’s property, resulting in \$10,000 of sales to New York customers, we doubt that the digital analogue to such an arrangement *should* create nexus. [Emphasis added.]

As noted in the body of the report, however, New York is not taking the position that the mere presence of the affiliates in the state creates a “substantial nexus” for the retailer. Hellerstein and Swain do not say whether or not they believe that New York’s application of the law (as set forth in the two statements of formal guidance it has issued) is constitutional.

See: Walter Hellerstein and John A. Swain, “Challenge to New York Statute Establishing Presumption of Nexus with Online Retailers Who Pay Commissions to State Residents Who Post Links on Their Web Sites,” Thomson Reuters State and Local Tax Commentary, March 2009; <http://ria.thomsonreuters.com/taxresearch/statelocal/Hellerstein.pdf>

<sup>16</sup> *Internet Retailer Top 500 Guide*, 2008 Edition.

<sup>17</sup> “Amazon.com Associates Program Celebrates 500,000 Member Milestone with New-Customer Referral Bonuses,” Amazon.com press release, August 3, 2000. Amazon did not disclose how many of those Associates were located in the United States.

New York tax officials believe that approximately 30 retailers have begun collecting its sales tax because of the new law. The state estimates that these retailers generated \$25 million in new state sales tax collections in fiscal year 2009 and predicts that they will generate \$33 million in new state revenue in 2010. Local sales tax collections for each year are approximately equivalent to the state collections, meaning that the tax law change is raising well over \$100 million over two years.<sup>18</sup> Should New York appellate courts uphold the law, these figures will likely rise. A proposed California version of the law would have generated \$150 million annually in combined state and local sales taxes.<sup>19</sup>

### **Retailers' Threats to Eliminate Affiliate Programs Are No Reason to Reject Law**

A number of Internet retailers responded to the enactment of New York's law by eliminating their relationships with New York affiliates. More recently, Overstock.com (one of the companies that terminated its New York affiliates) and Amazon.com publicly threatened to eliminate their affiliate programs in any other state that enacts such a law. Press reports indicate that one or both companies carried out this threat when similar legislation approached enactment in California, Hawaii, North Carolina, and Rhode Island, and that these terminations remain in place in the latter two states.

While large companies like Amazon and Overstock can eliminate their affiliate programs in a few states to garner publicity and make their threats credible without doing too much damage to their nationwide sales, the ability to do so in a large number of states for a long period of time seems questionable. Amazon pays its Associates sales commissions totaling "hundreds of millions of dollars per year."<sup>20</sup> For the Internet retailing industry as a whole, such commissions totaled \$2.1 billion in 2008, according to the Jupiter Research consulting firm.<sup>21</sup> The ubiquity of affiliate programs and the amount of money that retailers spend on them suggest that they are highly valuable to retailers, presumably because they are effective. (The fact that some of these retailers are household names does not mean they don't need strong marketing campaigns; even well-established non-Internet brands like Coke and McDonalds must engage in constant marketing to counter their competitors.) It could be quite costly for Amazon and Overstock to replicate with conventional advertising and other marketing tools the impact of having hundreds of thousands of websites constantly displaying their products and funneling customers to their online stores. Smaller retailers with fewer financial resources would find it even more difficult.

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<sup>18</sup> Personal communication, New York State Department of Taxation and Finance.

<sup>19</sup> California State Board of Equalization Staff Legislative Bill Analysis for AB 178, 2009.

<sup>20</sup> "Attention Amazon Associates Web Service Developers," post on Amazon.com's in-house blog for Associates, May 8, 2009. Amazon's annual report to the Securities and Exchange Commission for 2008 indicates that the company spent \$482 million worldwide on marketing. Assuming that commissions to affiliates are included in that figure, Amazon's statement that it pays "hundreds of millions of dollars" to affiliates implies that such commissions represent a very significant share of its overall marketing expenditures.

<sup>21</sup> "Sales Tax Woe and Social Networking on Affiliate Marketers' Minds," *Internet Retailer* web site, July 2008, [www.internetretailer.com/printArticle.asp?id=26904](http://www.internetretailer.com/printArticle.asp?id=26904).

Some industry analysts argue that it could be unwise for Internet retailers to carry out their threats to end affiliate programs. Bruce Cundiff of Javelin Strategy and Research told *E-Commerce Times*: “Strategically, Amazon is farming more and more of its business to those affiliates. . . . This is very important to Amazon’s present and future. . . . For Amazon, at the end of the day, it’s cutting off your nose to spite your face.”<sup>22</sup> Tom Barlow of the widely read BloggingStocks website wrote: “I suspect Amazon is swimming against an insurmountable tide. If it drops all its marketing affiliates in each state that proposes this tax, it threatens to compromise one of the cornerstones of its marketing program.”<sup>23</sup> Rich Duprey of Motley Fool wrote: “Losing affiliates and, therefore, one more avenue to sell its wares was the last thing Overstock needed, because it has had virtually no sales growth over the past three years.”<sup>24</sup> Shawn Collins, who writes a well-known blog aimed at members of affiliate programs, warned online retailers:

I would recommend that you not boot out affiliates living in New York, as some companies have done. This sort of kneejerk reaction may or many not impact purchases from New York customers, but it will definitely have a negative impact on your reputation among affiliates. After all, even if I am not in a state that currently has such a tax, there is always a chance the same sort of legislation could come in the near future. So, if I see you removing affiliates due to this sort of law, I am going to be less inclined to promote you, since I figure I could be kicked out after doing a lot of work to make sales for you. Also, if the New York law catches on elsewhere, as it seems to be doing, we may well be in a situation where most states have a nexus law. In that case, you’ll either have a shallow pool of affiliates to partner with or you’ll try to re-recruit the same affiliates you alienated in the affected states.<sup>25</sup>

The affiliates and retailers have argued that the new laws are self-defeating: retailers that cancel their affiliate programs will not collect the sales tax anyway, and affiliates’ loss of income due to those cancellations has a negative “multiplier effect” on local economic activity, reducing income and sales tax revenue. But Internet retailers that suspend their affiliate programs likely will make fewer sales in those states, and some of the sales they lose will shift back to in-state stores (thereby

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<sup>22</sup> Mike Pearson, “Amazon Turns Gears of Internet Tax Wars,” *E-Commerce Times*, July 1, 2009; [www.ecommercetimes.com/story/Amazon-Turns-Gears-of-Internet-Tax-Wars-67489.html](http://www.ecommercetimes.com/story/Amazon-Turns-Gears-of-Internet-Tax-Wars-67489.html).

<sup>23</sup> Tom Barlow, “Amazon Warns California Against Internet Sales Tax,” June 24, 2009; [www.bloggingstocks.com/2009/06/24/amazon-warns-california-against-internet-sales-tax/](http://www.bloggingstocks.com/2009/06/24/amazon-warns-california-against-internet-sales-tax/).

Conversely, some analysts argue that since affiliate programs are directly responsible for only a fraction of Internet retailers’ sales, their elimination would have no significant adverse financial consequences:

Dropping affiliates doesn’t cause significant financial damage to e-commerce companies. Forrester Research analyst Sucharita Mulpuru estimates affiliates drive between 8% and 20% of the sales for e-commerce sites. But many of those buyers would find their way to online retailers anyway. (Geoffrey A. Fowler and Erica Alini, “States Plot New Path to Tax Online Retailers, Wall Street Journal, July 3, 2009.)

This argument, however, ignores the fact that in an industry with high fixed costs (for example, for marketing, operating warehouses and server farms, and maintaining a website) and relatively low margins on merchandise sales, the incremental 8 percent to 20 percent of sales attributable to an affiliate program may well represent the difference between profitability and unprofitability for certain companies.

<sup>24</sup> Rich Duprey, “These 5 Underdogs Are No Dogs,” Motley Fool website, July 16, 2009; <http://www.fool.com/investing/general/2009/07/16/these-5-underdogs-are-no-dogs.aspx>.

<sup>25</sup> Shawn Collins, “Affiliate Programs and the New York Nexus Law,” March 16, 2009; <http://affiliatetip.com/news/article002541.php>.

boosting the local economy) or shift to other Internet retailers that have always collected the state's sales tax or begin doing so under the new law.

Furthermore, state economic development departments in states enacting laws like New York's could help affiliates who are cut off by their retailers to identify compatible affiliate programs run by Internet retailers that *do* collect tax in their states. For example, an affiliate cut off by Amazon could join the affiliate program of IndieBound<sup>26</sup> (a network of the websites of independent local bookstores) or Barnes & Noble (a national Internet bookseller that competes with Amazon and collects sales tax in nearly every state). A website providing links to Amazon's home electronics products could join the affiliate program of Best Buy, which collects sales tax in every state in which it has a store.

As in most conflicts, there is strength in numbers. If a significant number of states enacts and enforces these laws despite threats from Internet retailers, eventually many retailers will likely begin collecting the states' taxes. One way to facilitate such interstate cooperation would be to enact the law as an interstate compact that would not go into effect in any state until a threshold number of states joined.

## Conclusion

In its 1992 *Quill* decision reaffirming a "physical presence requirement" for the collection of sales and use taxes by remote sellers, the Supreme Court essentially invited Congress to intervene in the issue and set reasonable ground rules under which at least some sellers could be required to collect these taxes. Representatives of state and local governments have been petitioning Congress for such action ever since, even as their revenue losses have continued to mount.

Until Congress acts, states should not allow their tax bases to be eroded and the competitiveness of their local businesses harmed if they can effectively and legally address part of the problem themselves. They now have an important self-help strategy for that effort.

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<sup>26</sup> See: Kristen McLean, "An Alternative for Ex-Amazon Affiliates," June 30, 2009; <http://news.shelf-awareness.com/msgget.jsp?mid=2935145>.

# **THE STREAMLINED SALES AND USE TAX AGREEMENT AND SOUTH CAROLINA**

**A REVIEW OF THE REQUIREMENTS TO COMPLY  
AND THE AGREEMENT'S POSSIBLE IMPACT ON  
SOUTH CAROLINA IF THE GENERAL ASSEMBLY  
AMENDS THE STATE AND LOCAL SALES AND  
USE TAX LAWS TO COMPLY  
(August 20, 2007)**

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## I. Executive Summary<sup>1</sup>

The determination as to whether or not South Carolina should participate in the nationwide sales tax streamlining effort is an important State fiscal policy issue. The goal of this report is to inform the Department's policy makers of the key elements of the Streamlined Sales and Use Tax Agreement.

The Streamlined Sales Tax Project was founded in March 2000. Its purpose was to simplify and unify state and local sales taxes. While such an effort would be beneficial for both the governments that impose the taxes and the businesses required to collect them, sales tax streamlining is also an effort by states to enhance sales and use tax collections on mail order, catalog, Internet and other remote sales. Increasing collections from remote sellers would allow the State to provide additional services and/or tax relief to its taxpayers, and decrease the competitive disadvantage of Main Street stores that must collect the tax.<sup>2</sup> The expectation of the states is that many out-of-state businesses without a requirement to collect sales and use taxes will voluntarily collect tax when the states adequately streamline and simplify their sales taxes. There is also the possibility that Congress will require out-of-state businesses to collect sales and use taxes for states that adopt the Streamlined Sales and Use Tax Agreement.

### Background

The simplification measures crafted by the Streamlined Sales Tax Project are contained in a multi-state compact called the "Streamlined Sales and Use Tax Agreement" (Agreement"). The provisions in the Agreement address nearly every aspect of sales taxation. Some of the requirements relate to how a member state may structure its tax. These include: single state and local tax base; uniform definitions; tax rate simplifications; uniform sourcing rules; simplified exemption administration; elimination of "caps" and "thresholds;" and, simplified sales tax holidays.

Other requirements in the Agreement are related to sales tax administration. These include: centralized registration; new tax collection technology models; monetary compensation for certain retailers; uniform rules for tax rounding; uniform tax returns; uniform rules for the use of direct pay permits; uniform rules for recovery of bad debt; customer refund procedures; and, tax amnesty.

States must enact legislation to comply with the Agreement. To date, 15 states have been accepted as full members and seven as associate members.<sup>3</sup>

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<sup>1</sup> In order to avoid the extensive use of footnotes, it should be noted that most of the information that is not South Carolina specific comes from three excellent sources, *Streamlining New York's Sales Tax: Examining Requirements for Compliance with the Streamlined Sales and Use Tax Agreement*, Office of Tax Policy Analysis, New York State Department of Taxation and Finance (October 2006); *Streamlined States and Use Tax 2006/2007*, Walter Hellerstein and John A. Swain (Warren, Gorham & Lamont of RIA 2007); and the Streamlined Sales Tax Governing Board, Inc.'s web site, [www.streamlinedsalestax.org](http://www.streamlinedsalestax.org).

<sup>2</sup> See Exhibit E-2, "Do Internet Tax Policies Place Local Retailers at a Competitive Disadvantage?"

<sup>3</sup> The number of full member states will increase in the near future. Associate member state Washington will become a full member effective January 1, 2008. Associate member states Arkansas and Wyoming have filed

### Streamlining South Carolina's State and Local Sales Tax

South Carolina adopted legislation in 2002 (Act No. 334 of 2002, Section 6) that allowed the state to participate in the Streamlined Sales Tax Project. Since then, South Carolina has participated; however, for the most part the focus has been to monitor the progress of the streamlining effort.

South Carolina's state and local sales tax does not comply with a large number of the Agreement's provisions. The sales and use tax laws, both state and local, would need to be amended to comply with the Agreement and join the Governing Board that administers the Agreement. For example, sales tax exemptions would need to incorporate the Agreement's uniform product definitions. This may change the taxability of certain food, telecommunication services, and medicines. Maximum tax provisions for certain items and additional tax rates would no longer be permitted.

Some changes that would be required would affect local jurisdictions that impose sales and use taxes. For example, all local jurisdictions would be required to impose sales and use taxes on an identical base.

Another class of conforming changes would require that South Carolina incorporate new administrative features into the sales tax. These provisions include offering a sales and use tax amnesty, allowing businesses to use a state-certified software system to perform their sales tax collection responsibilities, and permitting sellers to collect tax on based on the ZIP code of the purchaser.

Examples of some of the changes that would be required to comply with the Agreement include, but are not limited to:

| ISSUE            | EXAMPLES OF THE REQUIRED CHANGES   |
|------------------|--|
| Uniform Tax Base | <p>In order to comply with the requirement for a uniform state and local tax base, the following changes must be made:</p> <ul style="list-style-type: none"><li>• An amendment to various statutes (state and local) so that the state tax and all local taxes either (1) exempt unprepared food in accordance with the definitions and provisions of the Agreement, (2) tax unprepared food in accordance with the definitions and provisions of the Agreement, or (3) exempt such unprepared food from the state tax, but tax such unprepared food under all local sales and use taxes.<sup>4</sup> Presently, some local</li></ul> |

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petitions for full member state status effective January 1, 2008. However, Utah and Ohio may lose associate member status January 1, 2008 and Tennessee has enacted conforming legislation effective July 1, 2009.

<sup>4</sup> Section 308 of the Agreement provides a limited exception to uniformity that would allow a member state to exempt "food" or "drugs," as defined by the Agreement, from the state tax by applying a 0% state tax rate, but to tax such "food" or "drugs" at the local level. However, all local jurisdictions must tax these items under this alternative. Some local jurisdictions may not exempt these items while others tax them as is presently the case in South Carolina with respect to 'food.'

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|  | <p>taxes exempt food eligible to be purchased with USDA food stamps.<sup>5</sup></p> <ul style="list-style-type: none"> <li>• An amendment to various statutes (state and local) so that the state tax and all local taxes either exempt certain casual excise tax items or tax these casual excise tax items.</li> </ul> <p>The casual excise tax is a tax, separate from the sales and use tax, imposed on the issuance of a certificate of title or other proof of ownership for motor vehicles, motorcycles, boats, motors, and airplanes when they are sold by non-retailers. If a retailer sells these items, then the sales tax or use tax would apply and not the casual excise tax.</p> <p>Presently, all local taxes exempt maximum tax items, while some local taxes also exempt casual excise tax items. The local taxes that do not exempt casual tax items are therefore imposing the tax on trailers that can be pulled by a vehicle other than a truck tractor, pole trailers, and boat motor not attached to the boat at the time of the sale. These items are exempt from the local taxes which specifically exempt both maximum tax items and casual tax items.</p> <p>In order to comply with the Agreement, this discrepancy must be resolved so that trailers that can be pulled by a vehicle other than a truck tractor, pole trailers, and boat motor not attached to the boat at the time of the sale are either exempt from both state and all local sales and use taxes or subject to tax under state and all local sales and use taxes.</p> <ul style="list-style-type: none"> <li>• An amendment to various statutes (state and local) so that the state tax and all local taxes either exempt certain maximum tax items<sup>6</sup> or tax certain maximum tax items. Maximum tax items are those items for which the General Assembly has established a maximum sales tax or use tax due with respect to the sale or purchase of certain items. In most cases, the maximum tax due is \$300.00</li> </ul> <p>The items subject to the maximum tax, as listed in Code Section 12-36-2110, are aircraft (including unassembled aircraft kits), motor vehicles, motorcycles, boats, trailers and semitrailers that can only be pulled by truck tractors, horse trailers, recreational</p> |
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<sup>5</sup> If South Carolina participates in the Agreement, it must use the definitions and provisions established in the Agreement; therefore, the South Carolina could no longer use of the USDA food stamp program in determining the taxation of unprepared food for sales tax purposes. See also Section A.2. of this report concerning "Definitions."

<sup>6</sup> See also discussion on "Caps and Thresholds" in Section B - "Tax Rates."

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|             | <p>vehicles (tent campers, travel trailers, park models, park trailers, motor homes, and fifth wheels), self-propelled light construction equipment limited to a maximum 160 net engine horsepower, manufactured homes, certain musical instruments and office equipment purchased by religious organization, and fire safety education trailers.</p> <p>Since the Agreement does not apply to motor vehicles, watercraft, aircraft, and modular and manufactured homes, the maximum tax items in question are trailers and semitrailers pulled by a truck tractor, horse trailers, non-motorized recreational vehicles, and musical instruments and office equipment purchased by a religious organization. Therefore, in order to comply with the tax base uniformity provisions of the Agreement, South Carolina must either exempt these items from the state tax and all local taxes or tax these items under state tax and local taxes.</p>  |
| Definitions | <p>A state, in order to comply with the definitions set forth in the agreement, may need to:</p> <ul style="list-style-type: none"> <li>• Eliminate an exemption or exclusion<sup>7</sup> and tax the sale of the item and increase revenue; or</li> <li>• Comply with the Agreement's definition and either increase revenue or lose revenue; or</li> <li>▪ If complying with the Agreement's definition will cause a loss in revenue, the state may be able to create a new "replacement" tax outside of its sales and use tax so that the change is revenue neutral. However, the Governing Board is considering restrictions on a state's ability to create replacement taxes. See the discussion of "Replacement Taxes" in Section XII – Current Issues.</li> </ul> <p>Since product definitions affect exemptions, see the next section on "Exemptions" for similar changes that may be necessary in order to comply with the Agreement.</p> |

<sup>7</sup> An exemption concerns a sale at retail, and as a retail sale, the transaction would be taxable except for the exemption provided by the General Assembly.

An exclusion is typically a transaction that the General Assembly has removed from taxation so as to not include it as a "retail sale" or a part of a "retail sale." Therefore, since it is not a retail sale, or part of one, it is not taxable since the sales and use tax only applies to retail sales.

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| Exemptions      | <p>The requirement to use the Agreement's product definition will most likely affect revenue. As such, the General Assembly will need to decide for each affected exemption one of the following options:</p> <ul style="list-style-type: none"> <li>▪ Continue to exempt the product using the required definition and accept the gain or loss in revenue as applicable;</li> <li>▪ Continue to exempt the product using the required definition, but, to the extent possible, reword the exemption in a manner that will offset increases in revenue as a result of the definition or that will offset revenue loss as a result of the definition, whichever is applicable;</li> <li>• Adopt some or all of the optional restrictions, if any, allowed in a definition so as to reduce any possible revenue loss; or,</li> <li>• Eliminate the exemption to reduce any possible revenue loss.</li> </ul> <p>Note: In Act No. 388 of 2006, Part V, Section 1, the General Assembly enacted legislation requiring it to review the sales tax exemptions in Code Section 12-36-2120 no later than its 2010 session. After the initial review, the General Assembly must review these exemptions as it deems appropriate but not later than its session every 10 years after the first review. In addition, a seven member Joint Sales Tax Exemptions Review Committee has been authorized to assist the General Assembly in reviewing the sales tax exemptions. The committee must make a detailed and careful study of the exemptions, comparing South Carolina laws to other states; publish a comparison of the exemptions to other states' laws; recommend changes, recommend the introduction of legislation when appropriate; and submit reports and recommendations annually to the Governor and the General Assembly regarding the exemptions.</p> |
| Single Tax Rate | <p>The following changes must be made in order to establish a single state tax rate (with exceptions noted above) in South Carolina:</p> <ul style="list-style-type: none"> <li>▪ An amendment to the state law to do one of the following: (1) lower the 7% state tax rate for the sales tax on accommodation to 6%, (2) raise the 6% state tax rate on all other items and services to 7%, or (3) repeal the 7% sales tax on accommodations and create a new separate 7% "lodging" tax.</li> </ul>  |

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|                     | <p>A separate “lodging” tax would likely require hotels and others providing sleeping accommodations to file several returns – a sales tax return, a lodging tax return, and possibly a local accommodations tax return. (Note: A separate lodging tax appears to be the norm among the states since taxes on accommodations are typically imposed at a higher rate than the general sales and use tax rate.) See the discussion of “Replacement Taxes” in Section XII – Current Issues.</p> <ul style="list-style-type: none"> <li>• An amendment to the state law to do one of the following: (1) lower the 11% rate on 900 and 976 telephone numbers to 6%, (2) repeal the 11% tax on 900 and 976 telephone numbers, or (3) repeal the 11% tax on 900 and 976 telephone numbers and create a new separate 11% “900 and 976 service” tax. A separate “900 and 976 service” tax would require some communications companies providing 900 and 976 telephone services as well as other communications services (“ways or means for the transmission of the voice or messages”) to file these returns – a sales tax return for communication services and a “900 and 976 service” return.</li> <li>• An amendment to the state law so that sales of trailers and semitrailers to nonresidents would no longer be taxed at the rate charged in the purchaser’s state of residence. Such sales must be taxed at the South Carolina rate. (The exception in the Agreement for motor vehicles would not require this change for motor vehicles.)</li> <li>• An amendment to state law so that sales to persons eighty-five years of age and older are taxed at the full tax rate or are completely exempt. Presently, sales to persons eighty-five years and older are taxed a rate 1% less than the full tax rate.</li> </ul> |
| Caps and Thresholds | <p>In order to comply with the Agreement’s provisions concerning caps and threshold, the General Assembly would need to make the following changes to the law:</p> <ul style="list-style-type: none"> <li>▪ An amendment of the \$300 maximum tax provisions to either eliminate the maximum tax for, or to completely exempt from the tax, the following items: <ul style="list-style-type: none"> <li>(1) unassembled aircraft,</li> <li>(2) trailers and semitrailers pulled by a truck tractor,</li> <li>(3) horse trailers,</li> <li>(4) non-motorized recreational vehicles, such as tent campers, travel trailers, park models, park trailers, and fifth wheels, and</li> </ul> </li> </ul>  |

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|  | <p>(5) musical instruments and office equipment sold to religious organizations.</p> <p>The General Assembly may be able to exempt these and other maximum tax items by exempting them from the sales and use tax and imposing a new replacement tax on such items. See the discussion of “Replacement Taxes” in Section XII – Current Issues.</p> <ul style="list-style-type: none"> <li>▪ An amendment to the fifty percent exemption for sale of a modular home and the seventy percent exemption for the rental or lease of portable toilets to fully tax such transactions or to fully exempt such transactions. Or, with respect to modular homes, the General Assembly could tax the purchase, or the cost of, the material incorporated into the modular home.</li> <li>▪ An amendment to fully tax or to fully exempt immediately “construction materials used in the construction of a single manufacturing and distribution facility with a capital investment of at least one hundred million in real and personal property in the State over an eighteen-month period” – if the exemption is not fully implemented when (and if) the Agreement is adopted in South Carolina.</li> <li>• An amendment to fully tax or to fully exempt immediately “durable medical equipment” if the exemption is not fully implemented when (and if) the Agreement is adopted in South Carolina</li> </ul> |
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As can be seen from the above examples, it is up to each state to determine how it will to achieve compliance with the Agreement. Complying with the Agreement’s requirements will require policy choices regarding how South Carolina should conform to the Agreement.

These choices could be based on a specific tax policy objective. For example, decisions that strictly align the State and local sales taxes with the Agreement’s provisions limiting the number of tax rates, eliminating local options, and repealing thresholds would advance the goal of simplification of the South Carolina sales tax base. Conversely, decisions intended to work around the Agreement’s limitations on the structure of the state’s tax base and rates by enacting “replacement taxes” to maintain revenue would make tax compliance for local businesses more complex.

Once conformed to the Agreement, a member state must annually re-certify to the Governing Board that it has maintained compliance with the Agreement’s provisions. To maintain compliance, South Carolina would need to ensure that any sales tax legislation

enacted while it is a member does not violate the terms of the Agreement. South Carolina would also be required to make statutory changes to maintain compliance with respect to new provisions added to the Agreement and new interpretations of the Agreement by the Governing Board. If South Carolina were to fail to maintain compliance with the Agreement it could be expelled from the Agreement.

Any changes to comply, or maintain compliance, would not only affect large multi-state retailers, but would affect all types of local businesses, including ones not involved in making sales through catalogs, web sites, or other remote means.

#### Revenue Implications for South Carolina

One of the major purposes of the Agreement is to ensure the state receives the proper tax revenue from sales involving out-of-state retailers such as Internet and mail order retailers and to promote a level playing field for South Carolina brick and mortar sellers who must compete with Internet and mail order retailers.<sup>8</sup> Having out-of-state retailers collecting and remitting the tax voluntarily by participating in the Agreement, or being required to participate pursuant to federal legislation (if enacted), will increase sales and use tax revenues.

The issue is how much of an impact would participating in the Agreement have on sales and use tax revenues.

In addressing this issue of the revenue impact of participating in the Agreement, there are several important points to consider:

- Unless federal legislation is enacted, the participation in the Agreement of retailers that do not have nexus with South Carolina is voluntary.

The fact that a state is a member state in the Agreement does not require a retailer to participate under the Agreement. The system created by the Agreement is voluntary. On the other hand, if a seller registers in one state, the seller must register in all states participating in the Agreement. However, as is the case now, if a seller has nexus with a state, the seller must collect and remit the tax to that state. As such, revenue will not be certain since there is no way to determine how many retailers and which retailers will participate.

- Retailers who voluntarily participate in the Agreement are eligible for amnesty.

If South Carolina were to adopt and come into compliance with the Agreement, amnesty would be available for 12 months for all sellers not presently registered for collecting and remitting the sales and use tax in South Carolina (provided the seller has not been notified of an audit and does not have an ongoing, unresolved audit). As such, prior liabilities of any seller who had nexus but was not registered with South Carolina will be lost. The seller is required to be registered and

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<sup>8</sup> See Exhibit E-2, "Do Internet Tax Policies Place Local Retailers at a Competitive Disadvantage?"



collecting and remitting the tax for 36 months in order for the amnesty to be fully effective.

- Retailers who have nexus with South Carolina at this time are already required to collect and remit the tax regardless of South Carolina's participation in the Agreement.

These retailers, if they are not registered with the Department, are liable for sales and use taxes with respect to past sales into South Carolina for the time period in which they had nexus. The Department has, and continues to, bring into compliance out-of-state taxpayers who are doing business in South Carolina and who have the requisite nexus with South Carolina. See next bullet concerning the Department's "Nexus/Discovery Team."

- The Department has had, and continues to have, significant success in registering Internet companies and other out-of-state taxpayers for collecting and remittance of the tax.

The Department's "Nexus/Discovery Team" was established to bring into compliance out-of-state taxpayers who are doing business in South Carolina and who have the requisite nexus with South Carolina.

Information concerning these non-filers is obtained through various methods, including but not limited to, Department database crosschecks, regional and national exchange programs, Internet research, and referrals by Department auditors.

The Nexus/Discovery Team also manages the Department's "Voluntary Disclosure Program" that allows taxpayers who have sufficient South Carolina "nexus," and have not registered with the Department, to collect or remit South Carolina taxes. This voluntary disclosure program is designed to (1) encourage nonfilers to come forward voluntarily and begin paying taxes without incurring penalties and (2) allow the Department to maximize compliance with limited resources.

As a result of these programs, 20 of the top 25 e-retailers are registered with the Department and collecting and remitting sales and use taxes.

For fiscal years ending June 30, 2002 through June 30, 2006, this team averaged 202 new registrants per year (all taxes, but primarily income and sales and use taxes) and \$7,300,000.00<sup>9</sup> in collections each year from these new registrants.

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<sup>9</sup> Collection revenue as shown in this average includes all back taxes collected from new registrants plus revenue generated in the first year by previous registrants.

For the most recent fiscal year ending on June 30, 2007, the Nexus/Discovery Team registered 315 new taxpayers and collected \$14,526,596.00.<sup>10</sup>

- The change in how traditional brick and mortar retailers operate their Internet sales operations.

At one time, many “brick and mortar” retailers established “barriers” between their retail store operations and their Internet sales operations. This reduced the chances of nexus being established with the Internet operation. However, over the last several years, many of these businesses have eliminated these barriers (e.g., customers can return Internet purchases to a related “brick and mortar” store). Therefore, nexus is established with the Internet operation and more of these operations are registering and remitting taxes. As such, loss of revenue to Internet sales may not be as high as previously estimated.

This position is supported by a 2004 report by Forrester Research Inc. for the National Governor’s Association and the National Conference of State Legislatures (Attached as Exhibit E-1). The report, entitled *The Growth of Multichannel Retailing*, states that this method of business, whereby a “brick and mortar” taxpayer located in a state also sells via an Internet website, establishes the requirement for the collection and remittance of sales and use taxes for such sales made via the Internet. It also reports that multichannel retailing accounts for 75% of Internet sales.

The report states with respect to the collection of sales tax:

A site-by-site review of the top 100 retail sites reveals that the majority of retailers now also collect sales tax: Of those that sell online, 94% of the top retailers collect sales tax online in states in which they have nexus.

Finally, in the July 2004 update of one of the most widely quoted reports concerning the revenue loss from e-commerce,<sup>11</sup> the loss estimates were lowered with one explanation being the growth of multichannel retailing.<sup>12</sup>

- The uncertainty of revenue loss estimates by published studies on revenue lost by states because of Internet sales.

See *State and Local Sales Tax Revenue Losses from E-Commerce: Estimates as of July 2004* by Dr. Donald Bruce and Dr. William F. Fox of the Center for Business

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<sup>10</sup> Collection revenue as shown includes all back taxes collected from new registrants plus revenue generated in the first year by previous registrants.

<sup>11</sup> *State and Local Sales Tax Revenue Losses from E-Commerce: Estimates as of July 2004* by Dr. Donald Bruce and Dr. William F. Fox of the Center for Business and Economic Research at the University of Tennessee.

<sup>12</sup> The report, in a footnote, cites the example of firms merging their online and offline channels after initially seeking to separate the activities and references the report - *The Growth of Multichannel Retailing*.

and Economic Research at the University of Tennessee ("*Bruce and Fox Report*") and *A Current Calculation of Uncollected Sales Tax Arising from Internet Growth* by Peter A. Johnson, Senior Economist for The Direct Marketing Association ("*DMA Report*").

The following is information from the "*Bruce and Fox Report*" as to the authors' estimated revenue losses from e-commerce as it relates to South Carolina:

Estimated State and Local Revenue Loss for 2003  
\$179.4 million (low growth scenario)  
\$186.9 million (high growth scenario)

Estimated State and Local Revenue Loss for 2008  
\$252.3 million (low growth scenario)  
\$394.5 million (high growth scenario)

Estimated State-Local Split of Revenue Loss for 2008  
\$243.0 million state; \$9.3 million local (low growth scenario)  
\$380.0 million state; \$14.5 million local (high growth scenario)

Estimated State Revenue Loss for 2008 as a Percentage of 2003 State Total Tax Collections  
3.8% (low growth scenario)  
6.0% (high growth scenario)

The "*DMA Report*," while it does not give a state by state breakdown of estimated revenue losses due to e-commerce, concludes the following:

Nationwide Estimate for Uncollected Sales Tax from the Internet  
\$1.9 billion for 2001  
\$4.5 billion for 2011

The author of the "*DMA Report*" notes in his executive summary that the \$4.5 billion revenue loss for 2011 is less than 10% of the amount projected by the 2001 "*Bruce and Fox Report*."<sup>13</sup>

Finally, using the "*Bruce and Fox Report*" to determine South Carolina's percentage of the nationwide revenue loss (based on the 2008 estimated numbers) and applying that South Carolina percentage to the nationwide estimate for uncollected sales tax from the Internet from the "*DMA Report*," the South Carolina's estimate for uncollected sales tax for 2011 from the Internet using the "*DMA Report*" as the basis for revenue loss would be \$52.65 million calculated as follows:

South Carolina: \$394.5 million (high growth scenario) for 2008

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<sup>13</sup> The "*Bruce and Fox Report*" cited in this document and provided as an exhibit is the report from 2004.

Nationwide: \$33,667.8 million (high growth scenario) for 2008  
SC Percentage of Nationwide Loss: 1.17% (\$394.5/\$33,667.8)  
SC Estimated Loss for 2011 Based on the DMA Report: \$52.65 million  
(\$4.5 billion x 1.17% = \$52.65 million)

See Exhibits “F” and “G.”

- The uncertainty of the revenue in conforming to the Agreement.

Hundreds of decisions, both large and small, will have to be made by the General Assembly if it decides to conform the sales and use tax laws to the Agreement. As mentioned previously in this document, decisions will have to be made as to certain impositions, tax rates (raise, lower, or the creation of replacement taxes), exemptions (eliminate, expand or modify in some manner), and administrative provisions. The General Assembly may also have to balance changes that increase revenue against those that decrease revenue – an approach that may create “winners” and “losers” among taxpayers. While these changes can be designed in such a way to minimize the impact on revenue, the significant number of changes necessary will significantly increase the uncertainty of the ultimate revenue estimate.

- The costs associated with conforming to the Agreement.

There will be new costs to the state if it conforms to the sales and use tax law to the Agreement. The Agreement requires the adoption of new technologies (e.g., participating in the central registration system, accepting the simplified electronic return, developing the rate and address databases), extensive systems programming and processing changes by the Department, compensation member states provide Certified Service Providers (this compensation ranges from 2 to 8 percent of tax collected from sellers that do not have nexus with the state), and the annual membership fees for membership in the Governing Board.<sup>14</sup>

- While one of the goals of the Agreement is simplification, the changes will not be simple for local businesses.

While the Agreement simplifies collecting and reporting of the tax by establishing the same rules for many states, the rules themselves are not simple. The many product definitions and the possibilities of replacement taxes to replace lost revenue create complexity that may affect compliance and therefore revenue. There will be a significant “learning curve” for local retailers.

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<sup>14</sup> See Section IV, F.1 – “Collection and Service Providers.”

## Governance

If South Carolina were to enact legislation to comply with the Agreement and the Governing Board were to accept our petition for membership, then South Carolina would be required to abide by the Agreement and all legal interpretations involving the Agreement (e.g., definition of food, certain tax terms, sourcing rules, etc.) and could only enact sales tax legislation and regulations that are in compliance with the Agreement and Governing Board interpretations. Compliance must be maintained and is reviewed each year and any state that is not in compliance is subject to expulsion from the Board and would therefore no longer be a participant in the Agreement.

The Agreement is not a static document. Since adopted in November 2002, the Agreement has been amended 9 times (4 times in 2006 alone). Additional amendments are likely. Seventeen proposed amendments to the Agreement will be considered at the September 19-20, 2007, Governing Board meeting. Changes in the Agreement could force South Carolina to either adopt provisions that the General Assembly does not consider to be in the best interest of South Carolina or to remove itself from the Agreement.

Guidance as to the interpretation of the Agreement rests with the Governing Board and not with the Department. Taxpayers may have to wait longer to receive guidance from the Governing Board.

With respect to the governing provisions of the Agreement, South Carolina will need to consider the following:

- The interpretations by the Governing Board would, as a practical matter, serve as regulations and that would not comply with the regulation approval process presently established by the General Assembly.
- How to deal with the Administrative Law Court and the appellate courts in South Carolina issuing a finding that is contradicted by an interpretation of the Governing Board at a later date or the Administrative Law Court and the appellate courts in South Carolina issuing a finding that contradicts a previously issued interpretation of the Governing Board.
- A provision in proposed federal legislation allows persons who petition the Governing Board on an issue regarding the Agreement to appeal the decision of the Governing Board to the United States Court of Federal Claims or bring an action in the Court if the Governing Board fails to act on the petition. The Court may remand the matter to the Governing Board for action consistent with the Court's decision.

## Conclusion

Simplification is one of the major purposes of the Agreement. There are aspects of the Agreement that provide simplification – for example the provisions concerning identical state and local tax bases and a single state tax rate. Such changes, of course, would be helpful whether or not they are done as part of any agreement. However, there are aspects of the Agreement that are complex. Most of these complex provisions concern definitions and the interpretation of such definitions. Of course, the current South Carolina sales and use tax law contains some complexities, but the taxpayers of our state are experienced in dealing with these provisions. In addition, some states have complicated the process for in-state taxpayers and other taxpayers with nexus by creating replacement taxes – a choice that South Carolina may also have to make if it decides to participate.

Also, if South Carolina decides to adopt the Agreement, transforming the state and local sales and use tax laws of South Carolina will not be a simple task – whether that task is in the technical drafting of the law, the policy and political decisions that will have to be made, the possible creation of new “replacement” taxes, the education of Department of Revenue employees and taxpayers and their employees, or the technical changes and associated costs to computer systems and software.

The changes in the industry toward multichannel retailing, the efforts of the Department’s Nexus/Discovery Team and auditors, and the Department’s participation in regional and national information exchange agreements have all assisted in registering more and more out-of-state retailers. While large Internet-only retailers cannot be compelled to register in South Carolina due to a lack of nexus, participation in the Agreement may not change that since it is voluntary. Only Congressional action can require such retailers to register in states with which they do not have nexus.

The General Assembly would also lose a significant amount of legislative autonomy and flexibility as a trade-off for enacting the law changes that would be required under the Agreement.

Finally, most states participated in the Streamlined Sales Tax Project, but only 15<sup>15</sup> have adopted the provisions required to become full members under the Agreement and some states that were moving toward full membership (e.g., Ohio and Utah) are reconsidering their commitment to amend their laws to adopt all of the required provisions of the Agreement.

Ultimately, the General Assembly must weigh the potential for increased revenue that may be used to provide services or additional tax relief against the complexities of the Agreement and the effective loss of sovereignty to the Governing Board. Regardless, simplification of the South Carolina sales and use tax is a worthy goal and may be an

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<sup>15</sup> The number of full member states will increase in the near future. Associate member state Washington will become a full member effective January 1, 2008. Associate member states Arkansas and Wyoming have filed petitions for full member state status effective January 1, 2008. However, Utah and Ohio may lose associate member status January 1, 2008 and Tennessee has enacted conforming legislation effective July 1, 2009.

effort that the General Assembly may want to consider even if South Carolina does not adopt the Agreement.

If the decision is made not to join at this time, but to consider joining at some time in the future (perhaps if the federal legislation is enacted that allows member states to collect sales and use taxes from retailers without physical presence), then the General Assembly may wish to consider:

- Reviewing the Agreement to determine if any of its provisions should be adopted to improve South Carolina's sales and use tax law without any consideration of joining the Agreement.<sup>16</sup>
- Requiring sponsors of future amendments to South Carolina's sales and use tax law to inform the House Ways and Means Committee and the Senate Finance Committee how the proposed legislation would bring South Carolina law closer to, or farther from, the Agreement's model. This information would not be to prevent the adoption of legislation that moves South Carolina farther from the Agreement's model; it would be merely intended to inform the members of the General Assembly of the consequences of the legislation if the General Assembly were to decide, at sometime in the future, to join the Agreement.

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<sup>16</sup> For example, South Carolina presently taxes software (prewritten and custom) when delivered in tangible form and does not tax software (prewritten and custom) when delivered electronically. See SC Revenue Ruling #05-13. The Agreement includes prewritten software within the definition of "tangible personal property;" therefore, prewritten software, whether delivered in tangible form or electronically, would be subject to the tax unless the General Assembly exempts it (the Agreement allows the exemption of all prewritten software or a limited exemption for prewritten software that is delivered electronically). Custom software would not be taxed under the Agreement unless the General Assembly imposed the tax on the service of creating and selling custom software. In this example, the Agreement treats prewritten software as a product and custom software as a service and taxes prewritten software regardless of how it is transferred (tangible form or electronically). The General Assembly may decide (1) that the Agreement's perspective is the proper policy perspective for South Carolina, (2) that both prewritten and custom software are products and should be taxed regardless of how they are transferred, or (3) that it isn't prudent to change settled expectations (current policy) and that both prewritten and custom software are products and should be taxed, but only if transferred in tangible form.

## **Americans For Fair Taxation**

[www.SCFairTax.org](http://www.SCFairTax.org)



## **The Impact of Taxes**

- OUR PRESENT TAX SYSTEM...EXERTS TOO HEAVY A DRAG ON GROWTH...IT REDUCES THE FINANCIAL INCENTIVES FOR PERSONAL EFFORT, INVESTMENT, AND RISK-TAKING...THE PRESENT TAX LOAD... DISTORTS ECONOMIC JUDGMENTS AND CHANNELS AN UNDUE AMOUNT OF ENERGY INTO EFFORTS TO AVOID TAX LIABILITIES.

■ -JOHN F. KENNEDY, NOV. 20, 1962

## **Why Change?**



**The current federal income tax code:**

- Significantly increases compliance costs and enforcement challenges due to complexity
- Is subject to abuse by taxpayers, politicians, lobbyists and the IRS
- Is widely considered unfair and inefficient

## **Why Change?**

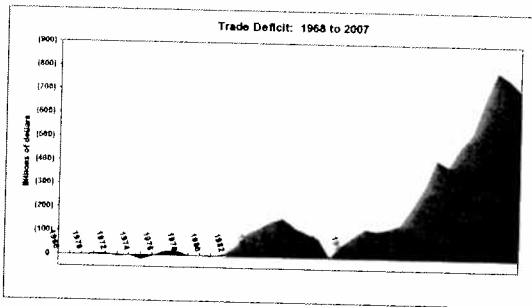


**The current federal income tax code:**

- Cannot sustain Social Security and Medicaid
- Puts US producers at a disadvantage in an increasingly global economy



## Why Change?



## WHAT IS THE FAIR TAX ?

### LEGISLATION TO ELIMINATE :

- INCOME TAXES
- CORPORATE TAXES
- SOCIAL SECURITY TAXES
- MEDICARE TAXES
- CAPITAL GAINS TAXES
- ALTERNATIVE MINIMUM TAXES
- SELF-EMPLOYMENT TAXES
- INHERITANCE TAXES
- GIFT TAXES

## WHAT IS THE FAIRTAX

- ALL THESE TAXES WILL BE REPLACED WITH A SINGLE-RATE PERSONAL CONSUMPTION TAX- A SIMPLE SALES TAX- ON *NEW* GOODS AND SERVICES
- THE FAIRTAX IS A *REPLACEMENT* FOR-NOT AN ADDITION TO-OUR CURRENT FEDERAL TAXES.

## The FairTax Plan



The ONLY tax proposal created and tested using modern marketing techniques to find out what the American people, across the political spectrum, wanted in a tax system.

- ✓ Polling
- ✓ Focus Groups
- ✓ Economic Analysis from major Universities
- ✓ Over \$20 million in private funds

## For Business



- ✓ Eliminates payroll and corporate income taxes
- ✓ No tax on Business to Business production costs.
- ✓ Taxes Business and Government consumption

## PREBATES



The Prebate makes The FairTax progressive when measured against consumption.

The Prebate assures no one pays federal tax up to the poverty level

PREBATES RETURN THE SALES TAX ON ESSENTIALS UP TO THE NATIONAL POVERTY LEVEL.

## 2008 FairTax Prebate



| Single Adult Household |                                |               |                | Two Adult Household |                                |               |                |
|------------------------|--------------------------------|---------------|----------------|---------------------|--------------------------------|---------------|----------------|
| Family Size            | Annual Consumption Allowance * | Annual Rebate | Monthly Rebate | Family Size         | Annual Consumption Allowance * | Annual Rebate | Monthly Rebate |
| 1 person               | \$10,210                       | \$2,238       | \$196          | N/A                 | N/A                            | N/A           | N/A            |
| and 1 child            | \$13,690                       | \$3,149       | \$262          | couple              | \$20,420                       | \$4,697       | \$391          |
| and 2 children         | \$17,170                       | \$3,949       | \$329          | and 1 child         | \$23,900                       | \$5,497       | \$458          |
| and 3 children         | \$20,650                       | \$4,750       | \$396          | and 2 children      | \$27,380                       | \$6,297       | \$525          |
| and 4 children         | \$24,130                       | \$5,550       | \$462          | and 3 children      | \$30,860                       | \$7,098       | \$591          |
| and 5 children         | \$27,610                       | \$6,350       | \$529          | and 4 children      | \$34,340                       | \$7,898       | \$658          |
| and 6 children         | \$31,090                       | \$7,151       | \$596          | and 5 children      | \$37,820                       | \$8,699       | \$725          |
| and 7 children         | \$34,570                       | \$7,951       | \$663          | and 6 children      | \$41,300                       | \$9,499       | \$792          |

Source: Federal Register, Vol. 72, No. 15, January 24, 2007, pp. 3147-3148.

## How does it work?



**All new consumer  
goods and services  
are  
taxed once**

at 23¢ per dollar spent at the cash register

### *How does it work?*



- No taxes are collected on used items**
- No taxes on investments or interest**
- Educational expenses are not taxed**

### *How is the Fair Tax Collected?*



- **45 states currently collect sales tax**
- **Only one state sales tax form to file**
- **States and retailers are paid 0.25% for collection of the national sales tax.**

### *Benefits of the Fair Tax for Business & Trade*



- **Price shifts will substantially increase demand for U.S. goods and services in all markets**
- **Manufacturing comes home to the U.S.**
- **Foreign corporations contribute to U.S. economy by locating offices and facilities here**
- **Good jobs return to our economy**
- **U.S. assets parked offshore are repatriated**

### *Benefits of the Fair Tax for the Nation*



- ✓ **A more efficient and fair way to collect taxes**
- ✓ **Provide same revenue to Federal Government**
- ✓ **Broadens the tax base for funding Social Security and Medicare, reducing the looming problem of insolvency**
- ✓ **Substantially improves trade deficit, budget deficit and U.S. status as a debtor nation**

### ***Benefits of the Fair Tax for You***



- ✓ Take home entire paycheck or retirement payment
- ✓ Removes penalties for personal effort and initiative
- ✓ Encourages savings for home ownership, education, and dignified retirement
- ✓ No need to maintain tax records or file income tax returns
- ✓ Never make another personal decision based on federal income tax implications

### ***The FairTax***



- Fair
- Simple
- Transparent
- Individual Control
- Keep your entire paycheck

### **The SC FairTax Act**

#### **Repeal Existing SC Taxes**

- Income Tax Act
- Income Tax Withholding
- Income Tax on Banks
- Income Tax on Savings and Loans
- Estate Tax Act
- Sales Tax Act.
- Taxpayer Bill of Rights

### **SC FairTax State Objectives**

- Revenue neutral for the state in year one
- Tax all consumption of goods and services without exception, but only once
- Prevent double, multiple, or cascading taxation
- Remove disincentives for business growth
- Minimize and equalize tax burdens for all

### Taxpayer Benefits

- Simplify the tax law to reduce compliance costs
- Presumption of innocence in criminal proceedings
- Presumption of lawful behavior in civil proceedings.
- More Jobs means more opportunities
- More opportunities means higher wages

### Untaxes the Poor

- Provide for a Prebate payment to all lawful households of the taxes on all necessary goods and services up to the poverty level based on household size, consistent with the proposed national FairTax Act, HR 25.

### Tennessee/Kentucky Experience

- 1980 Per Capita Income \$16 apart
- Kentucky taxes income
- Tennessee has no Personal Income Tax
- 1980 Tax Burden 30 % higher in KY
- 1998 Per Capita Income \$2,064 more in TN

### 10 State Comparison 1997-2007

|                   | Low CIT States | High CIT Rates |
|-------------------|----------------|----------------|
| ■ Top CIT Rate    | 2.81%          | ■ 10.92%       |
| ■ Personal Income | 82.04%         | ■ 57.96%       |
| ■ Population      | 13.48%         | ■ 5.71%        |

### Income Indicators for Quality of Life

- Higher Health Care Quality Ranking
- Higher Life Expectancy
- Lower Divorce rates
- Lower Violent crime rates
- Higher HS Graduation rates



Taxes Have Consequences

### References

- "The FairTax Book" by Neal Boortz & John Linder
- "Rich States, Poor States" by Aurthur B. Laffler, Stephen Moore & Jonathan Williams
- "Unleashing Capitalism" by Russell S. Sobel, Joshua C. Hall and Matt E. Ryan
- [www.fairtax.org](http://www.fairtax.org) various white papers

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September 7, 2010

## **“FAIRTAX” PROPOSALS TO REPLACE STATE INCOME AND BUSINESS TAXES WITH EXPANDED SALES TAX WOULD CREATE SERIOUS PROBLEMS**

By Elizabeth C. McNichol and Nicholas Johnson

Proposals in several states to eliminate income and business taxes and substitute higher, broader sales taxes would threaten a state’s ability to maintain necessary services over time and sharply increase the taxes that many low- and middle-income households pay.

Such proposals, which supporters often call “FairTax” proposals, are under consideration in Missouri, South Carolina, and Arkansas; a petition to adopt an expanded sales tax was circulated in Michigan in 2008 but failed to obtain enough signatures to be placed on the ballot. (See box on page 12 for more details on these proposals.) Similar proposals are likely to emerge in other states.

The stated goal of these proposals — which appear to be an outgrowth of efforts to promote a flat consumption tax at the federal level in place of personal and corporate income taxes — is to make state tax systems simpler, fairer, and more hospitable to business development, with no net revenue loss for the state; by replacing all other tax sources with a greatly expanded sales tax. Specifically, the proposals would repeal the personal and corporate income tax and the sales tax on business purchases while significantly expanding the types of purchases subject to sales tax and increasing the sales tax rate in order to recover the lost revenue. In addition, “FairTax” plans include a rebate designed to offset the increase in sales taxes for low-income taxpayers.

But the proposals that have actually been submitted would not achieve those goals. This report uses information from states where expanded sales tax proposals have been considered and language contained in legislation and proposed ballot measures; it also draws on a number of analyses of these measures in Missouri and Michigan, the two states where the proposals advanced far enough to draw close scrutiny. This examination reveals that, in every case, “FairTax” proposals would:

- **Require huge, and probably unworkable, sales tax rate hikes.** “FairTax” proposals would do away with revenue sources that now provide 42 percent of the average state’s tax revenue — funds that are essential for K-12 education, health care, public safety, social services, and other functions. To fully replace revenue lost from eliminating other taxes, sales tax rates would have to be markedly higher than they are now, and often higher than “FairTax” proponents claim would be needed.

- **Levy those new, higher rates on transactions that no state has ever attempted to tax.** The goods and services that are now untaxed in most states but that would be subject to the new tax include health care services such as nursing home care, prescription drugs and medical devices, child care (including babysitting), school tuition, private lessons, and new home sales, to name just a few. Bringing all these goods and services into the tax base at the new, significantly higher rates would cause a number of technical, economic, and political problems. For instance, taxing sales of new homes at rates as high as 10 percent or more would seriously disrupt the housing market.
- **Create an unsustainable spiral of rising rates and widening exemptions.** The problems with the new, broader tax base would spark furious efforts to exempt many of those purchases from tax. But if a state granted such exemptions, or if taxpayers took advantage of the opportunities to evade the tax that the proposals would create, the state would have to compensate by raising the sales tax rate even higher. The ultimate result, most likely, is that the new tax would fail to meet its revenue-neutral promise — resulting in deep cuts in education, transportation, health coverage, and other essential services.
- **Fail to boost state economies.** A “FairTax” would do little or nothing to improve a state’s business climate or economic performance. On the contrary, the resulting high sales tax could hurt in-state businesses as residents shift purchases to neighboring states or the Internet. And if a state had to curtail public services because the expanded sales tax failed to make up the lost revenue from the eliminated taxes, economic development would be hampered.
- **Undermine long-term revenue adequacy.** Income tax revenue, in most states, has fallen faster than other forms of revenue as a result of the recession, but it is also likely to bounce back more quickly. Abandoning income tax revenue would lock the state into its current, depressed levels of revenue, further undermining long-term revenue adequacy. Moreover, by making a single tax the sole source of revenue for a state — rather than the mix of sources presently utilized — “FairTax” proposals would deprive a state of a balanced revenue portfolio and jeopardize its ability to collect adequate revenue for future needs.
- **Raise taxes on the middle class.** Eliminating income taxes would, in most states, mean the wealthiest households would see the biggest tax reductions. The net result would be an overall tax increase for everyone else. “FairTax” proposals would include a rebate to shield low-income taxpayers from this tax increase, but the rebate would not be large enough to shield middle-income families from bearing the brunt.

### **Radical “FairTax” Experiment Is Unlikely to Fulfill Its Goals**

The dangers of “FairTax” proposals derive from the enormity of the changes they envision. “FairTax” proposals are radical. They would repeal state personal income taxes, corporate income taxes, and other key sources of revenue. Income taxes alone raise 42 percent of states’ tax revenue, on average — an amount equal to total state spending on highways, prisons, state police, public hospitals, public health, and parks. This extraordinary loss of funds would be replaced, according to proponents, by a higher-rate sales tax that also covers many more goods and services than any current state sales tax.



Given the sweeping nature of the proposals, it is worth considering very carefully whether they would work. Would they, in fact, raise enough revenue? For the reasons described here, there's significant reason to question whether the new tax would function as promised. It would be a massive experiment in taxation with very great risks.

### **Extending Sales Tax to All Goods and Services Would Be Difficult**

A wide range of tax policy experts have long argued that states should broaden their sales tax bases and, in particular, should include a wider range of services as well as goods. But because the amount of money that the "FairTax" needs to generate is so large, the proposed base expansion goes well beyond what would likely be optimal for states.

Most "FairTax" proposals submitted to date define the sales tax base as *all final purchases of goods and services*. This far exceeds any state's current base. Under the "FairTax," the new, high sales tax rate would be levied on consumer purchases of all food, all prescription drugs and other health care products and services (such as doctor's visits and laboratory tests), purchases of new homes, utility bills, private school tuition, and many other services and goods now exempt from the sales tax in most or all states.<sup>1</sup>

Extending sales tax to some of these transactions would be extremely difficult, both politically and in terms of implementation.

For example, states exempt most health care purchases from sales taxes, and given the legitimate public concern about high health care costs, lawmakers would likely face considerable pressure to maintain that exemption. But prescriptions, medical supplies, doctors' fees, and other health care-related purchases make up roughly 19 percent of spending on goods and services for personal consumption. Exempting these purchases from the sales tax would shrink the tax base by nearly one-fifth and thus require an even higher sales tax rate to maintain revenue neutrality.

In addition, the vast majority of health care costs are paid for by third parties: most notably Medicare, Medicaid, and private health insurance. There are a number of barriers — legal and practical as well as political — to applying the sales tax to these expenses. For example, federal law bars surcharges over and above the prices the federal government sets for Medicaid services, and the sales tax could be considered such a surcharge. And in Medicare, it seems unlikely that states would be willing to increase the already high costs of health care for seniors by adding a 10 percent charge that would most likely fall on patients.

Complications would exist for taxing health care costs financed by private insurance as well, such as how to define the price to be taxed. States would have to decide whether to apply the tax to the provider's price, the discounted amount that the insurance company pays the provider, or the individual patient's co-payment. The implications of this choice for the amount of revenue collected would obviously be huge.

Taxing new home purchases could prove problematic as well. Although many states levy taxes on real estate transfers, these taxes are typically less than 1 percent. A new tax of 5 percent, 10 percent,

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<sup>1</sup> The proposals in Arkansas and Missouri exempt some tuition payments, but nothing else.

or more on residential real estate transactions would have a major, disruptive impact on the real estate market. For example, the purchase of a \$200,000 house, if taxed at 10 percent, would cost the buyer an additional \$20,000 — and this sum would have to be paid at closing, because in the current real estate market, few lenders would be willing to roll that extra sum into the mortgage. As a result, fewer families would be able to afford a house, which would depress home sales and real estate values. Among other consequences, this would further reduce property tax collections and create another hit on local governments already reeling from the decline in the housing market.

### **Tax Rate Would Be Considerably Higher Than Proponents Acknowledge**

All analysts — including “FairTax” proponents — agree that the “FairTax” base-broadeners, by themselves, would not raise enough revenue to make up for the income tax repeal. To raise the additional revenue needed, “FairTax” proposals typically call for increasing the state sales tax rate by about 2 to 3 percentage points. These sales tax rates would be higher still when *local* sales taxes (which cities, counties, or school districts in 36 states levy) are added on.

But even those significant tax hikes may not be enough. In several cases, independent analyses of these proposals find that even these substantial rate increases would not replace the revenue lost from the taxes that would be repealed. In Missouri, for example, one version of the “FairTax” would raise the state’s general sales tax rate from 3.0 percent to an unspecified rate that cannot exceed 7 percent.<sup>2</sup> But Missouri would actually have to raise its sales tax rate to *11 percent or more* to replace the lost revenue, according to a recent analysis by the Missouri Budget Project and the Institute of Taxation and Economic Policy.<sup>3</sup> This would be well above the country’s highest state sales tax rate (California’s 8.25 percent) and almost twice the national average. Similarly, in Michigan the “FairTax” proposal to raise the sales tax rate from 6 percent to 9.75 percent on a greatly expanded base would fall \$2.5 billion a year short of the amount needed to maintain revenue neutrality, according to the state Department of Treasury.

The new rates would have to be so high not only to replace a great deal of revenue but also to pay for a new tax credit designed to shield low- and moderate-income families from the impact of the expanded sales tax. There is a spiraling effect here — raising the tax rate requires a larger tax credit, whose cost requires raising the rate even further.

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<sup>2</sup> Currently, Missouri levies both a general state sales tax rate of 3 percent and additional dedicated statewide sales taxes that total 1.225 percent. Under the original Fair Tax proposal the dedicated sales taxes would be eliminated. The resulting lost revenue is part of what the expanded sales tax would have to raise.

<sup>3</sup> “Determining the Statewide Sales Tax Rate Under SJR 29 & HJR 56,” the Missouri Budget Project and the Institute on Taxation and Economic Policy, February 11, 2010, [http://www.mobudget.org/category/3/article/80-Determining\\_the\\_Statewide\\_Sales\\_Tax\\_Rate\\_Under\\_SJR\\_29\\_HJR\\_56](http://www.mobudget.org/category/3/article/80-Determining_the_Statewide_Sales_Tax_Rate_Under_SJR_29_HJR_56).

### Basic Elements of “FairTax” Proposals

Details differ by state, but the proposals generally share the following features:

- Personal and corporate income taxes would be eliminated.
- Business-to-business sales would not be taxed. In some cases, other state taxes on businesses would also be eliminated.
- With very few exemptions, all purchases of goods and services by households would be subject to the sales tax.
- The sales tax rate would be increased, supposedly to a level that would both replace all revenues lost from eliminating existing state taxes and pay for the cost of the rebate (see below).
- A rebate — usually equal to the new sales tax rate times the federal poverty line — would be provided to all households.
- The new system would be written into the state’s constitution, making future changes difficult.

For example, under current law, Missouri collects \$9.9 billion a year from the personal and corporate income tax, sales tax, and other taxes that the “FairTax” proposal would eliminate. In addition, the new sales tax would have to generate enough additional revenue to pay for the proposed low-income tax credit; the original Missouri proposal specified that each taxpayer would receive a payment equal to the new sales tax rate times the federal poverty line. This would cost approximately \$4.4 billion.<sup>4</sup> That brings to \$13.4 billion a year the revenue the new sales tax would have to take in,<sup>5</sup> requiring both a much broader base and an 11 percent rate to achieve revenue neutrality, as noted above.<sup>6</sup>

And the rates could easily go higher still. As noted above, “FairTax” proposals probably are unrealistic and unsustainable in their taxation of health care, real estate, and other types of services. A state that tried to maintain revenue neutrality, exempt health care and real estate transactions, create an effective low-income tax rebate, and sustain local sales taxes easily could find the tax reaching a rate of 15 percent or higher.

In addition to these technical challenges, there would be enormous political problems in enacting and sustaining the broad “FairTax” tax base. Pressure for sales tax exemptions is already affecting proposals under consideration in various states. For example, Missouri lawmakers amended their state’s “FairTax” proposal soon after its introduction to exempt private school tuition; lobbyists for many other products and services are seeking exemptions as well.

<sup>4</sup> Revised proposals in Missouri are less specific and instead direct the legislature to design a low-income offset. If this were available only to low-income taxpayers it would likely be less expensive than the original proposal.

<sup>5</sup> Missouri’s current 3.0 percent general sales tax rate raises approximately \$1.9 billion a year — only 15 percent of the needed revenue. Additional statewide dedicated sales taxes of 1.225 percent raise approximately \$1 billion per year.

<sup>6</sup> Missouri Budget Project and Institute on Taxation and Economic Policy.

Another potential complication is the interaction of “FairTax” proposals with local sales taxes. Many states permit cities, counties, and other local jurisdictions to levy sales taxes. Changes to a state’s sale tax base could result in some goods and services facing state but not local taxes, which would cause confusion for retailers and consumers. Alternatively, the base expansion could be adopted by local governments – further increasing the rate paid by consumers on the newly taxed items. Some of the “FairTax” proposals fail to address this issue despite the administrative difficulties or higher taxes that would result.

### **Sales Tax Avoidance Could Push Sales Tax Rate Even Higher**

An additional factor casts further doubt on the feasibility of a revenue-neutral “FairTax.” As noted above, “FairTax” rates would be much higher than any existing state sales tax rate. Such a high sales tax rate, combined with the inevitable implementation challenges of significantly extending the tax’s reach, would spur new and creative strategies by individuals to avoid the tax.

Since businesses would be exempt from the sales tax, individuals could avoid the tax by making purchases through their employers or by incorporating as small businesses. (For example, a restaurant owner could buy food and supplies for home consumption using the restaurant’s sales tax exemption.) Moreover, the higher sales tax rate would increase the incentive for individuals with part-time businesses who provide services such as computer repair from their homes to incorporate in order to avoid the sales tax on their business supplies.

In addition, the high tax rate would significantly increase incentives for individuals to buy from out-of-state merchants, either by traveling to a neighboring state or by buying through the Internet or mail order. Individuals are legally required to report these sales and pay a use tax on them, but few actually do, and states find the law extremely difficult to enforce.

Finally, out-and-out illegal sales tax evasion would likely rise under a higher tax rate because the payoff for such evasion would be much higher.

### **Expanded Sales Tax as Likely to Harm State Economies as Help Them**

The major argument for replacing a state’s taxes with a much larger sales tax is that it would boost economic growth. This conclusion appears to be based largely on three mistaken beliefs: that progressive taxes such as income taxes impede state economic growth compared to consumption taxes; that eliminating business taxes would cause large numbers of companies to move their operations to a state and would have no negative effects; and that the proposed tax shift could be accomplished without hurting a state’s ability to fund services that promote a strong economy.

The belief that higher reliance on consumption taxes such as a sales tax will boost economic growth by encouraging investment in place of consumption — seems to come from economic studies that simulate the effect of different types of tax systems on the economic growth of countries, but it has little support in the real world. The past few decades have seen substantial economic growth in states that rely relatively little on sales taxes, such as North Carolina and

Oregon. And numerous countries, including the United States for most of the 20<sup>th</sup> century, have grown impressively with an income tax.

While replacing a “pure” income tax (that is, one with no exemptions) with a “pure” consumption tax might indeed promote investment by eliminating most or all taxes on savings and investments, pure taxes do not exist in the real world. Existing income taxes already give preferential treatment to saving and investment income, and the proposed consumption taxes in “FairTax” proposals include significant exemptions, starting with the rebate for low-income households (other exemptions will likely follow). As a result, the theoretical increase in investment and resulting economic growth would be unlikely to materialize. Policymakers could achieve the other benefits of a consumption tax — a broader base that treats different types of income and assets more equally and results in lower tax rates and a simpler tax system — through reforms to the existing tax structure, without wholesale restructuring of a state’s tax system.

Moreover, an analysis of actual state tax systems by Professor Howard Chernick of Hunter College found that the progressivity of a state’s tax structure had no impact on its economic growth when other factors are controlled for.<sup>7</sup> Personal and corporate income taxes are the primary progressive elements of most state tax systems.

The second belief is that businesses (or wealthy business owners) will flock to a state that has eliminated its corporate income tax and sales tax on business purchases and cut taxes deeply for the wealthy more generally. Research on the impact of tax levels on state economic development has produced mixed results. Many studies conclude that, if all other factors are held constant, the level of taxes has little if any impact on the decisions businesses or individuals make about whether to locate in a state. Factors other than taxation, such as the education of the workforce, transportation systems, and the natural environment, play a very significant role.<sup>8</sup>

Moreover, implementing the “FairTax” would likely have some less-than-beneficial consequences for businesses. For example, a number of businesses could see an immediate drop in sales — particularly retail establishments located close to state borders, which would suffer as residents shop in neighboring states to take advantage of what likely would be considerably lower sales taxes. Also, firms’ wage costs may increase as workers demand higher wages in order to be able to afford the higher cost of goods and services in the state.

The third belief — that the “FairTax” would not weaken public services and thus economic growth — is flawed as well. Studies have found that the quality of a state’s education, infrastructure, highways, and public health matters at least as much as the level of its taxes in determining

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<sup>7</sup> Howard Chernick, “Redistribution at the State and Local Levels: Consequences for Economic Growth,” *State Tax Notes*, Vol. 36, No. 4, April 25, 2005.

<sup>8</sup> See, for example, Cristobal Young, Charles Varner, and Douglas S. Massey, “Trends in New Jersey Migration: Housing, Employment, and Taxation,” Princeton University, Woodrow Wilson School of Public and International Affairs, Policy Research Institute for the Region, September, 2008; available at [www.princeton.edu/prior/](http://www.princeton.edu/prior/). See also California Budget Project, “The Number of High-Income Taxpayers Increased Significantly During a Period With 10 Percent and 11 Percent Tax Rates on High-Income Earners,” August 2008, [http://www.cbpp.org/pdfs/2008/0808\\_DP\\_High-IncomeTaxpayers.pdf](http://www.cbpp.org/pdfs/2008/0808_DP_High-IncomeTaxpayers.pdf); Andrew Leigh, “Do Redistributive Taxes Reduce Inequality?” *National Tax Journal*, Vol. LXI, 1, March 2008; and Richard J. Cebula, “Internal Migration Determinants: Recent Evidence,” *International Advances in Economic Research*, 11:267–274, 2005.

economic growth rates. For the reasons described in this report, “FairTax” proposals are likely to reduce revenues if exemptions are granted or the rate is set too low. The resulting cuts in spending on services that businesses and residents rely on could be an obstacle to economic growth.<sup>9</sup>

### **Revenues Under “FairTax” Likely to Fall Short of Needs Over Time**

As described above, there is considerable reason to doubt that, even in the short term, “FairTax” proposals would raise enough revenue to compensate for revenue lost due to repeal of the income tax and other taxes. But policymakers should also consider the effects of “FairTax” proposals beyond the short term. The switch to almost total reliance on the sales tax would endanger a state’s long-term fiscal health by reducing the diversity of the tax base and slowing revenue growth.

### **Overreliance on Single Revenue Source Would Increase Risk of Fiscal Instability**

Replacing a state’s current mix of income and sales taxes and individual and business taxes with a greatly expanded sales tax on individuals goes against the established principle of diversifying state revenue sources.

Diversification is a prudent approach: a mix of taxes provides greater revenue stability in situations where revenue from one tax declines because of economic circumstances. For example, sales tax collections declined significantly at the start of the recession. Later, income tax collections dropped sharply but sales tax collections began to rebound as consumers started spending again. In better times, growth in income tax revenues allows states to build up reserves if they choose. A state that depends almost exclusively on the sales tax would not have the benefit of this balance.

### **Growth in Revenues Would Slow**

The experience of recent recessions has been that income tax revenues grow rapidly once employment growth returns to normal, allowing states to restore services to pre-recession levels. Sales tax revenues, in contrast, have generally grown more slowly than income tax revenues during expansions.

If implemented under current state fiscal conditions, the “FairTax” approach of expanding the sales tax as a replacement for personal and corporate income taxes could reduce a state’s ability to

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<sup>9</sup> A review of the literature by Northwestern University Economist Therese McGuire finds that the results of research on interregional differences in taxes is mixed; depending on the decade studied and the measures used, one can find significant effects of taxes on economic growth or not. Timothy Bartik, Senior Economist at the W.E. Upjohn Institute for Employment Research, finds that “Equally competent research projects may get widely divergent estimates of the economic development effects of fiscal variable.” Literature that shows public services matter includes a well-regarded early study by Jay Helms, and a later review by Ronald Fisher. Economist Robert Lynch reviews the literature and finds that increases in taxes, when used to expand the quantity and quality of public services, may promote economic development and economic growth. Therese J. McGuire, “Do Taxes Matter? Yes, no, maybe so,” *State Tax Notes*. Vol. 28 No. 10, June 9, 2003; Timothy Bartik, *New England Economic Review*, March/April 1997; Jay L. Helms, “The Effect of State and Local Taxes on Economic Growth: A Time Series-Cross Section Approach,” *The Review of Economics and Statistics*, Vol. 67, No. 4, November 1985; Ronald C. Fisher, “The Effects of State and Local Public Services on Economic Development,” *New England Economic Review*, March/April 1997; Robert Lynch, *Rethinking Growth Strategies: How State and Local Taxes and Services Affect Economic Development*, Economic Policy Institute, 2004.

meet future needs. The national recession has driven down state revenues by historic amounts. Even if an expanded sales tax were properly constructed to replace every dollar of lost revenue, revenues would start at a lower-than-normal level because of the recession, and the state would need many additional years to restore services to pre-recession levels.

Slow revenue growth would be a problem even if a state adopted the “FairTax” during more normal times. The typical “FairTax” proposal sets a base period to determine the amount of revenue that the expanded sales tax must replace; the base period is often a few years in the past so that actual revenue collections are known. But even if a state’s revenue level during the base period were sufficient to meet the state’s needs *at the time*, it would fall short of the amount needed to cover *current* needs because of increases in the intervening years in costs and populations to be served.

In addition, many “FairTax” proposals include provisions that make it difficult for states to adjust their tax rates if the level of taxes proves inadequate. For example, “FairTax” proposals in Michigan would cap future revenue growth, and Missouri’s plan allows only one adjustment to the sales tax rate if revenues fall short of needs in the future. As the Missouri Committee on Legislative Research noted:

Assuming [revenue] neutrality is achieved, current projections call for revenues in FY 11 to be well below the levels collected in FY 08, an extraordinary decline which would not have happened except for the recession which began in 2007. This [“FairTax”] proposal would not allow for state revenues to recover from the unprecedented declines of FYs 09-10. This proposal would make it difficult for the state to provide the level of services currently demanded and those demanded in the future.

### **Taxes of Middle-Income Residents Would Rise**

“FairTax” proposals would significantly change the distribution of state taxes: middle-income families would pay more, while businesses and high-income households would pay less.

Sales taxes are regressive — that is, lower- and middle-income families pay a larger share of their income in sales taxes than do high-income families. For income taxes, the opposite is true: higher-income families pay a larger share of their income in income taxes because of a graduated rate structure in many states and because personal exemptions and standard deductions exempt a smaller share of their income.

Thus, repealing the state income tax would benefit high-income families disproportionately, while low- and middle-income families would bear the largest burden of an increase in the sales tax.

### **“Prebate” Would Not Help Middle Class**

In response to this concern, all “FairTax” proposals include a “prebate” intended to shield low-income families from the effect of the shift from income to consumption taxes. The prebate, generally equal to the new sales tax rate times the federal poverty level, would be provided annually or monthly to all state taxpayers. For a family of four in a state with a “FairTax” rate of 10 percent, for example, the prebate would be \$2,205 (using 2008 poverty guidelines).

But there is a serious flaw in this approach. Since the prebate would presumably protect the poorest families from paying more in taxes under the “FairTax” than they do now, and the very wealthy are unlikely to spend so much that their sales tax payments equal what they formerly paid in income tax, only those in the middle would be left to make up the difference. In fact, 95 percent of Missouri taxpayers would pay more in taxes under a “FairTax” proposal for that state, according to an analysis by the Institute on Taxation and Economic Policy, and middle-income families would face the largest tax increase.

### **In-State Taxpayers Could Pay Larger Share of Total Taxes**

Though state taxes are levied on in-state economic activity, they also affect residents of other states. For example, corporate income taxes are “paid” by company shareholders regardless of where they live, in the form of reduced profits. Similarly, the sales taxes that businesses pay on their purchases are “paid” in part by those businesses’ out-of-state customers in the form of higher prices. Tourists and other visitors also pay a portion of state taxes.

Although the specifics will vary from state to state, a “FairTax” could, on the whole, reduce the share of overall state taxes that out-of-state residents pay and increase the share that in-state residents pay. Eliminating the corporate income tax would largely profit out-of-state shareholders, for example, and exempting businesses from taxes on their purchases would benefit many out-of-state consumers. In contrast, in-state residents would pay the greatest share of the newly expanded sales tax. (A state with a very large tourism industry might fare better under a “FairTax,” however.)<sup>10</sup>

### **Conclusion**

Replacing the diversified tax structure that most states have now with a dramatically expanded sales tax would jeopardize states’ ability to fund public services and likely raise taxes on the middle class. It also would be unlikely to produce any benefits for a state’s economy.

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<sup>10</sup> Proponents of this tax shift have argued that the increased sales tax on residents would be offset because businesses that save money from elimination of corporate taxes would lower their prices. But even if these price cuts happened — and there is no particular reason to think this is likely — they would apply equally to in-state and out-of-state sales, so only a portion of the savings would be passed along to in-state consumers.



**TABLE 1:**  
**Summary of Recent State Proposals**

|                       | <b>Taxes Eliminated</b>  | <b>Change in State Sales Tax Rate</b>  | <b>What Is Included in New Sales Tax Base</b>   | <b>Other Features</b>   | <b>Notes</b>   |
|-----------------------|--|--|---|---|--|
| <b>Michigan</b>       | Personal income tax, Michigan Business Tax, school education tax (which is levied on businesses only), sales tax on business purchases   | To 9.75 percent from 6 percent   | All goods and services purchased by households including food, prescription drugs, out-of-pocket health care costs, new home purchases  | Rebate of 9.75% of the federal poverty line; revenue growth in excess of population plus inflation would go in Rainy Day Fund to be used if revenues drop below 95% of prior year | 2008 proposal, petitions circulated but not enough signatures to make it to ballot; ballot language unclear about many details |
| <b>Missouri</b>       | Personal and corporate income taxes; corporate and bank franchises tax, sales tax on business purchases; dedicated sales taxes (conservation and roads); St. Louis and Kansas City earnings taxes                            | To 5.11 percent from 3.0 percent according to original bill language. A subsequent bill states that the new rate can be no higher than 7 percent. The proposals also say the change must be revenue neutral, which has led to rate estimates ranging from about 6 percent to over 11 percent (Note: Missouri's current statewide sales tax rate consists of a 3.0 percent general tax plus an additional 1.225 percent dedicated tax.) | All goods and services purchased by households except higher education tuition. Includes purchases of nursing home and in-home medical care, doctor's visits, child care, education, rent, housing, home repairs, new home purchases, utilities, insurance, funerals, food, prescription drugs, legal services, financial services, transportation, club dues, auto repairs | Rebate equal to new tax rate times the federal poverty line   | Bill introduced that would put question on ballot  |
| <b>South Carolina</b> | Personal and corporate income tax, income tax on banks, estate tax, sales tax on business purchases. (The language of the proposal also eliminates the estate tax but South Carolina does not currently levy an estate tax.) | To about 6 to 7 percent from 5 percent, according to proponents' estimates   | All goods and services purchased by households  |   | Bill introduced  |
| <b>Arkansas</b>       | All taxes levied by the General Assembly, including personal and corporate income taxes, capital gains taxes, payroll taxes, real estate transfer taxes  | To be determined by legislature  | All goods and services purchased by households except education tuition at all levels and job training courses and services mandated by federal, state, or local government   | Monthly rebate equal to rate of tax times federal poverty line divided by 12  | Petition for ballot measures   |

# South Carolina Taxation Realignment Commission

## An Appendix to:

## Individual Income Tax Report

### Contents

Table: “State Income Tax as a Percentage of Federal Adjusted Gross Income (AGI)” - A comparison between South Carolina, North Carolina and Georgia.

“State Individual Income Tax Comparisons for Tax Year 2007 and Computed Tax Liabilities for Tax Year 2009”, a presentation to TRAC by Gordon O. Shuford, Board of Economic Advisors, February 19, 2010.

“State Individual Income Tax Comparisons for Tax Year 2007 and Computed Tax Liabilities for Tax Year 2009 - An Updated Report”, Gillespie and Shuford, Board of Economic Advisors, August 24, 2009.

Table: “1999 Individual Income Tax Returns by Tax Liability”, Department of Revenue Annual Reports (1999-00).

Table: “2007 Individual Income Tax Returns by Tax Liability”, Department of Revenue Annual Reports (2007-08).

“Fiscal Fact - States Vary Widely in Number of Tax Filers with no Income Tax Liability”, Tax Foundation, May 24, 2010.

“Personal Income Tax: Statewide Economic Growth and Taxation Issues in South Carolina” prepared by Dr. Rebecca Gunnlaugsson, Ph.D., Director, Research Division, SC Department of Commerce, October 28, 2010.

“Capital Gains Taxation: Federal and States”, an issue paper prepared by the Minnesota House of Representatives Research Department, January 2010.

Table: “Capital Gains Tax Rates - Federal / South Carolina Combined - 1989 - 2010”, prepared from various sources by Craig H. Parks, Sr. Research Analyst, Senate Finance Committee.

“Comparing State Income Tax Preferences for the Elderly in the Southeast”, Andrew Young School of Policy Studies, Georgia State University, February 2007.

“State Income Tax Treatment of the Elderly”, Edwards and Wallace, Public Budgeting and Finance, Summer 2004.

“State Taxation of Social Security and Pensions in 2006”, an Issue Brief by the AARP Public Policy Institute, November 2007.

## State Income Tax as a Percentage of Federal Adjusted Gross Income (AGI)

|  | <u>South Carolina</u>  |  | <u>Georgia</u> | <u>North Carolina</u>  |
|--|------------------------|--|----------------|------------------------|
| State Tax Base   | Federal Taxable Income |  | Federal AGI    | Federal Taxable Income |
| Avg. State Tax/Return  | \$1,209                |  | \$1,763        | \$2,057                |
| Rank (1 being highest tax burden)  | 36                     |  | 20             | 13                     |
| Effective Tax Rate   | 2.8%                   |  | 3.5%           | 4.3%*                  |
| *Prior to NC's recent enactment of its "surtax" on income that exceeds a certain threshold; effective rate likely higher |                        |  |                |                        |
| Rank (1 being highest tax burden)  | 34                     |  | 21             | 10                     |

### Standard Deductions for 2009

|                |          |
|----------------|----------|
| Single         |          |
| Married/Single | \$5,700  |
| Married/Joint  | \$5,700  |
| Head Household | \$11,400 |
|                | \$8,350  |

### Personal Exemptions for 2009

|   |         |         |                    |
|---|---------|---------|--------------------|
| Per Person/Filer  | \$3,650 | \$2,700 | \$2,500 / \$2,000* |
| Dependent   | \$3,650 | \$3,000 | \$100 credit       |
| *NC personal exemption reduced to \$2,000/filer at <\$60,000 AGI (single); <\$100,000 (married) |         |         |                    |

Top Tax Bracket (Married/Joint)

|                |                |                     |
|----------------|----------------|---------------------|
| 7% at \$13,701 | 6% at \$10,001 | 7.75% at \$100,001* |
| 6% at 10,961   |                | 6% at \$1           |

Notes:

\*NC has a 2% "surtax" at \$100,001 and a 3% "surtax" at \$250,001

AGI Threshold at which SC Tax Burden is Higher than GA or NC (Married/Joint w/ 2 kids)

|     |            |        |
|-----|------------|--------|
| N/A | \$150,000* | None** |
|-----|------------|--------|

\*At \$150,000, the SC filer pays \$128 more in tax than the similarly situation GA filer

\*\*At no level up to \$1,000,000 in AGI is SC's individual income tax burden higher than NC's (married or single)

South Carolina's Individual Income Tax Base shrinks each year by design by using the Federal levels of Deduction & Exemptions compared to neighboring states.

# State Individual Income Tax Comparisons for Tax Year 2007 and Computed Tax Liabilities for Tax Year 2009

Presented to the  
South Carolina Taxation Realignment  
Commission

February 19, 2010

- South Carolina taxpayers filed 2.15 Million returns in FY 09
- Generated \$2.8 Billion for the General Fund
- Major Components include:
  - Employee Withholding -- \$3.5 Billion
  - Individual Declarations -- \$367 Million
  - Individual Paid with Returns -- \$399 Million
  - Refunds -- \$1.5 Billion for 1.5 Million taxpayers
- Individual Income Tax accounted for 47% of General Fund Revenue in FY 09

- 41 states impose an individual income tax
- 2 states, NH and TN, tax only dividends and interest income
- 7 states, AK, FL, NV, SD, TX, WA, and WY, do not impose an individual income tax

**Table 1: Federal Income Tax Comparisons for the 2007 Tax Year**

| Line | Money amounts, except for averages, are in thousands.   | South Carolina | Georgia     | North Carolina |
|------|---|----------------|-------------|----------------|
| 1    | Number of Federal Returns   | 2,256,719      | 4,560,422   | 4,601,888      |
| 2    | Federal Adjusted Gross Income   | 98,961,892     | 230,079,128 | 219,982,102    |
| 3    | Average Adjusted Gross Income   | 43,852         | 50,451      | 47,803         |
| 4    | Total Federal Taxable Income  | 64,124,869     | 151,944,144 | 143,840,131    |
| 5    | Average Federal Taxable Income  | 28,415         | 33,318      | 31,257         |
| 6    | Itemized Deductions   | 15,430,381     | 41,256,992  | 35,697,046     |
| 7    | Returns with Itemized Deductions  | 674,265        | 1,680,569   | 1,553,622      |
| 8    | Average Deduction per Return  | 22,885         | 24,549      | 22,977         |
|      | <b>% Distribution of Returns by AGI</b>   |                |             |                |
| 20   | % under \$50,000  | 73.8%          | 70.9%       | 71.4%          |
| 21   | % \$50,000 to \$75,000  | 11.1%          | 11.6%       | 11.7%          |
| 22   | % \$75,000 to \$100,000   | 6.6%           | 6.8%        | 7.0%           |
| 23   | % \$100,000 to \$200,000  | 6.5%           | 8.0%        | 7.5%           |
| 24   | % \$200,000 and over  | 1.9%           | 2.7%        | 2.4%           |
| 25   | <b>Rank</b> (1 is poorest State with the highest percentage of taxpayers in the lowest income group, defined as under \$50,000 AGI) | 5              | 16          | 14             |

**Table 2: State Income Tax as a Percentage of Federal AGI**

| Line | Money amounts, except for averages, are in thousands.  | South Carolina   | Georgia  | North Carolina   |
|------|--|--|--|--|
| 1    | <b>State Tax Base</b>  | Federal Taxable Income   | Federal AGI  | Federal Taxable Income   |
| 2    | <b>State Income Tax Collections</b> (from State and Local Government Finances, U.S. Census Bureau, FY 05-06) | 2,727,251  | 8,040,366  | 9,467,278  |
| 3    | <b>Average State Income Tax Per Return</b><br>(number of federal returns per SOI data)                       | \$1,209  | \$1,763  | \$2,057  |
| 4    | <b>Rank (1 is highest tax per return)</b>  | 36   | 20   | 13   |
| 5    | <b>State Income Tax as a % of Fed AGI</b>  | <b>2.8%</b>  | <b>3.5%</b>  | <b>4.3%</b>  |
| 6    | <b>Rank (1 is highest tax as % of AGI)</b>   | <b>34</b>  | <b>21</b>  | <b>10</b>  |
| 7    | Local Income Tax   | No   | No   | No   |
| 8    | <b>TAX YEAR 2009 COMPARISONS</b>   |  |  |  |
|      | <b>Standard Deductions</b>   |  |  |  |
| 13   | Single   | 5,700  | 2,300  | 3,000  |
| 14   | Married Filing Single  | 5,700  | 1,500  | 3,000  |
| 15   | Married Filing Jointly   | 11,400   | 3,000  | 6,000  |
| 16   | Head of Household  | 8,350  | 2,300  | 4,400  |
| 17   | <b>Personal Exemptions</b>   |  |  |  |
| 18   | Per Person   | 3,650  | 2,700  | \$2,500 / \$2,000  |
| 19   | Married Filing Jointly   |  |  |  |
| 20   | Dependent  |  | 3,000  | \$100 credit   |
| 21   | <b>Tax Brackets</b>  | 0% < \$2,740<br>3% > \$2,740<br>4% > \$5,480<br>5% > \$8,220<br>6% > \$10,960<br>7% > \$13,700 | <b>Single</b><br>1% > 0<br>2% > \$750<br>3% > \$2,250<br>4% > \$3,750<br>5% > \$5,250<br>6% > \$7,000<br><b>Married</b><br>1% > 0<br>2% > \$1,000<br>3% > \$3,000<br>4% > \$5,000<br>5% > \$7,000<br>6% > \$10,000 | <b>Single</b><br>6% > 0<br>7% > \$12,750<br>7.75% > \$60,000<br><b>Married</b><br>6% > 0<br>7% > \$21,250<br>7.75% > \$100,000 |



### States With Highest Marginal Tax Rate At or Above South Carolina's 7%

| State                 | Highest Marginal Tax Rate | Average Effective Tax Rate | Rank      |
|-----------------------|---------------------------|----------------------------|-----------|
| Oregon                | 11.00%                    | 5.7%                       | 1         |
| New York              | 8.97%                     | 5.7%                       | 2         |
| California            | 10.55%                    | 4.6%                       | 5         |
| Maine                 | 8.50%                     | 4.4%                       | 7         |
| Minnesota             | 7.85%                     | 4.4%                       | 8         |
| Hawaii                | 11.00%                    | 4.4%                       | 9         |
| North Carolina        | 7.75%                     | 4.3%                       | 10        |
| Wisconsin             | 7.75%                     | 4.0%                       | 13        |
| Arkansas              | 7.00%                     | 3.7%                       | 16        |
| Idaho                 | 7.80%                     | 3.6%                       | 18        |
| Iowa                  | 8.98%                     | 3.5%                       | 22        |
| Montana               | 7.00%                     | 3.4%                       | 24        |
| Rhode Island          | 9.90%                     | 3.4%                       | 25        |
| Vermont               | 9.40%                     | 3.2%                       | 30        |
| New Jersey            | 10.75%                    | 3.2%                       | 31        |
| <b>South Carolina</b> | <b>7.00%</b>              | <b>2.8%</b>                | <b>34</b> |

## States With Highest Marginal Tax Rate Below South Carolina's 7%

| State                 | Highest Marginal Tax Rate | Average Effective Tax Rate | Rank      |
|-----------------------|---------------------------|----------------------------|-----------|
| Maryland              | 6.25%                     | 5.1%                       | 3         |
| Ohio                  | 5.92%                     | 4.9%                       | 4         |
| Kentucky              | 6.00%                     | 4.4%                       | 6         |
| Massachusetts         | 5.30%                     | 4.3%                       | 11        |
| Delaware              | 6.95%                     | 4.2%                       | 12        |
| West Virginia         | 6.50%                     | 3.8%                       | 14        |
| Virginia              | 5.75%                     | 3.7%                       | 15        |
| Connecticut           | 5.00%                     | 3.6%                       | 17        |
| Utah                  | 5.00%                     | 3.6%                       | 19        |
| Pennsylvania          | 3.07%                     | 3.6%                       | 20        |
| Georgia               | 6.00%                     | 3.5%                       | 21        |
| Nebraska              | 6.84%                     | 3.4%                       | 23        |
| Missouri              | 6.00%                     | 3.4%                       | 26        |
| Oklahoma              | 5.50%                     | 3.3%                       | 27        |
| Kansas                | 6.45%                     | 3.3%                       | 28        |
| Indiana               | 3.40%                     | 3.3%                       | 29        |
| Colorado              | 4.63%                     | 2.8%                       | 32        |
| Alabama               | 5.00%                     | 2.8%                       | 33        |
| <b>South Carolina</b> | <b>7.00%</b>              | <b>2.8%</b>                | <b>34</b> |
| Michigan              | 4.35%                     | 2.7%                       | 35        |
| Louisiana             | 6.00%                     | 2.7%                       | 36        |
| New Mexico            | 4.90%                     | 2.6%                       | 37        |
| Mississippi           | 5.00%                     | 2.4%                       | 38        |
| Illinois              | 3.00%                     | 2.2%                       | 39        |
| Arizona               | 4.54%                     | 2.1%                       | 40        |
| North Dakota          | 5.55%                     | 1.8%                       | 41        |

## States With Flat Tax Rates and South Carolina

| State                 | Highest Marginal Tax Rate | Average Effective Tax Rate | Rank      |
|-----------------------|---------------------------|----------------------------|-----------|
| Massachusetts         | 5.30%                     | 4.3%                       | 11        |
| Utah                  | 5.00%                     | 3.6%                       | 19        |
| Pennsylvania          | 3.07%                     | 3.6%                       | 20        |
| Indiana               | 3.40%                     | 3.3%                       | 29        |
| Colorado              | 4.63%                     | 2.8%                       | 32        |
| <b>South Carolina</b> | <b>7.00%</b>              | 2.8%                       | <b>34</b> |
| Michigan              | 4.35%                     | 2.7%                       | 35        |
| Illinois              | 3.00%                     | 2.2%                       | 39        |

Table 3: State Income Taxes Computed by AGI for the 2009 Tax Year

| Line | Adjusted Gross Income Levels           | South Carolina | Georgia      | North Carolina |
|------|--|----------------|--------------|----------------|
| 1    | Married Filing Jointly with 2 Children |                |              |                |
| 2    | \$10,000                               | No Tax         | No Tax       | No Tax         |
| 3    | \$20,000                               | No Tax         | 129          | 40             |
| 4    | \$30,000                               | 8              | 676          | 640            |
| 5    | \$40,000                               | 374            | 1,276        | 1,268          |
| 6    | \$50,000                               | 1,039          | 1,876        | 1,968          |
| 7    | \$60,000                               | 1,704          | 2,476        | 2,668          |
| 8    | \$70,000                               | 2,404          | 3,076        | 3,368          |
| 9    | \$80,000                               | 3,104          | 3,676        | 4,068          |
| 10   | \$90,000                               | 3,804          | 4,276        | 4,768          |
| 11   | \$100,000                              | 4,504          | 4,876        | 5,808          |
| 12   | \$150,000                              | 8,004          | <b>7,876</b> | 9,578          |
| 13   | \$200,000                              | 11,504         | 10,876       | 13,453         |
| 14   | \$500,000                              | 32,504         | 28,876       | 36,703         |
| 15   | \$1,000,000                            | 67,504         | 58,876       | 75,453         |

The box indicates where the comparison State's individual income tax is lower than SC's at the same AGI level. If no box is shown in the column, then the state's individual income tax is always higher than SC's.

**State Individual Income Tax Comparisons for Tax Year 2007  
and Computed Tax Liabilities for Tax Year 2009**

**An Updated Report**

**William C. Gillespie, Ph.D.  
Chief Economist**

**Gordon O. Shuford  
Economist**

**August 24, 2009**

**South Carolina  
Budget and Control Board  
Office of Research and Statistics  
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## **State Individual Income Tax Comparisons for Tax Year 2007 and Computed Tax Liabilities for Tax Year 2009**

South Carolina and 40 other states impose an individual income tax. Most states use federal adjusted gross income as their base for calculating taxes. Many states, like South Carolina, allow taxpayers to subtract itemized or standard deductions and personal exemptions to determine taxable income. The amount of the exemptions and deductions, if allowed, vary greatly and are documented for each state in this analysis. Two states, New Hampshire and Tennessee, tax only dividend and interest income. Seven states, AK, FL, NV, SD, TX, WA, and WY, do not impose an individual income tax.

This report analyzes the amount of individual income tax revenue collected by the federal and state governments and the characteristics of the states' tax policies that determine the magnitude of their revenue collections. Table 1 contains comparisons of average taxable incomes and income distributions among states for 2007, as reported by the Internal Revenue Service. Table 2 contains comparisons of individual income tax collections for South Carolina taxpayers relative to the other states. Table 3 indicates the amount of state individual income tax liability owed by a single taxpayer and a married couple filing jointly with two children for adjusted gross incomes of \$10,000 to \$1,000,000 for each state using the latest available tax rates for tax year 2009.

State tax forms used by taxpayers to determine estimated quarterly income tax declarations for 2009, or the actual income tax returns for 2009, when available, were the source for the deductions, exemptions, and tax brackets for each state. In the state summary pages, the report lists the standard deductions, personal exemptions, tax brackets, and other deductions and credits allowed by the states. Since tax returns for 2009 are generally not available at this time, we are unable to determine if any of the other deductions or credits were modified after 2008.

- Table 1, on pages 1 through 5, compares distributions of filers according to various levels of federal adjusted gross income for all 50 states. Details on taxable income, itemized deductions, state and federal taxes paid, and the distribution of returns by amount of AGI are also presented. The distribution of income reported on federal tax returns indicates that South Carolina ranks 5th in the percentage of taxpayers reporting less than \$50,000 of AGI. Only four other states reported a higher percentage of returns in this income category.
- Table 2, on pages 6 through 10, reports state income tax collections from FY 2005-06 and compares these collections to the total amount of federal adjusted gross income from Table 1, line 2. This percentage reported in Table 2 on line 5 is the average effective tax rate by state. This average effective rate is calculated as the amount of

state income tax paid as a percentage of federal adjusted gross income. South Carolina's individual income tax collections of \$2,727,251,000 in FY 2005-06 (Table 2, line 2 on page 6) divided by the \$98,961,892,000 in total federal adjusted gross income (Table 1, line 2 on page 1) results in a 2.8% average effective tax rate. Ranking from the highest average effective tax rate, South Carolina ranks 34<sup>th</sup> out of the 41 states imposing an individual income tax. The highest average effective tax rate was 5.7% in Oregon and the lowest was North Dakota at 1.8%.

- These calculations indicate that of the 41 states imposing an individual income tax, only 7 states' tax collections are a smaller percentage of adjusted gross income than South Carolina's 2.8% effective tax rate.
- South Carolina's average effective tax rate is lower than some states that impose flat taxes at rates well below South Carolina's highest marginal rate of 7%. CO imposes a 4.64% flat tax on taxable income, but its average effective tax rate is also 2.8%, which ranks them 32<sup>nd</sup>. IN, with a flat tax of 3.4%, MA at 5.3%, PA at 3.07%, and UT at 5% all have average effective tax rates higher than South Carolina, while imposing a flat rate well below South Carolina's highest marginal rate of 7%.
- Hawaii and Oregon impose the highest marginal tax rate among the 41 states at 11%. Hawaii's rate kicks in at \$200,000 in taxable income for singles and \$400,000 for joint filers. OR's top rate applies to income above \$250,000 for singles and \$500,000 for married taxpayers. A total of thirteen states impose a maximum marginal rate that exceeds South Carolina's 7% top marginal rate. These are NC, CA, HI, ID, IA, ME, NM, NJ, NY, OR, RI, VT, and WI. Two states, Arkansas and Montana, have the same top rate as South Carolina. Twenty-five states impose a maximum marginal rate that is lower than South Carolina's rate. These are GA, AL, AZ, CO, CT, DE, IL, IN, KS, KY, LA, MD, MA, MI, MS, MO, NE, NM, ND, OH, OK, PA, VT, VA, and WV.
- Several states with maximum marginal rates below South Carolina's 7% tax bracket impose higher average effective rates on taxpayers than South Carolina. These include GA at 6%, AL at 5%, CT at 5%, KY at 6%, MS at 5%, MO at 6%, OH at 5.92%, OK at 5.5%, VA at 5.75%, and WV at 6.5%. This result occurs because of differences in the personal exemptions, standard deductions, and tax bracket income ranges. For example, a married taxpayer with 2 children does not owe any income tax on the first \$26,000 in gross income in South Carolina because of the standard deduction and personal exemptions allowed.
- In addition to comparing effective tax rates among states in Table 2, we also compare each state's overall tax structure for a range of incomes. In Table 3, pages 11 through

15, we compute the tax liability for a family of four and a single taxpayer with incomes of \$10,000 to \$1,000,000 for all 41 states that impose an income tax.

- South Carolina's standard deductions, personal exemptions, and tax rates generally impose a lower tax on families than other states, especially for taxpayers with income under \$50,000. Twenty-nine states impose taxes that are higher than South Carolina's for a family of four with gross income between \$10,000 and \$50,000. Nine states impose a tax that is higher than South Carolina's at all levels of income between \$10,000 and \$1,000,000 for married taxpayers with two children.
- The comparison for single taxpayers is not as favorable. Four states impose a tax on single taxpayers that is higher than South Carolina's at all levels of income between \$10,000 and \$1,000,000. In South Carolina, the smaller standard deduction and reduced number of personal exemptions for single taxpayers increases their taxable income and tax liability.
- Local taxes are excluded in our computation of tax liabilities. Fourteen states have counties or cities that impose a separate income tax. These states are: AL, AR, DE, IN, IA, KY, MD, MI, MO, NJ, NY, OH, OR, and PA.
- South Carolina, along with 10 other states, annually adjusts its tax brackets for inflation. The 10 other states are: AR, CA, ID, IA, MN, MT, OR, RI, VT, and WI.
- South Carolina conforms to the federal standard deductions and personal exemptions. These subtractions from AGI are indexed for inflation annually. Nine other states have a similar tax policy. These are CO, ID, MN, MO, NE, NM, ND, RI, and VT.
- Seven other states also adjust their standard deductions and personal exemptions, but they differ from the federal amounts. These are AR, CA, IA, KY, ME, MT, and OR.
- South Carolina and 10 other states do not adjust their brackets for married filers. This can result in a marriage penalty compared to single taxpayers. The other 10 states are: AR, DE, IA, KY, MS, MO, MT, OH, VA, and WV.
- Eleven states double the bracket widths for joint filers, AL, AZ, CA, CT, HI, ID, KS, LA, ME, NE, and OR effectively eliminating the marriage penalty.
- The remaining 19 states either impose a flat tax, increase but don't double the width of the brackets, or allow married taxpayers to file separately to partially mitigate the marriage penalty.



Table 1: Federal Income Tax Comparisons for the 2007 Tax Year

| Line | Money amounts, except for averages, are in thousands.  | South Carolina | Georgia     | North Carolina | Alabama     | Alaska     | Arizona     | Arkansas   | California    | Colorado    | Connecticut |
|------|--|----------------|-------------|----------------|-------------|------------|-------------|------------|---------------|-------------|-------------|
| 1    | Number of Federal Returns  | 2,256,719      | 4,560,422   | 4,601,888      | 2,353,773   | 370,608    | 2,898,544   | 1,392,997  | 17,601,109    | 2,455,161   | 1,868,063   |
| 2    | Federal Adjusted Gross Income  | 98,961,892     | 230,079,128 | 219,982,102    | 102,787,248 | 19,988,327 | 154,964,429 | 54,795,910 | 1,109,534,361 | 151,056,679 | 158,353,186 |
| 3    | Average Adjusted Gross Income  | 43,852         | 50,451      | 47,803         | 43,669      | 53,934     | 53,463      | 39,337     | 63,038        | 61,526      | 84,769      |
| 4    | Total Federal Taxable Income   | 64,124,869     | 151,944,144 | 143,840,131    | 67,934,500  | 14,618,849 | 103,768,972 | 35,420,616 | 748,218,862   | 107,405,050 | 120,519,721 |
| 5    | Average Federal Taxable Income   | 28,415         | 33,318      | 31,257         | 28,862      | 39,446     | 35,800      | 25,428     | 42,510        | 43,747      | 64,516      |
| 6    | Itemized Deductions  | 15,430,381     | 41,256,992  | 35,697,046     | 13,141,642  | 1,959,013  | 27,127,269  | 7,027,838  | 235,683,265   | 24,294,832  | 25,109,919  |
| 7    | Returns with Itemized Deductions   | 674,265        | 1,680,569   | 1,553,622      | 652,123     | 96,819     | 1,061,930   | 314,559    | 6,496,909     | 974,697     | 792,261     |
| 8    | Average Deduction per Return   | 22,885         | 24,549      | 22,977         | 20,152      | 20,234     | 25,545      | 22,335     | 36,276        | 24,926      | 31,694      |
| 9    | State & Local Income Taxes Deduction   | 3,336,720      | 8,161,399   | 9,693,651      | 2,321,703   | 23,186     | 4,022,782   | 1,653,055  | 54,337,063    | 4,684,610   | 6,956,447   |
| 10   | State & Local Income Taxes Number  | 591,648        | 1,493,100   | 1,389,994      | 544,228     | 21,661     | 746,804     | 261,565    | 5,076,509     | 840,628     | 708,900     |
| 11   | Average Income Taxes per Return  | 5,640          | 5,466       | 6,974          | 4,266       | 1,070      | 5,387       | 6,320      | 10,704        | 5,573       | 9,813       |
| 12   | Federal Taxes Paid   | 11,253,724     | 28,884,270  | 26,427,095     | 12,239,125  | 2,726,261  | 19,371,374  | 6,478,538  | 156,817,840   | 20,610,195  | 27,839,183  |
| 13   | Average Federal Taxes Paid   | 4,987          | 6,334       | 5,743          | 5,200       | 7,356      | 6,683       | 4,651      | 8,910         | 8,395       | 14,903      |
|      | Distribution of Returns by AGI   |                |             |                |             |            |             |            |               |             |             |
| 14   | Number under \$50,000  | 1,665,695      | 3,232,767   | 3,286,721      | 1,739,242   | 235,859    | 1,984,921   | 1,058,913  | 11,561,096    | 1,557,238   | 1,111,365   |
| 15   | Number \$50,000 to \$75,000  | 251,397        | 528,701     | 540,440        | 261,156     | 51,078     | 371,509     | 154,970    | 2,186,100     | 336,289     | 250,920     |
| 16   | Number \$75,000 to \$100,000   | 148,223        | 311,892     | 321,026        | 154,804     | 33,820     | 220,668     | 82,847     | 1,338,397     | 213,241     | 168,745     |
| 17   | Number \$100,000 to \$200,000  | 147,750        | 363,036     | 343,424        | 154,740     | 40,633     | 244,381     | 74,781     | 1,824,003     | 260,971     | 235,945     |
| 18   | Number \$200,000 and over  | 43,654         | 124,026     | 110,277        | 43,831      | 9,218      | 77,065      | 21,486     | 691,513       | 87,422      | 101,088     |
| 19   | Total Returns  | 2,256,719      | 4,560,422   | 4,601,888      | 2,353,773   | 370,608    | 2,898,544   | 1,392,997  | 17,601,109    | 2,455,161   | 1,868,063   |
|      | % Distribution of Returns by AGI   |                |             |                |             |            |             |            |               |             |             |
| 20   | % under \$50,000   | 73.8%          | 70.9%       | 71.4%          | 73.9%       | 63.6%      | 68.5%       | 76.0%      | 65.7%         | 63.4%       | 59.5%       |
| 21   | % \$50,000 to \$75,000   | 11.1%          | 11.6%       | 11.7%          | 11.1%       | 13.8%      | 12.8%       | 11.1%      | 12.4%         | 13.7%       | 13.4%       |
| 22   | % \$75,000 to \$100,000  | 6.6%           | 6.8%        | 7.0%           | 6.6%        | 9.1%       | 7.6%        | 5.9%       | 7.6%          | 8.7%        | 9.0%        |
| 23   | % \$100,000 to \$200,000   | 6.5%           | 8.0%        | 7.5%           | 6.6%        | 11.0%      | 8.4%        | 5.4%       | 10.4%         | 10.6%       | 12.6%       |
| 24   | % \$200,000 and over   | 1.9%           | 2.7%        | 2.4%           | 1.9%        | 2.5%       | 2.7%        | 1.5%       | 3.9%          | 3.6%        | 5.4%        |
|      | Rank (1 is poorest State with the highest percentage of taxpayers in the lowest income group, defined as under \$50,000 AGI) | 5              | 16          | 14             | 4           | 40         | 25          | 2          | 37            | 42          | 50          |

Source: Internal Revenue Service, Statistics of Income Bulletin, Table 2.—Individual Income and Tax Data by State and Size of Adjusted Gross Income, Tax Year 2007

Table 1: Federal Income Tax Comparisons for the 2007 Tax Year

| Line | Money amounts, except for averages, are in thousands.  | Delaware   | Florida     | Hawaii     | Idaho      | Illinois    | Indiana     | Iowa       | Kansas     | Kentucky   | Louisiana  |
|------|--|------------|-------------|------------|------------|-------------|-------------|------------|------------|------------|------------|
| 1    | Number of Federal Returns  | 454,863    | 9,688,136   | 694,035    | 722,486    | 6,559,358   | 3,243,323   | 1,538,656  | 1,401,460  | 2,137,383  | 2,146,273  |
| 2    | Federal Adjusted Gross Income  | 25,625,753 | 530,485,450 | 35,510,051 | 33,553,278 | 392,664,916 | 150,941,776 | 71,960,985 | 72,231,184 | 88,680,887 | 92,468,118 |
| 3    | Average Adjusted Gross Income  | 56,337     | 54,754      | 51,165     | 46,441     | 59,863      | 46,539      | 46,769     | 51,540     | 41,490     | 43,083     |
| 4    | Total Federal Taxable Income   | 17,781,066 | 380,385,754 | 23,826,277 | 22,083,050 | 281,930,932 | 101,657,576 | 48,695,674 | 49,764,181 | 58,136,384 | 62,463,714 |
| 5    | Average Federal Taxable Income   | 39,091     | 39,263      | 34,330     | 30,565     | 42,981      | 31,344      | 31,648     | 35,509     | 27,200     | 29,103     |
| 6    | Itemized Deductions  | 3,970,821  | 80,376,964  | 5,977,838  | 5,602,205  | 56,848,672  | 18,995,143  | 9,166,712  | 9,478,937  | 12,031,411 | 10,412,065 |
| 7    | Returns with Itemized Deductions   | 162,929    | 3,048,265   | 223,425    | 241,905    | 2,252,152   | 937,291     | 459,937    | 421,669    | 589,798    | 466,441    |
| 8    | Average Deduction per Return   | 24,371     | 26,368      | 26,755     | 23,159     | 25,242      | 20,266      | 19,930     | 22,480     | 20,399     | 22,322     |
| 9    | State & Local Income Taxes Deduction   | 858,586    | 2,613,573   | 1,250,512  | 1,215,034  | 8,421,266   | 4,045,669   | 2,148,628  | 2,297,612  | 3,177,943  | 1,861,348  |
| 10   | State & Local Income Taxes Number  | 153,772    | 282,567     | 193,780    | 197,525    | 1,843,660   | 894,473     | 408,172    | 353,114    | 525,127    | 389,392    |
| 11   | Average Income Taxes per Return  | 5,584      | 9,249       | 6,453      | 6,151      | 4,568       | 4,523       | 5,264      | 6,507      | 6,052      | 4,780      |
| 12   | Federal Taxes Paid   | 3,242,578  | 75,266,514  | 4,245,346  | 3,858,047  | 56,561,274  | 17,930,865  | 8,380,494  | 9,153,877  | 10,099,412 | 11,361,472 |
| 13   | Average Federal Taxes Paid   | 7,129      | 7,769       | 6,117      | 5,340      | 8,623       | 5,529       | 5,447      | 6,532      | 4,725      | 5,294      |
|      | Distribution of Returns by AGI   |            |             |            |            |             |             |            |            |            |            |
| 14   | Number under \$50,000  | 294,155    | 6,984,516   | 465,805    | 511,484    | 4,304,768   | 2,245,046   | 1,048,094  | 945,209    | 1,569,327  | 1,581,179  |
| 15   | Number \$50,000 to \$75,000  | 61,828     | 1,104,848   | 94,577     | 97,541     | 865,783     | 438,188     | 221,094    | 189,021    | 258,336    | 238,333    |
| 16   | Number \$75,000 to \$100,000   | 39,893     | 626,919     | 57,440     | 52,079     | 538,757     | 262,090     | 130,917    | 115,590    | 145,743    | 141,554    |
| 17   | Number \$100,000 to \$200,000  | 46,578     | 695,049     | 60,830     | 46,890     | 632,996     | 239,270     | 110,557    | 117,929    | 128,880    | 145,191    |
| 18   | Number \$200,000 and over  | 12,409     | 276,804     | 15,383     | 14,492     | 217,054     | 58,729      | 27,994     | 33,711     | 35,097     | 40,016     |
| 19   | Total Returns  | 454,863    | 9,688,136   | 694,035    | 722,486    | 6,559,358   | 3,243,323   | 1,538,656  | 1,401,460  | 2,137,383  | 2,146,273  |
|      | % Distribution of Returns by AGI   |            |             |            |            |             |             |            |            |            |            |
| 20   | % under \$50,000   | 64.7%      | 72.1%       | 67.1%      | 70.8%      | 65.6%       | 69.2%       | 68.1%      | 67.4%      | 73.4%      | 73.7%      |
| 21   | % \$50,000 to \$75,000   | 13.6%      | 11.4%       | 13.6%      | 13.5%      | 13.2%       | 13.5%       | 14.4%      | 13.5%      | 12.1%      | 11.1%      |
| 22   | % \$75,000 to \$100,000  | 8.8%       | 6.5%        | 8.3%       | 7.2%       | 8.2%        | 8.1%        | 8.5%       | 8.2%       | 6.8%       | 6.6%       |
| 23   | % \$100,000 to \$200,000   | 10.2%      | 7.2%        | 8.8%       | 6.5%       | 9.7%        | 7.4%        | 7.2%       | 8.4%       | 6.0%       | 6.8%       |
| 24   | % \$200,000 and over   | 2.7%       | 2.9%        | 2.2%       | 2.0%       | 3.3%        | 1.8%        | 1.8%       | 2.4%       | 1.6%       | 1.9%       |
|      | Rank (1 is poorest State with the highest percentage of taxpayers in the lowest income group, defined as under \$50,000 AGI) | 39         | 12          | 33         | 17         | 38          | 21          | 27         | 31         | 8          | 6          |

Source: Internal Revenue Service, Statistics of Income Bulletin, Table 2.--Individual Income and Tax Data by State and Size of Adjusted Gross Income, Tax Year 2007

Table 1: Federal Income Tax Comparisons for the 2007 Tax Year

| Line | Money amounts, except for averages, are in thousands.  | Maine      | Maryland    | Massachusetts | Michigan    | Minnesota   | Mississippi | Missouri    | Montana    | Nebraska   | Nevada     |
|------|--|------------|-------------|---------------|-------------|-------------|-------------|-------------|------------|------------|------------|
| 1    | Number of Federal Returns  | 729,634    | 2,942,776   | 3,461,517     | 5,022,234   | 2,734,017   | 1,440,588   | 3,010,549   | 513,585    | 918,101    | 1,347,663  |
| 2    | Federal Adjusted Gross Income  | 31,232,495 | 194,552,399 | 243,829,482   | 246,804,525 | 156,772,069 | 52,429,398  | 141,954,921 | 22,343,926 | 44,820,008 | 80,656,994 |
| 3    | Average Adjusted Gross Income  | 42,806     | 66,112      | 70,440        | 49,142      | 57,341      | 36,394      | 47,153      | 43,506     | 48,818     | 59,850     |
| 4    | Total Federal Taxable Income   | 20,614,123 | 132,261,283 | 180,789,340   | 167,070,157 | 108,178,393 | 32,900,820  | 96,095,688  | 14,950,750 | 30,663,568 | 56,251,209 |
| 5    | Average Federal Taxable Income   | 28,253     | 44,944      | 52,228        | 33,266      | 39,568      | 22,838      | 31,920      | 29,111     | 33,399     | 41,740     |
| 6    | Itemized Deductions  | 4,629,540  | 40,719,961  | 37,955,401    | 37,547,159  | 26,405,283  | 7,055,523   | 20,163,472  | 3,255,954  | 6,115,391  | 14,944,542 |
| 7    | Returns with Itemized Deductions   | 210,517    | 1,401,307   | 1,344,666     | 1,724,632   | 1,086,583   | 317,951     | 902,874     | 153,254    | 272,135    | 481,352    |
| 8    | Average Deduction per Return   | 21,991     | 29,059      | 28,227        | 21,771      | 24,301      | 22,191      | 22,333      | 21,245     | 22,472     | 31,047     |
| 9    | State & Local Income Taxes Deduction   | 1,179,047  | 10,657,660  | 9,850,245     | 6,285,799   | 6,578,727   | 1,131,816   | 4,547,569   | 703,127    | 1,349,432  | 426,737    |
| 10   | State & Local Income Taxes Number  | 192,208    | 1,323,295   | 1,268,759     | 1,483,060   | 999,173     | 243,068     | 808,486     | 140,761    | 237,469    | 47,874     |
| 11   | Average Income Taxes per Return  | 6,134      | 8,054       | 7,764         | 4,238       | 6,584       | 4,656       | 5,625       | 4,995      | 5,683      | 8,914      |
| 12   | Federal Taxes Paid   | 3,536,111  | 26,303,813  | 37,709,755    | 29,927,343  | 20,271,626  | 5,664,221   | 17,435,193  | 2,601,112  | 5,448,164  | 11,032,671 |
| 13   | Average Federal Taxes Paid   | 4,846      | 8,938       | 10,894        | 5,959       | 7,415       | 3,932       | 5,791       | 5,065      | 5,934      | 8,187      |
|      | Distribution of Returns by AGI   |            |             |               |             |             |             |             |            |            |            |
| 14   | Number under \$50,000  | 525,681    | 1,771,625   | 2,139,162     | 3,396,550   | 1,736,631   | 1,124,837   | 2,126,152   | 371,571    | 631,285    | 911,497    |
| 15   | Number \$50,000 to \$75,000  | 94,398     | 405,512     | 459,125       | 659,993     | 392,618     | 144,507     | 382,472     | 65,377     | 126,504    | 184,934    |
| 16   | Number \$75,000 to \$100,000   | 51,817     | 266,603     | 297,322       | 416,652     | 253,495     | 79,252      | 223,293     | 36,049     | 74,764     | 105,135    |
| 17   | Number \$100,000 to \$200,000  | 44,890     | 379,578     | 409,302       | 441,056     | 269,627     | 72,523      | 217,433     | 30,836     | 67,153     | 110,338    |
| 18   | Number \$200,000 and over  | 12,848     | 119,458     | 156,606       | 107,983     | 81,646      | 19,469      | 61,199      | 9,752      | 18,395     | 35,759     |
| 19   | Total Returns  | 729,634    | 2,942,776   | 3,461,517     | 5,022,234   | 2,734,017   | 1,440,588   | 3,010,549   | 513,585    | 918,101    | 1,347,663  |
|      | % Distribution of Returns by AGI   |            |             |               |             |             |             |             |            |            |            |
| 20   | % under \$50,000   | 72.0%      | 60.2%       | 61.8%         | 67.6%       | 63.5%       | 78.1%       | 70.6%       | 72.3%      | 68.8%      | 67.6%      |
| 21   | % \$50,000 to \$75,000   | 12.9%      | 13.8%       | 13.3%         | 13.1%       | 14.4%       | 10.0%       | 12.7%       | 12.7%      | 13.8%      | 13.7%      |
| 22   | % \$75,000 to \$100,000  | 7.1%       | 9.1%        | 8.6%          | 8.3%        | 9.3%        | 5.5%        | 7.4%        | 7.0%       | 8.1%       | 7.8%       |
| 23   | % \$100,000 to \$200,000   | 6.2%       | 12.9%       | 11.8%         | 8.8%        | 9.9%        | 5.0%        | 7.2%        | 6.0%       | 7.3%       | 8.2%       |
| 24   | % \$200,000 and over   | 1.8%       | 4.1%        | 4.5%          | 2.2%        | 3.0%        | 1.4%        | 2.0%        | 1.9%       | 2.0%       | 2.7%       |
|      | Rank (1 is poorest State with the highest percentage of taxpayers in the lowest income group, defined as under \$50,000 AGI) | 13         | 49          | 47            | 30          | 41          | 1           | 19          | 11         | 24         | 29         |

Source: Internal Revenue Service, Statistics of Income Bulletin, Table 2.—Individual Income and Tax Data by State and Size of Adjusted Gross Income, Tax Year 2007

Table 1: Federal Income Tax Comparisons for the 2007 Tax Year

| Line | Money amounts, except for averages, are in thousands.  | New Hampshire | New Jersey  | New Mexico | New York    | North Dakota | Ohio        | Oklahoma   | Oregon     | Pennsylvania | Rhode Island |
|------|--|---------------|-------------|------------|-------------|--------------|-------------|------------|------------|--------------|--------------|
| 1    | Number of Federal Returns  | 723,686       | 4,576,940   | 980,234    | 9,919,336   | 343,631      | 6,119,067   | 1,772,353  | 1,911,229  | 6,697,189    | 568,249      |
| 2    | Federal Adjusted Gross Income  | 42,846,123    | 329,024,354 | 42,803,279 | 676,036,186 | 15,748,754   | 282,438,548 | 82,316,851 | 96,393,038 | 346,909,184  | 29,957,771   |
| 3    | Average Adjusted Gross Income  | 59,205        | 71,887      | 43,666     | 68,153      | 45,830       | 46,157      | 46,445     | 50,435     | 51,799       | 52,719       |
| 4    | Total Federal Taxable Income   | 30,984,579    | 235,491,187 | 28,546,516 | 490,845,806 | 11,066,229   | 190,444,465 | 56,094,098 | 63,087,359 | 243,871,936  | 20,608,001   |
| 5    | Average Federal Taxable Income   | 42,815        | 51,452      | 29,122     | 49,484      | 32,204       | 31,123      | 31,650     | 33,009     | 36,414       | 36,266       |
| 6    | Itemized Deductions  | 5,820,162     | 60,974,956  | 5,423,240  | 115,144,959 | 1,357,472    | 39,853,268  | 10,578,158 | 18,549,125 | 46,062,135   | 4,851,672    |
| 7    | Returns with Itemized Deductions   | 254,085       | 1,958,672   | 249,766    | 3,525,871   | 66,099       | 1,933,424   | 477,378    | 732,830    | 2,008,065    | 198,964      |
| 8    | Average Deduction per Return   | 22,906        | 31,131      | 21,713     | 32,657      | 20,537       | 20,613      | 22,159     | 25,312     | 22,939       | 24,385       |
| 9    | State & Local Income Taxes Deduction   | 455,289       | 14,747,099  | 935,622    | 40,285,929  | 205,187      | 10,688,838  | 2,221,296  | 4,732,608  | 10,253,287   | 1,084,476    |
| 10   | State & Local Income Taxes Number  | 106,579       | 1,630,296   | 207,393    | 3,111,394   | 50,319       | 1,784,312   | 402,800    | 681,887    | 1,820,596    | 181,584      |
| 11   | Average Income Taxes per Return  | 4,272         | 9,046       | 4,511      | 12,948      | 4,078        | 5,990       | 5,515      | 6,940      | 5,632        | 5,972        |
| 12   | Federal Taxes Paid   | 5,855,336     | 50,581,579  | 5,036,588  | 109,177,862 | 1,960,340    | 34,015,291  | 10,479,578 | 11,459,054 | 45,925,809   | 3,863,438    |
| 13   | Average Federal Taxes Paid   | 8,091         | 11,051      | 5,138      | 11,007      | 5,705        | 5,559       | 5,913      | 5,996      | 6,857        | 6,799        |
|      | Distribution of Returns by AGI   |               |             |            |             |              |             |            |            |              |              |
| 14   | Number under \$50,000  | 454,028       | 2,756,818   | 719,183    | 6,652,605   | 237,837      | 4,321,727   | 1,286,536  | 1,301,560  | 4,566,809    | 383,036      |
| 15   | Number \$50,000 to \$75,000  | 100,211       | 588,533     | 112,179    | 1,227,095   | 48,212       | 806,942     | 216,674    | 255,191    | 875,450      | 72,367       |
| 16   | Number \$75,000 to \$100,000   | 67,204        | 401,407     | 63,897     | 742,000     | 28,859       | 459,079     | 120,967    | 149,748    | 527,009      | 45,146       |
| 17   | Number \$100,000 to \$200,000  | 79,485        | 597,347     | 66,476     | 922,371     | 22,426       | 415,240     | 113,281    | 157,212    | 554,769      | 52,963       |
| 18   | Number \$200,000 and over  | 22,757        | 232,835     | 18,499     | 375,265     | 6,297        | 116,079     | 34,895     | 47,518     | 173,152      | 14,737       |
| 19   | Total Returns  | 723,686       | 4,576,940   | 980,234    | 9,919,336   | 343,631      | 6,119,067   | 1,772,353  | 1,911,229  | 6,697,189    | 568,249      |
|      | % Distribution of Returns by AGI   |               |             |            |             |              |             |            |            |              |              |
| 20   | % under \$50,000   | 62.7%         | 60.2%       | 73.4%      | 67.1%       | 69.2%        | 70.6%       | 72.6%      | 68.1%      | 68.2%        | 67.4%        |
| 21   | % \$50,000 to \$75,000   | 13.8%         | 12.9%       | 11.4%      | 12.4%       | 14.0%        | 13.2%       | 12.2%      | 13.4%      | 13.1%        | 12.7%        |
| 22   | % \$75,000 to \$100,000  | 9.3%          | 8.8%        | 6.5%       | 7.5%        | 8.4%         | 7.5%        | 6.8%       | 7.8%       | 7.9%         | 7.9%         |
| 23   | % \$100,000 to \$200,000   | 11.0%         | 13.1%       | 6.8%       | 9.3%        | 6.5%         | 6.8%        | 6.4%       | 8.2%       | 8.3%         | 9.3%         |
| 24   | % \$200,000 and over   | 3.1%          | 5.1%        | 1.9%       | 3.8%        | 1.8%         | 1.9%        | 2.0%       | 2.5%       | 2.6%         | 2.6%         |
|      | Rank (1 is poorest State with the highest percentage of taxpayers in the lowest income group, defined as under \$50,000 AGI) | 46            | 48          | 9          | 34          | 22           | 18          | 10         | 28         | 26           | 32           |

Source: Internal Revenue Service, Statistics of Income Bulletin, Table 2 - Individual Income and Tax Data by State and Size of Adjusted Gross Income, Tax Year 2007

Table 1: Federal Income Tax Comparisons for the 2007 Tax Year

| Line | Money amounts, except for averages, are in thousands.  | South Dakota | Tennessee   | Texas       | Utah       | Vermont    | Virginia    | Washington  | West Virginia | Wisconsin   | Wyoming    |
|------|--|--------------|-------------|-------------|------------|------------|-------------|-------------|---------------|-------------|------------|
| 1    | Number of Federal Returns  | 417,180      | 3,161,852   | 11,278,559  | 1,189,776  | 344,889    | 4,016,297   | 3,371,086   | 926,428       | 2,957,858   | 284,489    |
| 2    | Federal Adjusted Gross Income  | 19,186,319   | 143,315,079 | 606,392,582 | 63,718,881 | 16,858,991 | 246,080,302 | 206,825,480 | 34,353,216    | 149,072,266 | 18,951,175 |
| 3    | Average Adjusted Gross Income  | 45,991       | 45,326      | 53,765      | 53,555     | 48,882     | 61,270      | 61,353      | 37,081        | 50,399      | 66,615     |
| 4    | Total Federal Taxable Income   | 13,610,526   | 98,295,412  | 434,046,046 | 40,803,964 | 11,671,009 | 170,469,093 | 149,255,768 | 22,426,348    | 101,315,280 | 14,555,774 |
| 5    | Average Federal Taxable Income   | 32,625       | 31,088      | 38,484      | 34,296     | 33,840     | 42,444      | 44,275      | 24,207        | 34,253      | 51,165     |
| 6    | Itemized Deductions  | 1,690,694    | 16,523,670  | 63,574,795  | 12,111,633 | 2,258,813  | 43,318,766  | 29,800,218  | 3,152,101     | 23,062,585  | 1,835,885  |
| 7    | Returns with Itemized Deductions   | 80,338       | 759,615     | 2,772,144   | 470,147    | 102,157    | 1,572,831   | 1,196,029   | 151,843       | 1,072,360   | 68,228     |
| 8    | Average Deduction per Return   | 21,045       | 21,753      | 22,933      | 25,761     | 22,111     | 27,542      | 24,916      | 20,759        | 21,506      | 26,908     |
| 9    | State & Local Income Taxes Deduction   | 59,780       | 452,390     | 1,153,925   | 2,307,949  | 517,127    | 8,886,396   | 699,613     | 835,037       | 5,847,740   | 109,875    |
| 10   | State & Local Income Taxes Number  | 8,705        | 89,282      | 235,935     | 415,210    | 92,602     | 1,445,849   | 129,205     | 141,312       | 983,917     | 8,333      |
| 11   | Average Income Taxes per Return  | 6,867        | 5,067       | 4,891       | 5,559      | 5,584      | 6,146       | 5,415       | 5,909         | 5,884       | 13,186     |
| 12   | Federal Taxes Paid   | 2,533,931    | 18,575,597  | 86,612,253  | 7,169,381  | 2,047,103  | 32,974,612  | 28,484,850  | 3,765,486     | 17,946,150  | 2,867,921  |
| 13   | Average Federal Taxes Paid   | 6,074        | 5,875       | 7,679       | 6,026      | 5,936      | 8,210       | 8,450       | 4,065         | 6,067       | 10,081     |
|      | Distribution of Returns by AGI   |              |             |             |            |            |             |             |               |             |            |
| 14   | Number under \$50,000  | 296,444      | 2,324,974   | 7,945,956   | 789,273    | 238,166    | 2,519,916   | 2,116,096   | 694,486       | 1,961,720   | 179,540    |
| 15   | Number \$50,000 to \$75,000  | 56,902       | 370,589     | 1,296,236   | 174,407    | 45,622     | 529,835     | 478,353     | 113,211       | 423,716     | 43,023     |
| 16   | Number \$75,000 to \$100,000   | 30,908       | 203,253     | 780,093     | 101,006    | 27,241     | 345,386     | 308,809     | 60,088        | 268,017     | 28,019     |
| 17   | Number \$100,000 to \$200,000  | 24,596       | 197,467     | 931,193     | 96,015     | 25,966     | 465,865     | 356,570     | 47,739        | 242,891     | 25,996     |
| 18   | Number \$200,000 and over  | 8,330        | 65,569      | 325,081     | 29,075     | 7,894      | 155,295     | 111,258     | 10,904        | 61,514      | 7,911      |
| 19   | Total Returns  | 417,180      | 3,161,852   | 11,278,559  | 1,189,776  | 344,889    | 4,016,297   | 3,371,086   | 926,428       | 2,957,858   | 284,489    |
|      | % Distribution of Returns by AGI   |              |             |             |            |            |             |             |               |             |            |
| 20   | % under \$50,000   | 71.1%        | 73.5%       | 70.5%       | 66.3%      | 69.1%      | 62.7%       | 62.8%       | 75.0%         | 66.3%       | 63.1%      |
| 21   | % \$50,000 to \$75,000   | 13.6%        | 11.7%       | 11.5%       | 14.7%      | 13.2%      | 13.2%       | 14.2%       | 12.2%         | 14.3%       | 15.1%      |
| 22   | % \$75,000 to \$100,000  | 7.4%         | 6.4%        | 6.9%        | 8.5%       | 7.9%       | 8.6%        | 9.2%        | 6.5%          | 9.1%        | 9.8%       |
| 23   | % \$100,000 to \$200,000   | 5.9%         | 6.2%        | 8.3%        | 8.1%       | 7.5%       | 11.6%       | 10.6%       | 5.2%          | 8.2%        | 9.1%       |
| 24   | % \$200,000 and over   | 2.0%         | 2.1%        | 2.9%        | 2.4%       | 2.3%       | 3.9%        | 3.3%        | 1.2%          | 2.1%        | 2.8%       |
|      | Rank (1 is poorest State with the highest percentage of taxpayers in the lowest income group, defined as under \$50,000 AGI) | 15           | 7           | 20          | 35         | 23         | 45          | 44          | 3             | 36          | 43         |

Source: Internal Revenue Service, Statistics of Income Bulletin, Table 2.—Individual Income and Tax Data by State and Size of Adjusted Gross Income, Tax Year 2007

Table 2: State Income Tax as a Percentage of Federal Adjusted Gross Income for 2007 and Tax Year 2009 Deductions and Tax Brackets

| Line | Money amounts, except for averages, are in thousands.   | South Carolina         | Georgia       | North Carolina                                       | Alabama           | Alaska | Arizona                                 | Arkansas                   | California    | Colorado               | Connecticut          |
|------|---|------------------------|---------------|--|-------------------|--------|---|----------------------------|---------------|------------------------|----------------------|
| 1    | State Tax Base  | Federal Taxable Income | Federal AGI   | Federal Taxable Income                               | State Defined AGI | NA     | Federal AGI                             | State Defined AGI          | Federal AGI   | Federal Taxable Income | Federal AGI          |
| 2    | State Income Tax Collections (from State and Local Government Finances, U.S. Census Bureau, FY 05-06) | 2,727,251              | 8,040,366     | 9,467,278  | 2,876,442         | NA     | 3,253,279                               | 2,012,835                  | 51,219,823    | 4,258,944              | 5,777,636            |
| 3    | Average State Income Tax Per Return (number of federal returns per SGI data)                          | \$1,209                | \$1,763       | \$2,057  | \$1,222           | NA     | \$1,122                                 | \$1,445                    | \$2,910       | \$1,735                | \$3,093              |
| 4    | Rank (1 is highest tax per return)  | 36                     | 20            | 13   | 35                | NA     | 39                                      | 31                         | 5             | 21                     | 3                    |
| 5    | State Income Tax as a % of Fed AGI  | 2.8%                   | 3.5%          | 4.3%   | 2.8%              | NA     | 2.1%                                    | 3.7%                       | 4.6%          | 2.8%                   | 3.6%                 |
| 6    | Rank (1 is highest tax as % of AGI)   | 34                     | 21            | 10   | 33                | NA     | 40                                      | 16                         | 5             | 32                     | 17                   |
| 7    | Local Income Tax  | No                     | No            | No   | Yes               | No     | No                                      | Yes                        | No            | No                     | No                   |
| 8    | TAX YEAR 2009 COMPARISONS   |                        |               |  |                   |        |   |                            |               |                        |                      |
| 9    | Capital Gains Treatment   |                        | Fully Taxable | Fully Taxable  | Fully Taxable     |        | Fully Taxable                           | Deduction                  | Fully Taxable | Fully Taxable          | Fully Taxable        |
| 10   | State Tax on \$1,000,000 of Capital Gains (at the highest marginal rate)                              | \$39,200               | 60,000        | 77,500   | 50,000            |        | 45,400                                  | 49,000                     | 115,500       | 46,300                 | 50,000               |
| 11   | Pension Income  | Exclude                | Maximum       | \$2,000 ded. for private benefits, \$4,000 otherwise |                   |        | \$2,500 ded. for public pensions exempt | exclusion for all pensions | No deduction  | \$24,000 ded. 55 to 64 | Taxable same as fed. |
| 12   | Social Security Benefits  | \$15,000 < age 65      | \$35,000      | Exempt   | Exempt            |        |   | Exempt                     | Exempt        | Included above         | Exempt               |
| 13   | Disability Income   | Exempt                 | same as fed.  | same as fed.   | same as fed.      |        | same as fed.                            | same as fed.               | same as fed.  | same as fed.           | same as fed.         |
| 14   | Standard Deductions   |                        |               |  |                   |        |   |                            |               |                        |                      |
| 15   | Single  | 5,700                  | 2,300         | 3,000  | Max \$2,500       |        | 4,521                                   | 2,000                      | 3,692         | 5,700                  | 13,000               |
| 16   | Married Filing Single   | 5,700                  | 1,500         | 3,000  | Max \$3,750       |        | 4,521                                   | 2,000                      | 3,692         | 5,700                  | 12,000               |
| 17   | Married Filing Jointly  | 11,400                 | 3,000         | 6,000  | Max \$7,500       |        | 9,042                                   | 4,000                      | 7,384         | 11,400                 | 24,000               |
| 18   | Head of Household   | 8,350                  | 2,300         | 4,400  | Max \$4,700       |        | 9,042                                   | 2,000                      | 7,384         | 8,350                  | 19,000               |
| 19   | Personal Exemptions   |                        |               |  |                   |        |   |                            |               |                        |                      |
| 20   | Per Person  | 3,650                  | 2,700         | \$2,500 / \$2,000                                    | 1,500             |        | 2,300                                   | \$23 credit                | \$99 credit   | 3,650                  | See note             |
| 21   | Married Filing Jointly  |                        | 3,000         |  | 3,000             |        | 2,300                                   |                            | \$309 credit  |                        |                      |
| 22   | Dependent   |                        | 3,000         | \$100 credit   | 300 / 1,000       |        | 2,300                                   |                            |               |                        |                      |
| 23   | Tax Brackets  |                        |               |  |                   |        |   |                            |               |                        |                      |
| 24   | Single  | 1% > 0                 | 1% > 0        | 1% > 0   | 1% > 0            |        | Single                                  | 1% > 0                     | Single        | 1.25% > 0              | Single               |
| 25   | 2% > 0  | 2% > 0                 | 2% > 0        | 2% > 0   | 2% > 0            |        | 2.25% > 0                               | 2.25% > 0                  | 2.25% > 0     | 2.25% > 0              | 2.25% > 0            |
| 26   | 3% > 0  | 3% > 0                 | 3% > 0        | 3% > 0   | 3% > 0            |        | 2.88% > 0                               | 2.88% > 0                  | 2.88% > 0     | 2.88% > 0              | 2.88% > 0            |
| 27   | 4% > 0  | 4% > 0                 | 4% > 0        | 4% > 0   | 4% > 0            |        | 3.36% > 0                               | 3.36% > 0                  | 3.36% > 0     | 3.36% > 0              | 3.36% > 0            |
| 28   | 5% > 0  | 5% > 0                 | 5% > 0        | 5% > 0   | 5% > 0            |        | 4.24% > 0                               | 4.24% > 0                  | 4.24% > 0     | 4.24% > 0              | 4.24% > 0            |
| 29   | 6% > 0  | 6% > 0                 | 6% > 0        | 6% > 0   | 6% > 0            |        | 4.54% > 0                               | 4.54% > 0                  | 4.54% > 0     | 4.54% > 0              | 4.54% > 0            |
| 30   | 7% > 0  | 7% > 0                 | 7% > 0        | 7% > 0   | 7% > 0            |        | 4.54% > 0                               | 4.54% > 0                  | 4.54% > 0     | 4.54% > 0              | 4.54% > 0            |
| 31   | 8% > 0  | 8% > 0                 | 8% > 0        | 8% > 0   | 8% > 0            |        | 4.54% > 0                               | 4.54% > 0                  | 4.54% > 0     | 4.54% > 0              | 4.54% > 0            |
| 32   | 9% > 0  | 9% > 0                 | 9% > 0        | 9% > 0   | 9% > 0            |        | 4.54% > 0                               | 4.54% > 0                  | 4.54% > 0     | 4.54% > 0              | 4.54% > 0            |
| 33   | 10% > 0   | 10% > 0                | 10% > 0       | 10% > 0  | 10% > 0           |        | 4.54% > 0                               | 4.54% > 0                  | 4.54% > 0     | 4.54% > 0              | 4.54% > 0            |
| 34   | 11% > 0   | 11% > 0                | 11% > 0       | 11% > 0  | 11% > 0           |        | 4.54% > 0                               | 4.54% > 0                  | 4.54% > 0     | 4.54% > 0              | 4.54% > 0            |
| 35   | 12% > 0   | 12% > 0                | 12% > 0       | 12% > 0  | 12% > 0           |        | 4.54% > 0                               | 4.54% > 0                  | 4.54% > 0     | 4.54% > 0              | 4.54% > 0            |
| 36   | 13% > 0   | 13% > 0                | 13% > 0       | 13% > 0  | 13% > 0           |        | 4.54% > 0                               | 4.54% > 0                  | 4.54% > 0     | 4.54% > 0              | 4.54% > 0            |
| 37   | 14% > 0   | 14% > 0                | 14% > 0       | 14% > 0  | 14% > 0           |        | 4.54% > 0                               | 4.54% > 0                  | 4.54% > 0     | 4.54% > 0              | 4.54% > 0            |
| 38   | 15% > 0   | 15% > 0                | 15% > 0       | 15% > 0  | 15% > 0           |        | 4.54% > 0                               | 4.54% > 0                  | 4.54% > 0     | 4.54% > 0              | 4.54% > 0            |
| 39   | 16% > 0   | 16% > 0                | 16% > 0       | 16% > 0  | 16% > 0           |        | 4.54% > 0                               | 4.54% > 0                  | 4.54% > 0     | 4.54% > 0              | 4.54% > 0            |
| 40   | 17% > 0   | 17% > 0                | 17% > 0       | 17% > 0  | 17% > 0           |        | 4.54% > 0                               | 4.54% > 0                  | 4.54% > 0     | 4.54% > 0              | 4.54% > 0            |
| 41   | 18% > 0   | 18% > 0                | 18% > 0       | 18% > 0  | 18% > 0           |        | 4.54% > 0                               | 4.54% > 0                  | 4.54% > 0     | 4.54% > 0              | 4.54% > 0            |
| 42   | 19% > 0   | 19% > 0                | 19% > 0       | 19% > 0  | 19% > 0           |        | 4.54% > 0                               | 4.54% > 0                  | 4.54% > 0     | 4.54% > 0              | 4.54% > 0            |
| 43   | 20% > 0   | 20% > 0                | 20% > 0       | 20% > 0  | 20% > 0           |        | 4.54% > 0                               | 4.54% > 0                  | 4.54% > 0     | 4.54% > 0              | 4.54% > 0            |
| 44   | 21% > 0   | 21% > 0                | 21% > 0       | 21% > 0  | 21% > 0           |        | 4.54% > 0                               | 4.54% > 0                  | 4.54% > 0     | 4.54% > 0              | 4.54% > 0            |
| 45   | 22% > 0   | 22% > 0                | 22% > 0       | 22% > 0  | 22% > 0           |        | 4.54% > 0                               | 4.54% > 0                  | 4.54% > 0     | 4.54% > 0              | 4.54% > 0            |
| 46   | 23% > 0   | 23% > 0                | 23% > 0       | 23% > 0  | 23% > 0           |        | 4.54% > 0                               | 4.54% > 0                  | 4.54% > 0     | 4.54% > 0              | 4.54% > 0            |
| 47   | 24% > 0   | 24% > 0                | 24% > 0       | 24% > 0  | 24% > 0           |        | 4.54% > 0                               | 4.54% > 0                  | 4.54% > 0     | 4.54% > 0              | 4.54% > 0            |
| 48   | 25% > 0   | 25% > 0                | 25% > 0       | 25% > 0  | 25% > 0           |        | 4.54% > 0                               | 4.54% > 0                  | 4.54% > 0     | 4.54% > 0              | 4.54% > 0            |
| 49   | 26% > 0   | 26% > 0                | 26% > 0       | 26% > 0  | 26% > 0           |        | 4.54% > 0                               | 4.54% > 0                  | 4.54% > 0     | 4.54% > 0              | 4.54% > 0            |
| 50   | 27% > 0   | 27% > 0                | 27% > 0       | 27% > 0  | 27% > 0           |        | 4.54% > 0                               | 4.54% > 0                  | 4.54% > 0     | 4.54% > 0              | 4.54% > 0            |
| 51   | 28% > 0   | 28% > 0                | 28% > 0       | 28% > 0  | 28% > 0           |        | 4.54% > 0                               | 4.54% > 0                  | 4.54% > 0     | 4.54% > 0              | 4.54% > 0            |
| 52   | 29% > 0   | 29% > 0                | 29% > 0       | 29% > 0  | 29% > 0           |        | 4.54% > 0                               | 4.54% > 0                  | 4.54% > 0     | 4.54% > 0              | 4.54% > 0            |
| 53   | 30% > 0   | 30% > 0                | 30% > 0       | 30% > 0  | 30% > 0           |        | 4.54% > 0                               | 4.54% > 0                  | 4.54% > 0     | 4.54% > 0              | 4.54% > 0            |
| 54   | 31% > 0   | 31% > 0                | 31% > 0       | 31% > 0  | 31% > 0           |        | 4.54% > 0                               | 4.54% > 0                  | 4.54% > 0     | 4.54% > 0              | 4.54% > 0            |
| 55   | 32% > 0   | 32% > 0                | 32% > 0       | 32% > 0  | 32% > 0           |        | 4.54% > 0                               | 4.54% > 0                  | 4.54% > 0     | 4.54% > 0              | 4.54% > 0            |
| 56   | 33% > 0   | 33% > 0                | 33% > 0       | 33% > 0  | 33% > 0           |        | 4.54% > 0                               | 4.54% > 0                  | 4.54% > 0     | 4.54% > 0              | 4.54% > 0            |
| 57   | 34% > 0   | 34% > 0                | 34% > 0       | 34% > 0  | 34% > 0           |        | 4.54% > 0                               | 4.54% > 0                  | 4.54% > 0     | 4.54% > 0              | 4.54% > 0            |
| 58   | 35% > 0   | 35% > 0                | 35% > 0       | 35% > 0  | 35% > 0           |        | 4.54% > 0                               | 4.54% > 0                  | 4.54% > 0     | 4.54% > 0              | 4.54% > 0            |
| 59   | 36% > 0   | 36% > 0                | 36% > 0       | 36% > 0  | 36% > 0           |        | 4.54% > 0                               | 4.54% > 0                  | 4.54% > 0     | 4.54% > 0              | 4.54% > 0            |
| 60   | 37% > 0   | 37% > 0                | 37% > 0       | 37% > 0  | 37% > 0           |        | 4.54% > 0                               | 4.54% > 0                  | 4.54% > 0     | 4.54% > 0              | 4.54% > 0            |
| 61   | 38% > 0   | 38% > 0                | 38% > 0       | 38% > 0  | 38% > 0           |        | 4.54% > 0                               | 4.54% > 0                  | 4.54% > 0     | 4.54% > 0              | 4.54% > 0            |
| 62   | 39% > 0   | 39% > 0                | 39% > 0       | 39% > 0  | 39% > 0           |        | 4.54% > 0                               | 4.54% > 0                  | 4.54% > 0     | 4.54% > 0              | 4.54% > 0            |
| 63   | 40% > 0   | 40% > 0                | 40% > 0       | 40% > 0  | 40% > 0           |        | 4.54% > 0                               | 4.54% > 0                  | 4.54% > 0     | 4.54% > 0              | 4.54% > 0            |
| 64   | 41% > 0   | 41% > 0                | 41% > 0       | 41% > 0  | 41% > 0           |        | 4.54% > 0                               | 4.54% > 0                  | 4.54% > 0     | 4.54% > 0              | 4.54% > 0            |
| 65   | 42% > 0   | 42% > 0                | 42% > 0       | 42% > 0  | 42% > 0           |        | 4.54% > 0                               | 4.54% > 0                  | 4.54% > 0     | 4.54% > 0              | 4.54% > 0            |
| 66   | 43% > 0   | 43% > 0                | 43% > 0       | 43% > 0  | 43% > 0           |        | 4.54% > 0                               | 4.54% > 0                  | 4.54% > 0     | 4.54% > 0              | 4.54% > 0            |
| 67   | 44% > 0   | 44% > 0                | 44% > 0       | 44% > 0  | 44% > 0           |        | 4.54% > 0                               | 4.54% > 0                  | 4.54% > 0     | 4.54% > 0              | 4.54% > 0            |
| 68   | 45% > 0   | 45% > 0                | 45% > 0       | 45% > 0  | 45% > 0           |        | 4.54% > 0                               | 4.54% > 0                  | 4.54% > 0     | 4.54% > 0              | 4.54% > 0            |
| 69   | 46% > 0   | 46% > 0                | 46% > 0       | 46% > 0  | 46% > 0           |        | 4.54% > 0                               | 4.54% > 0                  | 4.54% > 0     | 4.54% > 0              | 4.54% > 0            |
| 70   | 47% > 0   | 47% > 0                | 47% > 0       | 47% > 0  | 47% > 0           |        | 4.54% > 0                               | 4.54% > 0                  | 4.54% > 0     | 4.54% > 0              | 4.54% > 0            |
| 71   | 48% > 0   | 48% > 0                | 48% > 0       | 48% > 0  | 48% > 0           |        | 4.54% > 0                               | 4.54% > 0                  | 4.54% > 0     | 4.54% > 0              | 4.54% > 0            |
| 72   | 49% > 0   | 49% > 0                | 49% > 0       | 49% > 0  | 49% > 0           |        | 4.54% > 0                               | 4.54% > 0                  | 4.54% > 0     | 4.54% > 0              | 4.54% > 0            |
| 73   | 50% > 0   | 50% > 0                | 50% > 0       | 50% > 0  | 50% > 0           |        | 4.54% > 0                               | 4.54% > 0                  | 4.54% > 0     | 4.54% > 0              | 4.54% > 0            |
| 74   | 51% > 0   | 51% > 0                | 51% > 0       | 51% > 0  | 51% > 0           |        | 4.54% > 0                               | 4.54% > 0                  | 4.54% > 0     | 4.54% > 0              | 4.54% > 0            |
| 75   | 52% > 0   | 52% > 0                | 52% > 0       | 52% > 0  | 52% > 0           |        | 4.54% > 0                               | 4.54% > 0                  | 4.54% > 0     | 4.54% > 0              | 4.54% > 0            |
| 76   | 53% > 0   | 53% > 0                | 53% > 0       | 53% > 0  | 53% > 0           |        | 4.54% > 0                               | 4.54% > 0                  | 4.54% > 0     | 4.54% > 0              | 4.54% > 0            |
| 77   | 54% > 0   | 54% > 0                | 54% > 0       | 54% > 0  | 54% > 0           |        | 4.54% > 0                               | 4.54% > 0                  | 4.54% > 0     | 4.54% > 0              | 4.54% > 0            |
| 78   | 55% > 0   | 55% > 0                | 55% > 0       | 55% > 0  | 55% > 0           |        | 4.54% > 0                               | 4.54% > 0                  | 4.54% > 0     | 4.54% > 0              | 4.54% > 0            |
| 79   | 56% > 0   | 56% > 0                | 56% > 0       | 56% > 0  | 56% > 0           |        | 4.54% > 0                               | 4.54% > 0                  | 4.54% > 0     | 4.54% > 0              | 4.54% > 0            |
| 80   | 57% > 0   | 57% > 0                | 57% > 0       | 57% > 0  | 57% > 0           |        | 4.54% > 0                               | 4.54% > 0                  | 4.54% > 0     | 4.54% > 0              | 4.54% > 0            |
| 81   | 58% > 0   | 58% > 0                | 58% > 0       | 58% > 0  | 58% > 0           |        | 4.54% > 0                               | 4.54% > 0                  | 4.54% > 0     | 4.54% > 0              | 4.54% > 0            |
| 82   | 59% > 0   | 59% > 0                | 59% > 0       | 59% > 0  | 59% > 0           |        | 4.54% > 0                               | 4.54% > 0                  | 4.54% > 0     | 4.54% > 0              | 4.54% > 0            |
| 83   | 60% > 0   | 60% > 0                | 60% > 0       | 60% > 0  | 60% > 0           |        | 4.54% > 0                               | 4.54% > 0                  | 4.54% > 0     | 4.54% > 0              | 4.54% > 0            |
| 84   | 61% > 0   | 61% > 0                | 61% > 0       | 61% > 0  | 61% > 0           |        | 4.54% > 0                               | 4.54% > 0                  | 4.54% > 0     | 4.54% > 0              | 4.54% > 0            |
| 85   | 62% > 0   | 62% > 0                | 62% > 0       | 62% > 0  | 62% > 0           |        | 4.54% > 0                               | 4.54% > 0                  | 4.54% > 0     | 4.54% > 0              | 4.54% > 0            |
| 86   | 63% > 0   | 63% > 0                | 63% > 0       | 63% > 0  | 63% > 0           |        | 4.54% > 0                               | 4.54% > 0                  | 4.54% > 0     | 4.54% > 0              | 4.54% > 0            |
| 87   | 64% > 0   | 64% > 0                | 64% &gt       |  |                   |        |   |                            |               |                        |                      |





Table 2: State Income Tax as a Percentage of Federal Adjusted Gross Income for 2007 and Tax Year 2009 Deductions and Tax Brackets

| Line | Money amounts, except for averages, are in thousands.   | Maine   | Maryland  | Massachusetts  | Michigan   | Minnesota  | Mississippi   | Missouri          | Montana                     | Nebraska      | Nevada |
|------|---|---|---|--|--|--|---|-------------------|-----------------------------|---------------|--------|
| 1    | State Tax Base  | Federal AGI   | Federal AGI   | Federal AGI  | Federal AGI  | Federal Taxable Income   | State Defined AGI   | Federal AGI       | Federal AGI                 | Federal AGI   | NA     |
| 2    | State Income Tax Collections (from State and Local Government Finances, U.S. Census Bureau, FY 05-06) | 1,368,927   | 9,847,319   | 10,483,437   | 6,898,913  | 6,892,953  | 1,254,733   | 4,821,082         | 768,911                     | 1,545,024     | NA     |
| 3    | Average State Income Tax Per Return (number of federal returns per SGI data)                          | \$1,876   | \$3,346   | \$3,029  | \$1,334  | \$2,510  | \$871   | \$1,601           | \$1,497                     | \$1,683       | NA     |
| 4    | Rank (1 is highest tax per return)  | 16  | 2   | 4  | 33   | 7  | 40  | 26                | 30                          | 24            | NA     |
| 5    | State Income Tax as a % of Fed AGI  | 4.4%  | 5.1%  | 4.3%   | 2.7%   | 4.4%   | 2.4%  | 3.4%              | 3.4%                        | 3.4%          | NA     |
| 6    | Rank (1 is highest tax as % of AGI)   | 7   | 3   | 11   | 35   | 8  | 38  | 26                | 24                          | 23            | NA     |
| 7    | TAX YEAR 2009 COMPARISONS   | No  | Yes   | No   | Yes  | No   | No  | Yes               | No                          | No            | No     |
| 8    | Capital Gains Treatment   | Fully Taxable   | Fully Taxable   | Fully Taxable  | \$8,828 ded.   | Fully Taxable  | In-state Gains Exempt   | Fully Taxable     | 10% Tax credit              | Fully Taxable |        |
| 9    | State Tax on \$1,000,000 of Capital Gains (at the highest marginal rate)                              | 85,000  | 62,500  | 53,000   | 43,116   | 78,500   | 50,000  | 60,000            | 63,000                      | 68,400        |        |
| 10   | Pension Income  | Exempt  | \$21,500 exclusion  | Private taxable all other exempt                           | Private and all other exempt   | Taxable  | Exempt  | \$6,000 exclusion | \$3,600 exempt if AGI<\$30K | Fully Taxable |        |
| 11   | Social Security Benefits  | Exempt  | Exempt  | Exempt   | Exempt   | Taxable  | Exempt  | same as fed.      | Exempt                      | same as fed.  |        |
| 12   | Disability Income   | same as fed.  | same as fed.  | same as fed.   | same as fed.   | same as fed.   | same as fed.  | same as fed.      | same as fed.                | same as fed.  |        |
| 13   | Standard Deductions   | 5,700   | \$1,500 to \$2,000  |  | 5,700  | 5,700  | 2,300   | 5,700             | \$1,780 to \$4,010          | 5,700         |        |
| 14   | Married Filing Single   | 4,750   | \$1,500 to \$2,000  |  | 5,700  | 5,700  | 2,300   | 5,700             | \$1,780 to \$4,010          | 5,700         |        |
| 15   | Married Filing Jointly  | 9,500   | \$3,000 to \$4,000  |  | 11,400   | 11,400   | 4,600   | 11,400            | \$3,560 to \$8,020          | 11,400        |        |
| 16   | Head of Household   | 8,350   | \$3,000 to \$4,000  |  | 8,350  | 8,350  | 3,400   | 8,350             | \$3,560 to \$8,020          | 8,350         |        |
| 17   | Personal Exemptions   |   |   |  |  |  |   |                   |                             |               |        |
| 18   | Per Person  | 2,850   | 3,200   | 4,400  | 3,650  | 3,650  | 6,000   | 2,100             | 2,140                       | 118           |        |
| 19   | Married Filing Jointly  |   |   | 8,800  |  |  | 12,000  | 4,200             |                             |               |        |
| 20   | Dependent   |   |   | 1,000  |  |  | 1,500   | 1,200             |                             |               |        |
| 21   | Tax Brackets  | Single<br>2%>0<br>3%>\$1,000<br>4%>\$2,000<br>4.75%>\$3,000<br>5%>\$150,000<br>5.25%>\$300,000<br>5.5%>\$500,000<br>6.25%>\$1,000,000<br>Married<br>2%>0<br>3%>\$1,000<br>4%>\$2,000<br>4.75%>\$3,000<br>5%>\$200,000<br>5.25%>\$350,000<br>5.5%>\$500,000<br>6.25%>\$1,000,000 | Single<br>2%>0<br>3%>\$1,000<br>4%>\$2,000<br>4.75%>\$3,000<br>5%>\$150,000<br>5.25%>\$300,000<br>5.5%>\$500,000<br>6.25%>\$1,000,000<br>Married<br>2%>0<br>3%>\$1,000<br>4%>\$2,000<br>4.75%>\$3,000<br>5%>\$200,000<br>5.25%>\$350,000<br>5.5%>\$500,000<br>6.25%>\$1,000,000 | 4.35% of Michigan Taxable Income<br>5.3% of Taxable Income | Single<br>5.35%>0<br>7.05%>\$22,730<br>7.85%>\$74,950<br>Married<br>5.35%>0<br>7.05%>\$33,220<br>7.85%>\$131,970 | 1.5%>0<br>2%>\$1,000<br>2.5%>\$2,000<br>3%>\$3,000<br>3.5%>\$4,000<br>4%>\$5,000<br>4.5%>\$6,000<br>5%>\$7,000<br>5.5%>\$8,000<br>6%>\$9,000 | Single<br>2.56%>0<br>3.57%>\$2,400<br>5.12%>\$17,500<br>6.84%>\$27,000<br>Married<br>2.56%>0<br>3.57%>\$4,800<br>5.12%>\$35,000<br>6.84%>\$54,000 |                   |                             |               |        |

Data on State deductions, exemptions, and tax brackets are from the states' individual income tax forms and instructions.

Maryland: The standard deduction is 15% of AGI. Minimum and maximum amounts for the different filing status are provided above. Maryland taxpayers' personal exemptions are reduced to a minimum of \$600 as AGI increases, see attached state sheet for additional detail.

Montana: The standard deduction is 20% of AGI. Minimum and maximum amounts are provided above.

Nebraska: For AGI above \$166,800 an additional imposed which minimizes the benefits of the lower marginal tax brackets.



Table 2: State Income Tax as a Percentage of Federal Adjusted Gross Income for 2007 and Tax Year 2009 Deductions and Brackets

| Line | Money amounts, except for averages, are in thousands.   | New Hampshire          | New Jersey  | New Mexico  | New York  | North Dakota   | Ohio   | Oklahoma   | Oregon   | Pennsylvania   | Rhode Island   |
|------|---|------------------------|---|---|---|--|--|--|--|--|--|
|      |   | Interest and Dividends | State Defined Income  | Federal AGI   | Federal AGI   | Federal Taxable Income   | Federal AGI  | Federal AGI  | Federal Taxable Income   | State Defined Income   | Federal AGI  |
| 1    | State Tax Base  |                        |   |   |   |  |  |  |  |  |  |
| 2    | State Income Tax Collections (from State and Local Government Finances, U.S. Census Bureau, FY 05-06) | 80,931                 | 10,506,565  | 1,123,954   | 38,611,920  | 275,630  | 13,766,469   | 2,755,776  | 5,537,385  | 12,326,373   | 1,019,482  |
| 3    | Average State Income Tax Per Return (number of federal returns per SOT data)                          | \$112                  | \$2,296   | \$1,147   | \$3,893   | \$802  | \$2,250  | \$1,555  | \$2,897  | \$1,841  | \$1,794  |
| 4    | Rank (1 is highest tax per return)  | 42                     | 9   | 38  | 1   | 41   | 11   | 28   | 6  | 17   | 19   |
| 5    | State Income Tax as a % of Fed AGI  | 0.2%                   | 3.2%  | 2.6%  | 5.7%  | 1.8%   | 4.9%   | 3.3%   | 5.7%   | 3.6%   | 3.4%   |
| 6    | Rank (1 is highest tax as % of AGI)   | 42                     | 31  | 37  | 2   | 41   | 4  | 27   | 1  | 20   | 25   |
| 7    | TAX YEAR 2009 COMPARISONS   | No                     | Yes   | No  | Yes   | No   | Yes  | No   | Yes  | Yes  | No   |
| 8    | Capital Gains Treatment   |                        | Fully Taxable   | 30% exclusion max. \$1000   | Fully Taxable   | 30% deduction  | Fully Taxable  | Fully Taxable (OK property held 5 yrs. Exempt)   | Fully Taxable  | Fully Taxable  | Fully Taxable  |
| 9    | State Tax on \$1,000,000 of Capital Gains (at the highest marginal rate)                              |                        | 107,500   | 48,000  | 89,700  | 38,780   | 59,250   | 55,000   | 110,000  | 30,700   | 99,000   |
| 10   | Pension Income  |                        | Military exempt others \$10,000 per person  | same as federal   | Private \$20,000 ded. All other   | same as fed.   | \$200 credit for all pension income  | \$7,500 ded. Exempt  | 9% credit for low income and over age 62   | Exempt   | same as federal  |
| 11   | Social Security Benefits  |                        | Exempt  | same as fed.  | Exempt  | same as fed.   | Exempt   | Exempt   | Exempt   | Exempt   | same as fed.   |
| 12   | Disability Income   |                        | Exempt  | same as fed.  | \$5,200 ded.  | same as fed.   | Exempt   | Exempt   | same as fed.   | Exempt   | same as fed.   |
| 13   | Standard Deductions   |                        |   |   |   |  |  |  |  |  |  |
| 14   | Single  |                        | NA  | 5,700   | 7,500   | 5,700  | NA   | 4,250  | 1,865  | NA   | 5,700  |
| 15   | Married Filing Single   |                        | NA  | 5,700   | 7,500   | 5,700  | NA   | 4,250  | 1,865  | NA   | 4,750  |
| 16   | Married Filing Jointly  |                        | NA  | 11,400  | 15,000  | 11,400   | NA   | 8,500  | 3,735  | NA   | 9,500  |
| 17   | Head of Household   |                        | NA  | 8,350   | 10,500  | 8,350  | NA   | 8,500  | 3,735  | NA   | 8,350  |
| 18   | Personal Exemptions   |                        |   |   |   |  |  |  |  |  |  |
| 19   | Per Person  |                        | 1,000   | 3,650   |   | 3,650  | 1,450  | 1,000  | 176  | NA   | 3,650  |
| 20   | Married Filing Jointly  |                        |   |   |   |  | and \$20 credit per person also  |  |  |  |  |
| 21   | Dependent   |                        | 1,500   |   | 1,000   |  |  |  |  |  |  |
|      | Tax Brackets  |                        | Single<br>1.4%-0;<br>1.75%>\$20,000;<br>3.5%>\$35,000;<br>5.53%>\$40,000;<br>6.37%>\$75,000;<br>8.00%>\$100,000;<br>10.25%>\$500,000;<br>10.75%>\$1,000,000 | Single<br>4%-0;<br>4.5%>\$8,000;<br>5.25%>\$11,000;<br>6.85%>\$20,000;<br>7.85%>\$200,000;<br>8.97%>\$500,000 | Single<br>4%-0;<br>4.5%>\$8,000;<br>5.25%>\$11,000;<br>6.85%>\$20,000;<br>7.85%>\$200,000;<br>8.97%>\$500,000 | Single<br>2.1%-0;<br>3.9%>\$33,950;<br>4.34%>\$82,250;<br>5.04%>\$171,550;<br>5.545%>\$372,950 | Single<br>5%-0;<br>1%>\$1,000;<br>2%>\$2,500;<br>3%>\$3,750;<br>4%>\$4,900;<br>5%>\$7,200;<br>5.5%>\$8,700 | Single<br>5%-0;<br>1%>\$1,000;<br>2%>\$2,500;<br>3%>\$3,750;<br>4%>\$4,900;<br>5%>\$7,200;<br>5.5%>\$8,700 | Single<br>5%-0;<br>1%>\$1,000;<br>2%>\$2,500;<br>3%>\$3,750;<br>4%>\$4,900;<br>5%>\$7,200;<br>5.5%>\$8,700 | Single<br>5%-0;<br>1%>\$1,000;<br>2%>\$2,500;<br>3%>\$3,750;<br>4%>\$4,900;<br>5%>\$7,200;<br>5.5%>\$8,700 | Single<br>3.75%>0;<br>7%>\$33,950;<br>7.75%>\$82,250;<br>9%>\$171,550;<br>9.9%>\$372,950 |

Data on State deductions, exemptions, and tax brackets are from the states' individual income tax forms and instructions.  
 Pennsylvania: A tax forgiveness program reduces tax liabilities by 10% to 100% depending on income levels and the number of dependents. See PA state sheet

Table 2: State Income Tax as a Percentage of Federal Adjusted Gross Income for 2007 and Tax Year 2009 Deductions and Tax Brackets

| Line | Money amounts, except for averages, are in thousands.   | South Dakota              | Tennessee | Texas | Utah                                      | Vermont                | Virginia                                | Washington | West Virginia  | Wisconsin   | Wyoming |
|------|---|---------------------------|-----------|-------|---|------------------------|---|------------|--|---|---------|
|      |   | On Interest and Dividends |           |       | Federal Taxable Income                    | Federal Taxable Income | Federal AGI                             | NA         | Federal AGI  | Federal AGI   |         |
| 1    | State Tax Base  | NA                        |           | NA    | 2,277,478                                 | 542,012                | 9,073,077                               | NA         | 1,297,720  | 5,906,515   | NA      |
| 2    | State Income Tax Collections (from State and Local Government Finances, U.S. Census Bureau, FY 05-06) | NA                        | 192,764   | NA    |   |                        |   |            |  |   | NA      |
| 3    | Average State Income Tax Per Return   | NA                        | \$61      | NA    | \$1,914                                   | \$1,572                | \$2,259                                 | NA         | \$1,401  | \$1,997   | NA      |
| 4    | (number of federal returns per SGI date)  | NA                        | 43        | NA    | 15  | 27                     | 10                                      | NA         | 32   | 14  | NA      |
| 5    | Rank (1 is highest tax per return)  | NA                        | 0.1%      | NA    | 3.6%                                      | 3.2%                   | 3.7%                                    | NA         | 3.8%   | 4.0%  | NA      |
| 6    | State Income Tax as a % of Fed AGI  | NA                        | 43        | NA    | 19  | 30                     | 15                                      | NA         | 14   | 13  | NA      |
| 7    | Rank (1 is highest tax as % of AGI)   | NA                        | 43        | NA    | 19  | 30                     | 15                                      | NA         | 14   | 13  | NA      |
| 8    | Local Income Tax  | No                        | No        | No    | No  | No                     | No                                      | No         | No   | No  | No      |
| 9    | TAX YEAR 2009 COMPARISONS   |                           |           |       |   |                        |   |            |  |   |         |
| 10   | Capital Gains Treatment   |                           |           |       |   |                        |   |            |  |   |         |
| 11   | State Tax on \$1,000,000 of Capital Gains (at the highest marginal rate)                              |                           | NA        | NA    | Fully Taxable                             | 40% deduction          | Fully Taxable                           |            | Fully Taxable  | 60% Deduction   |         |
| 12   | Pension Income  |                           |           |       | 50,000                                    | 56,400                 | 57,500                                  |            | 65,000   | 31,000  |         |
| 13   | Social Security Benefits  |                           |           |       | \$4,800 ded. if < age 65; \$7,500 if > 65 |                        | Same as fed. (VA has age ded. of \$12K) |            | Private taxable; Military ded. \$22K; others \$2K exempt | Private taxable; Public exempt if member before 1984; Military exempt |         |
| 14   | Disability Income   |                           |           |       | see above                                 | Fully Taxable          | Exempt                                  |            | same as fed.   | 50% taxable   |         |
| 15   | Standard Deductions   |                           |           |       | same as fed.                              | same as federal        | \$20,000 ded.                           |            | same as fed.   | \$5,200 ded.  |         |
| 16   | Single  |                           |           |       | See Note                                  | 5,700                  | 3,000                                   |            | NA   | 9,440   |         |
| 17   | Married Filing Jointly  |                           |           |       | See Note                                  | 5,700                  | 3,000                                   |            | NA   | 8,080   |         |
| 18   | Married Filing Jointly  |                           |           |       | See Note                                  | 11,400                 | 6,000                                   |            | NA   | 17,010  |         |
| 19   | Head of Household   |                           |           |       | See Note                                  | 8,350                  | 3,000                                   |            | NA   | 12,190  |         |
| 20   | Personal Exemptions   |                           |           |       |   |                        |   |            |  |   |         |
| 21   | Per Person  |                           |           |       | 2,625                                     | 3,650                  | 930                                     |            | 2,000  | 700   |         |
| 22   | Married Filing Jointly  |                           |           |       |   |                        |   |            |  |   |         |
| 23   | Dependent   |                           |           |       |   |                        |   |            |  |   |         |
| 24   |   |                           |           |       |   |                        |   |            |  |   |         |
| 25   |   |                           |           |       |   |                        |   |            |  |   |         |
| 26   |   |                           |           |       |   |                        |   |            |  |   |         |
| 27   |   |                           |           |       |   |                        |   |            |  |   |         |
| 28   |   |                           |           |       |   |                        |   |            |  |   |         |
| 29   |   |                           |           |       |   |                        |   |            |  |   |         |
| 30   |   |                           |           |       |   |                        |   |            |  |   |         |
| 31   |   |                           |           |       |   |                        |   |            |  |   |         |
| 32   |   |                           |           |       |   |                        |   |            |  |   |         |
| 33   |   |                           |           |       |   |                        |   |            |  |   |         |
| 34   |   |                           |           |       |   |                        |   |            |  |   |         |
| 35   |   |                           |           |       |   |                        |   |            |  |   |         |
| 36   |   |                           |           |       |   |                        |   |            |  |   |         |
| 37   |   |                           |           |       |   |                        |   |            |  |   |         |
| 38   |   |                           |           |       |   |                        |   |            |  |   |         |
| 39   |   |                           |           |       |   |                        |   |            |  |   |         |
| 40   |   |                           |           |       |   |                        |   |            |  |   |         |
| 41   |   |                           |           |       |   |                        |   |            |  |   |         |
| 42   |   |                           |           |       |   |                        |   |            |  |   |         |
| 43   |   |                           |           |       |   |                        |   |            |  |   |         |
| 44   |   |                           |           |       |   |                        |   |            |  |   |         |
| 45   |   |                           |           |       |   |                        |   |            |  |   |         |
| 46   |   |                           |           |       |   |                        |   |            |  |   |         |
| 47   |   |                           |           |       |   |                        |   |            |  |   |         |
| 48   |   |                           |           |       |   |                        |   |            |  |   |         |
| 49   |   |                           |           |       |   |                        |   |            |  |   |         |
| 50   |   |                           |           |       |   |                        |   |            |  |   |         |
| 51   |   |                           |           |       |   |                        |   |            |  |   |         |
| 52   |   |                           |           |       |   |                        |   |            |  |   |         |
| 53   |   |                           |           |       |   |                        |   |            |  |   |         |
| 54   |   |                           |           |       |   |                        |   |            |  |   |         |
| 55   |   |                           |           |       |   |                        |   |            |  |   |         |
| 56   |   |                           |           |       |   |                        |   |            |  |   |         |
| 57   |   |                           |           |       |   |                        |   |            |  |   |         |
| 58   |   |                           |           |       |   |                        |   |            |  |   |         |
| 59   |   |                           |           |       |   |                        |   |            |  |   |         |
| 60   |   |                           |           |       |   |                        |   |            |  |   |         |
| 61   |   |                           |           |       |   |                        |   |            |  |   |         |
| 62   |   |                           |           |       |   |                        |   |            |  |   |         |
| 63   |   |                           |           |       |   |                        |   |            |  |   |         |
| 64   |   |                           |           |       |   |                        |   |            |  |   |         |
| 65   |   |                           |           |       |   |                        |   |            |  |   |         |
| 66   |   |                           |           |       |   |                        |   |            |  |   |         |
| 67   |   |                           |           |       |   |                        |   |            |  |   |         |
| 68   |   |                           |           |       |   |                        |   |            |  |   |         |
| 69   |   |                           |           |       |   |                        |   |            |  |   |         |
| 70   |   |                           |           |       |   |                        |   |            |  |   |         |
| 71   |   |                           |           |       |   |                        |   |            |  |   |         |
| 72   |   |                           |           |       |   |                        |   |            |  |   |         |
| 73   |   |                           |           |       |   |                        |   |            |  |   |         |
| 74   |   |                           |           |       |   |                        |   |            |  |   |         |
| 75   |   |                           |           |       |   |                        |   |            |  |   |         |
| 76   |   |                           |           |       |   |                        |   |            |  |   |         |
| 77   |   |                           |           |       |   |                        |   |            |  |   |         |
| 78   |   |                           |           |       |   |                        |   |            |  |   |         |
| 79   |   |                           |           |       |   |                        |   |            |  |   |         |
| 80   |   |                           |           |       |   |                        |   |            |  |   |         |
| 81   |   |                           |           |       |   |                        |   |            |  |   |         |
| 82   |   |                           |           |       |   |                        |   |            |  |   |         |
| 83   |   |                           |           |       |   |                        |   |            |  |   |         |
| 84   |   |                           |           |       |   |                        |   |            |  |   |         |
| 85   |   |                           |           |       |   |                        |   |            |  |   |         |
| 86   |   |                           |           |       |   |                        |   |            |  |   |         |
| 87   |   |                           |           |       |   |                        |   |            |  |   |         |
| 88   |   |                           |           |       |   |                        |   |            |  |   |         |
| 89   |   |                           |           |       |   |                        |   |            |  |   |         |
| 90   |   |                           |           |       |   |                        |   |            |  |   |         |
| 91   |   |                           |           |       |   |                        |   |            |  |   |         |
| 92   |   |                           |           |       |   |                        |   |            |  |   |         |
| 93   |   |                           |           |       |   |                        |   |            |  |   |         |
| 94   |   |                           |           |       |   |                        |   |            |  |   |         |
| 95   |   |                           |           |       |   |                        |   |            |  |   |         |
| 96   |   |                           |           |       |   |                        |   |            |  |   |         |
| 97   |   |                           |           |       |   |                        |   |            |  |   |         |
| 98   |   |                           |           |       |   |                        |   |            |  |   |         |
| 99   |   |                           |           |       |   |                        |   |            |  |   |         |
| 100  |   |                           |           |       |   |                        |   |            |  |   |         |

Data on State deductions, exemptions, and tax brackets are from the states' individual income tax forms and instructions.

Utah: A credit is allowed based on 6% of the taxpayers federal deductions. Credit is phased-out at higher incomes. See state page for details.

Wisconsin: Standard deduction for single taxpayer is \$9,440. Above \$13,610 of income the deduction is reduced by 12% for each dollar over \$13,610. When the single taxpayers' income reaches \$92,277, the standard deduction is reduced to \$0. The standard deduction for married taxpayers is \$17,010. When the married taxpayers' income reaches \$19,100, the standard deduction is reduced to \$0. When the married taxpayers' income reaches \$105,105, the standard deduction is reduced to \$0.

Table 3: State Income Taxes Computed by AGI for the 2009 Tax Year

| Line | Adjusted Gross Income Levels           | South Carolina | Georgia | North Carolina | Alabama | Alaska | Arizona | Arkansas | California | Colorado | Connecticut |
|------|--|----------------|---------|----------------|---------|--------|---------|----------|------------|----------|-------------|
| 1    | Married Filing Jointly with 2 Children |                |         |                |         |        |         |          |            |          |             |
| 2    | \$10,000                               | No Tax         | No Tax  | No Tax         | No Tax  | NA     | No Tax  | No Tax   | No Tax     | No Tax   | No Tax      |
| 3    | \$20,000                               | No Tax         | 129     | 40             | 295     | NA     | 46      | 381      | No Tax     | No Tax   | No Tax      |
| 4    | \$30,000                               | 8              | 676     | 640            | 1,020   | NA     | 305     | 936      | No Tax     | 185      | 54          |
| 5    | \$40,000                               | 374            | 1,276   | 1,268          | 1,520   | NA     | 569     | 1,579    | No Tax     | 648      | 336         |
| 6    | \$50,000                               | 1,039          | 1,876   | 1,968          | 2,020   | NA     | 857     | 2,279    | 137        | 1,111    | 903         |
| 7    | \$60,000                               | 1,704          | 2,476   | 2,668          | 2,520   | NA     | 1,145   | 2,979    | 562        | 1,574    | 2,291       |
| 8    | \$70,000                               | 2,404          | 3,076   | 3,368          | 3,020   | NA     | 1,441   | 3,679    | 1,151      | 2,037    | 2,745       |
| 9    | \$80,000                               | 3,104          | 3,676   | 4,068          | 3,520   | NA     | 1,777   | 4,379    | 1,776      | 2,500    | 3,240       |
| 10   | \$90,000                               | 3,804          | 4,276   | 4,768          | 4,020   | NA     | 2,113   | 5,079    | 2,547      | 2,963    | 3,690       |
| 11   | \$100,000                              | 4,504          | 4,876   | 5,808          | 4,540   | NA     | 2,449   | 5,779    | 3,372      | 3,426    | 4,140       |
| 12   | \$150,000                              | 8,004          | 7,876   | 9,578          | 7,040   | NA     | 4,409   | 9,279    | 8,117      | 5,741    | 7,100       |
| 13   | \$200,000                              | 11,504         | 10,876  | 13,453         | 9,540   | NA     | 6,529   | 12,779   | 12,892     | 8,056    | 9,600       |
| 14   | \$500,000                              | 32,504         | 28,876  | 36,703         | 24,540  | NA     | 19,794  | 33,779   | 42,336     | 21,946   | 24,600      |
| 15   | \$1,000,000                            | 67,504         | 58,876  | 75,453         | 49,540  | NA     | 42,494  | 68,779   | 90,108     | 45,096   | 49,600      |
| 16   | Single                                 |                |         |                |         |        |         |          |            |          |             |
| 17   | \$10,000                               | 47             | 125     | 270            | 260     | NA     | 82      | 124      | No Tax     | 30       | No Tax      |
| 18   | \$20,000                               | 535            | 705     | 888            | 785     | NA     | 351     | 540      | 194        | 493      | 137         |
| 19   | \$30,000                               | 1,235          | 1,310   | 1,588          | 1,285   | NA     | 639     | 1,125    | 603        | 956      | 810         |
| 20   | \$40,000                               | 1,935          | 1,910   | 2,288          | 1,785   | NA     | 966     | 1,788    | 1,216      | 1,419    | 1,620       |
| 21   | \$50,000                               | 2,635          | 2,510   | 2,988          | 2,285   | NA     | 1,302   | 2,488    | 2,021      | 1,882    | 2,070       |
| 22   | \$60,000                               | 3,335          | 3,110   | 3,688          | 2,785   | NA     | 1,666   | 3,188    | 2,965      | 2,345    | 2,800       |
| 23   | \$70,000                               | 4,035          | 3,710   | 4,460          | 3,285   | NA     | 2,090   | 3,888    | 3,920      | 2,808    | 3,300       |
| 24   | \$80,000                               | 4,735          | 4,310   | 5,235          | 3,785   | NA     | 2,514   | 4,588    | 4,875      | 3,271    | 3,800       |
| 25   | \$90,000                               | 5,435          | 4,910   | 6,010          | 4,285   | NA     | 2,938   | 5,288    | 5,830      | 3,734    | 4,300       |
| 26   | \$100,000                              | 6,135          | 5,510   | 6,785          | 4,785   | NA     | 3,362   | 5,988    | 6,785      | 4,197    | 4,800       |
| 27   | \$150,000                              | 9,635          | 8,510   | 10,660         | 7,285   | NA     | 5,482   | 9,488    | 11,560     | 6,512    | 7,300       |
| 28   | \$200,000                              | 13,135         | 11,510  | 14,535         | 9,785   | NA     | 7,731   | 12,988   | 16,412     | 8,827    | 9,800       |
| 29   | \$500,000                              | 34,135         | 29,510  | 37,785         | 24,785  | NA     | 21,351  | 33,988   | 45,084     | 22,717   | 24,800      |
| 30   | \$1,000,000                            | 69,135         | 59,510  | 76,535         | 49,785  | NA     | 44,051  | 68,988   | 92,834     | 45,867   | 49,800      |

This box indicates where the comparison State's individual income tax is lower than SC's at the same AGI level.  
If no box is shown in the column, then the state's individual income tax is always higher than SC's.

State Notes

SC: A \$210 two-wage earner credit adjusted for income levels is calculated for married taxpayers with incomes above \$30,000.  
NC: Taxpayers receive a \$60 credit for dependents if income levels fall below \$100,000 for married filers and \$60,000 for single.  
AL: Standard deduction is 20% of AGI to a max. of \$2,500 for single filers and \$7,500 for married filing jointly filers.

Table 3: State Income Taxes Computed by AGI for the 2009 Tax Year

| Line | Adjusted Gross Income Levels           | Delaware | Florida | Hawaii  | Idaho  | Illinois | Indiana | Iowa   | Kansas | Kentucky | Louisiana |
|------|--|----------|---------|---------|--------|----------|---------|--------|--------|----------|-----------|
| 1    | Married Filing Jointly with 2 Children |          |         |         |        |          |         |        |        |          |           |
| 2    | \$10,000                               | No Tax   | NA      | 26      | No Tax | 60       | 102     | No Tax | No Tax | 191      | No Tax    |
| 3    | \$20,000                               | No Tax   | NA      | 344     | No Tax | 360      | 442     | 421    | 175    | 769      | 180       |
| 4    | \$30,000                               | 483      | NA      | 918     | 93     | 660      | 782     | 1,049  | 525    | 1,349    | 480       |
| 5    | \$40,000                               | 1,033    | NA      | 1,570   | 612    | 960      | 1,122   | 1,721  | 875    | 1,929    | 880       |
| 6    | \$50,000                               | 1,588    | NA      | 2,264   | 1,337  | 1,260    | 1,462   | 2,439  | 1,363  | 2,509    | 1,280     |
| 7    | \$60,000                               | 2,143    | NA      | 2,999   | 2,077  | 1,560    | 1,802   | 3,231  | 1,988  | 3,089    | 1,680     |
| 8    | \$70,000                               | 2,747    | NA      | 3,759   | 2,817  | 1,860    | 2,142   | 4,047  | 2,613  | 3,669    | 2,080     |
| 9    | \$80,000                               | 3,442    | NA      | 4,519   | 3,570  | 2,160    | 2,482   | 4,945  | 3,248  | 4,249    | 2,480     |
| 10   | \$90,000                               | 4,137    | NA      | 5,309   | 4,350  | 2,460    | 2,822   | 5,843  | 3,893  | 4,829    | 2,880     |
| 11   | \$100,000                              | 4,832    | NA      | 6,099   | 5,130  | 2,760    | 3,162   | 6,741  | 4,538  | 5,409    | 3,280     |
| 12   | \$150,000                              | 8,307    | NA      | 10,209  | 9,030  | 4,260    | 4,862   | 11,231 | 7,763  | 8,309    | 6,280     |
| 13   | \$200,000                              | 11,782   | NA      | 14,334  | 12,930 | 5,760    | 6,562   | 15,721 | 10,988 | 11,209   | 9,280     |
| 14   | \$500,000                              | 32,632   | NA      | 42,860  | 36,330 | 14,760   | 16,762  | 42,661 | 30,338 | 28,609   | 27,280    |
| 15   | \$1,000,000                            | 67,382   | NA      | 97,860  | 75,330 | 29,760   | 33,762  | 87,561 | 62,588 | 57,609   | 57,280    |
| 16   | Single                                 |          |         |         |        |          |         |        |        |          |           |
| 17   | \$10,000                               | 24       | NA      | 229     | 10     | 240      | 306     | 160    | 166    | 251      | 110       |
| 18   | \$20,000                               | 475      | NA      | 856     | 569    | 540      | 646     | 700    | 516    | 829      | 460       |
| 19   | \$30,000                               | 988      | NA      | 1,579   | 1,309  | 840      | 986     | 1,338  | 1,134  | 1,409    | 860       |
| 20   | \$40,000                               | 1,543    | NA      | 2,341   | 2,070  | 1,140    | 1,326   | 2,018  | 1,769  | 1,989    | 1,260     |
| 21   | \$50,000                               | 2,098    | NA      | 3,131   | 2,850  | 1,440    | 1,666   | 2,765  | 2,414  | 2,569    | 1,660     |
| 22   | \$60,000                               | 2,653    | NA      | 3,953   | 3,630  | 1,740    | 2,006   | 3,557  | 3,059  | 3,149    | 2,260     |
| 23   | \$70,000                               | 3,303    | NA      | 4,778   | 4,410  | 2,040    | 2,346   | 4,401  | 3,704  | 3,729    | 2,860     |
| 24   | \$80,000                               | 3,998    | NA      | 5,603   | 5,190  | 2,340    | 2,686   | 5,299  | 4,349  | 4,315    | 3,460     |
| 25   | \$90,000                               | 4,693    | NA      | 6,428   | 5,970  | 2,640    | 3,026   | 6,197  | 4,994  | 4,915    | 4,060     |
| 26   | \$100,000                              | 5,388    | NA      | 7,253   | 6,750  | 2,940    | 3,366   | 7,095  | 5,639  | 5,515    | 4,660     |
| 27   | \$150,000                              | 8,863    | NA      | 11,378  | 10,650 | 4,440    | 5,066   | 11,585 | 8,864  | 8,515    | 7,660     |
| 28   | \$200,000                              | 12,338   | NA      | 16,075  | 14,550 | 5,940    | 6,766   | 16,075 | 12,089 | 11,515   | 10,660    |
| 29   | \$500,000                              | 33,188   | NA      | 49,044  | 37,950 | 14,940   | 16,966  | 43,015 | 31,439 | 29,515   | 28,660    |
| 30   | \$1,000,000                            | 67,938   | NA      | 104,044 | 76,950 | 29,940   | 33,966  | 87,915 | 63,689 | 59,515   | 58,660    |

This box indicates where the comparison State's individual income tax is lower than SC's at the same AGI level.  
If no box is shown in the column, then the state's individual income tax is always higher than SC's.

Table 3: State Income Taxes Computed by AGI for the 2009 Tax Year

| Line | Adjusted Gross Income Levels           | Maine  | Maryland | Massachusetts | Michigan | Minnesota | Mississippi | Missouri | Montana | Nebraska | Nevada |
|------|--|--------|----------|---------------|----------|-----------|-------------|----------|---------|----------|--------|
| 1    | Married Filing Jointly with 2 Children |        |          |               |          |           |             |          |         |          |        |
| 2    | \$10,000                               | No Tax | No Tax   | No Tax        | No Tax   | No Tax    | No Tax      | No Tax   | No Tax  | No Tax   | NA     |
| 3    | \$20,000                               | No Tax | 90       | 488           | No Tax   | No Tax    | 12          | 35       | 156     | No Tax   | NA     |
| 4    | \$30,000                               | 182    | 518      | 1,018         | 174      | 214       | 370         | 495      | 567     | 144      | NA     |
| 5    | \$40,000                               | 606    | 993      | 1,548         | 609      | 749       | 870         | 1,095    | 1,118   | 501      | NA     |
| 6    | \$50,000                               | 1,280  | 1,468    | 2,078         | 1,044    | 1,284     | 1,370       | 1,695    | 1,807   | 913      | NA     |
| 7    | \$60,000                               | 1,980  | 1,943    | 2,608         | 1,479    | 1,832     | 1,870       | 2,295    | 2,497   | 1,425    | NA     |
| 8    | \$70,000                               | 2,811  | 2,418    | 3,138         | 1,914    | 2,537     | 2,370       | 2,895    | 3,187   | 2,016    | NA     |
| 9    | \$80,000                               | 3,661  | 2,893    | 3,668         | 2,349    | 3,242     | 2,870       | 3,495    | 3,877   | 2,700    | NA     |
| 10   | \$90,000                               | 4,511  | 3,368    | 4,198         | 2,784    | 3,947     | 3,370       | 4,095    | 4,567   | 3,384    | NA     |
| 11   | \$100,000                              | 5,361  | 3,843    | 4,728         | 3,219    | 4,652     | 3,870       | 4,695    | 5,257   | 4,068    | NA     |
| 12   | \$150,000                              | 9,611  | 6,370    | 7,378         | 5,394    | 8,177     | 6,370       | 7,695    | 8,707   | 7,488    | NA     |
| 13   | \$200,000                              | 13,861 | 8,973    | 10,028        | 7,569    | 12,039    | 8,870       | 10,695   | 12,157  | 11,001   | NA     |
| 14   | \$500,000                              | 39,361 | 24,424   | 25,928        | 20,619   | 35,589    | 23,870      | 28,695   | 32,857  | 32,188   | NA     |
| 15   | \$1,000,000                            | 81,861 | 51,905   | 52,428        | 42,369   | 74,839    | 48,870      | 58,695   | 67,357  | 66,388   | NA     |
| 16   | Single                                 |        |          |               |          |           |             |          |         |          |        |
| 17   | \$10,000                               | 29     | 199      | 297           | 28       | 35        | 51          | 40       | 104     | 11       | NA     |
| 18   | \$20,000                               | 424    | 651      | 827           | 463      | 570       | 435         | 507      | 473     | 368      | NA     |
| 19   | \$30,000                               | 1,144  | 1,126    | 1,357         | 898      | 1,105     | 935         | 1,107    | 1,146   | 831      | NA     |
| 20   | \$40,000                               | 1,994  | 1,601    | 1,887         | 1,333    | 1,774     | 1,435       | 1,707    | 1,836   | 1,468    | NA     |
| 21   | \$50,000                               | 2,844  | 2,076    | 2,417         | 1,768    | 2,479     | 1,935       | 2,307    | 2,526   | 2,152    | NA     |
| 22   | \$60,000                               | 3,694  | 2,551    | 2,947         | 2,203    | 3,184     | 2,435       | 2,907    | 3,216   | 2,836    | NA     |
| 23   | \$70,000                               | 4,544  | 3,026    | 3,477         | 2,638    | 3,889     | 2,935       | 3,507    | 3,906   | 3,520    | NA     |
| 24   | \$80,000                               | 5,394  | 3,501    | 4,007         | 3,073    | 4,594     | 3,435       | 4,107    | 4,596   | 4,204    | NA     |
| 25   | \$90,000                               | 6,244  | 3,976    | 4,537         | 3,508    | 5,347     | 3,935       | 4,707    | 5,286   | 4,888    | NA     |
| 26   | \$100,000                              | 7,094  | 4,489    | 5,067         | 3,943    | 6,132     | 4,435       | 5,307    | 5,976   | 5,572    | NA     |
| 27   | \$150,000                              | 11,344 | 6,921    | 7,717         | 6,118    | 10,057    | 6,935       | 8,307    | 9,426   | 8,992    | NA     |
| 28   | \$200,000                              | 15,594 | 9,443    | 10,367        | 8,293    | 13,982    | 9,435       | 11,307   | 12,876  | 12,526   | NA     |
| 29   | \$500,000                              | 41,094 | 24,936   | 26,267        | 21,343   | 37,532    | 24,435      | 29,307   | 33,576  | 33,692   | NA     |
| 30   | \$1,000,000                            | 83,594 | 52,430   | 52,767        | 43,093   | 76,782    | 49,435      | 59,307   | 68,076  | 67,892   | NA     |

This box indicates where the comparison State's individual income tax is lower than SC's at the same AGI level.  
If no box is shown in the column, then the state's individual income tax is always higher than SC's.

State Notes

MD: Standard deduction is 15% of AGI with a min. of \$1,500 and a max. of \$2,000 for single filers and \$3,000 and \$4,000 for married filing jointly filers.

Table 3: State Income Taxes Computed by AGI for the 2009 Tax Year

| Line | Adjusted Gross Income Levels           | New Hampshire | New Jersey | New Mexico | New York | North Dakota | Ohio   | Oklahoma | Oregon | Rhode Island |
|------|--|---------------|------------|------------|----------|--------------|--------|----------|--------|--------------|
| 1    | Married Filing Jointly with 2 Children |               |            |            |          |              |        |          |        |              |
| 2    | \$10,000                               | NA            | 70         | No Tax     | No Tax   | No Tax       | No Tax | No Tax   | No Tax | No Tax       |
| 3    | \$20,000                               | NA            | 210        | No Tax     | 120      | No Tax       | 107    | 90       | 334    | No Tax       |
| 4    | \$30,000                               | NA            | 368        | 68         | 520      | 84           | 420    | 533      | 1,234  | 221          |
| 5    | \$40,000                               | NA            | 543        | 328        | 963      | 294          | 772    | 1,083    | 2,134  | 596          |
| 6    | \$50,000                               | NA            | 718        | 768        | 1,533    | 504          | 1,149  | 1,633    | 3,034  | 971          |
| 7    | \$60,000                               | NA            | 928        | 1,258      | 2,152    | 714          | 1,560  | 2,183    | 3,934  | 1,346        |
| 8    | \$70,000                               | NA            | 1,173      | 1,748      | 2,837    | 924          | 1,971  | 2,733    | 4,834  | 1,721        |
| 9    | \$80,000                               | NA            | 1,470      | 2,238      | 3,522    | 1,134        | 2,382  | 3,283    | 5,734  | 2,096        |
| 10   | \$90,000                               | NA            | 1,921      | 2,728      | 4,207    | 1,476        | 2,817  | 3,833    | 6,634  | 2,770        |
| 11   | \$100,000                              | NA            | 2,474      | 3,218      | 4,892    | 1,868        | 3,287  | 4,383    | 7,534  | 3,470        |
| 12   | \$150,000                              | NA            | 5,236      | 5,668      | 9,111    | 3,828        | 5,968  | 7,133    | 12,034 | 6,970        |
| 13   | \$200,000                              | NA            | 8,379      | 8,118      | 14,366   | 5,943        | 8,694  | 9,883    | 16,534 | 10,762       |
| 14   | \$500,000                              | NA            | 29,038     | 22,818     | 43,325   | 21,324       | 26,441 | 26,383   | 43,534 | 38,276       |
| 15   | \$1,000,000                            | NA            | 80,175     | 47,318     | 88,175   | 49,024       | 56,066 | 53,883   | 88,534 | 87,776       |
| 16   | Single                                 |               |            |            |          |              |        |          |        |              |
| 17   | \$10,000                               | NA            | 126        | 11         | 100      | 14           | 51     | 75       | 343    | 238          |
| 18   | \$20,000                               | NA            | 266        | 258        | 534      | 224          | 290    | 579      | 1,243  | 613          |
| 19   | \$30,000                               | NA            | 438        | 732        | 1,144    | 434          | 633    | 1,129    | 2,143  | 988          |
| 20   | \$40,000                               | NA            | 683        | 1,222      | 1,829    | 644          | 985    | 1,679    | 3,043  | 1,441        |
| 21   | \$50,000                               | NA            | 1,215      | 1,712      | 2,514    | 976          | 1,388  | 2,229    | 3,943  | 2,141        |
| 22   | \$60,000                               | NA            | 1,767      | 2,202      | 3,199    | 1,368        | 1,799  | 2,779    | 4,843  | 2,841        |
| 23   | \$70,000                               | NA            | 2,320      | 2,692      | 3,884    | 1,760        | 2,210  | 3,329    | 5,743  | 3,541        |
| 24   | \$80,000                               | NA            | 2,906      | 3,182      | 4,569    | 2,152        | 2,620  | 3,879    | 6,643  | 4,241        |
| 25   | \$90,000                               | NA            | 3,543      | 3,672      | 5,254    | 2,544        | 3,081  | 4,429    | 7,543  | 4,972        |
| 26   | \$100,000                              | NA            | 4,180      | 4,162      | 5,939    | 2,971        | 3,551  | 4,979    | 8,443  | 5,747        |
| 27   | \$150,000                              | NA            | 7,365      | 6,612      | 9,761    | 5,141        | 6,265  | 7,729    | 12,943 | 9,622        |
| 28   | \$200,000                              | NA            | 10,550     | 9,062      | 15,111   | 7,445        | 8,991  | 10,479   | 17,443 | 13,807       |
| 29   | \$500,000                              | NA            | 31,274     | 23,762     | 44,177   | 23,153       | 26,759 | 26,979   | 44,443 | 41,917       |
| 30   | \$1,000,000                            | NA            | 82,501     | 48,262     | 89,027   | 50,853       | 56,384 | 54,479   | 89,443 | 91,417       |

This box indicates where the comparison State's individual income tax is lower than SC's at the same AGI level.  
If no box is shown in the column, then the state's individual income tax is always higher than SC's.

State Notes

NY: Taxpayers with AGI >\$150K lose the benefits of the lower tax brackets.

Table 3: State Income Taxes Computed by AGI for the 2009 Tax Year

| Line | Adjusted Gross Income Levels           | South Dakota | Tennessee | Texas | Utah   | Vermont | Virginia | Washington | West Virginia | Wisconsin | Wyoming |
|------|--|--------------|-----------|-------|--------|---------|----------|------------|---------------|-----------|---------|
| 1    | Married Filing Jointly with 2 Children |              |           |       |        |         |          |            |               |           |         |
| 2    | \$10,000                               | NA           | NA        | NA    | No Tax | No Tax  | 6        | NA         | 60            | No Tax    | NA      |
| 3    | \$20,000                               | NA           | NA        | NA    | No Tax | No Tax  | 384      | NA         | 380           | 17        | NA      |
| 4    | \$30,000                               | NA           | NA        | NA    | 264    | 142     | 909      | NA         | 780           | 568       | NA      |
| 5    | \$40,000                               | NA           | NA        | NA    | 894    | 497     | 1,484    | NA         | 1,215         | 1,285     | NA      |
| 6    | \$50,000                               | NA           | NA        | NA    | 1,524  | 852     | 2,059    | NA         | 1,695         | 2,053     | NA      |
| 7    | \$60,000                               | NA           | NA        | NA    | 2,154  | 1,207   | 2,634    | NA         | 2,295         | 2,832     | NA      |
| 8    | \$70,000                               | NA           | NA        | NA    | 2,784  | 1,562   | 3,209    | NA         | 2,905         | 3,610     | NA      |
| 9    | \$80,000                               | NA           | NA        | NA    | 3,414  | 1,917   | 3,784    | NA         | 3,555         | 4,389     | NA      |
| 10   | \$90,000                               | NA           | NA        | NA    | 4,044  | 2,524   | 4,359    | NA         | 4,205         | 5,167     | NA      |
| 11   | \$100,000                              | NA           | NA        | NA    | 4,674  | 3,224   | 4,934    | NA         | 4,855         | 5,946     | NA      |
| 12   | \$150,000                              | NA           | NA        | NA    | 7,824  | 6,724   | 7,809    | NA         | 8,105         | 9,262     | NA      |
| 13   | \$200,000                              | NA           | NA        | NA    | 10,974 | 10,686  | 10,684   | NA         | 11,355        | 12,512    | NA      |
| 14   | \$500,000                              | NA           | NA        | NA    | 29,874 | 37,664  | 27,934   | NA         | 30,855        | 34,716    | NA      |
| 15   | \$1,000,000                            | NA           | NA        | NA    | 61,374 | 84,664  | 56,684   | NA         | 63,355        | 73,466    | NA      |
| 16   | Single                                 |              |           |       |        |         |          |            |               |           |         |
| 17   | \$10,000                               | NA           | NA        | NA    | 1      | 23      | 174      | NA         | 240           | No Tax    | NA      |
| 18   | \$20,000                               | NA           | NA        | NA    | 605    | 378     | 674      | NA         | 620           | 495       | NA      |
| 19   | \$30,000                               | NA           | NA        | NA    | 1,235  | 733     | 1,242    | NA         | 1,035         | 1,189     | NA      |
| 20   | \$40,000                               | NA           | NA        | NA    | 1,865  | 1,088   | 1,817    | NA         | 1,485         | 1,917     | NA      |
| 21   | \$50,000                               | NA           | NA        | NA    | 2,495  | 1,674   | 2,392    | NA         | 2,055         | 2,645     | NA      |
| 22   | \$60,000                               | NA           | NA        | NA    | 3,125  | 2,374   | 2,967    | NA         | 2,655         | 3,373     | NA      |
| 23   | \$70,000                               | NA           | NA        | NA    | 3,755  | 3,074   | 3,542    | NA         | 3,295         | 4,101     | NA      |
| 24   | \$80,000                               | NA           | NA        | NA    | 4,385  | 3,774   | 4,117    | NA         | 3,945         | 4,829     | NA      |
| 25   | \$90,000                               | NA           | NA        | NA    | 5,015  | 4,474   | 4,692    | NA         | 4,595         | 5,557     | NA      |
| 26   | \$100,000                              | NA           | NA        | NA    | 5,645  | 5,279   | 5,267    | NA         | 5,245         | 6,225     | NA      |
| 27   | \$150,000                              | NA           | NA        | NA    | 8,795  | 9,404   | 8,142    | NA         | 8,495         | 9,475     | NA      |
| 28   | \$200,000                              | NA           | NA        | NA    | 11,945 | 13,653  | 11,017   | NA         | 11,745        | 12,840    | NA      |
| 29   | \$500,000                              | NA           | NA        | NA    | 30,845 | 40,942  | 28,267   | NA         | 31,245        | 35,833    | NA      |
| 30   | \$1,000,000                            | NA           | NA        | NA    | 62,345 | 87,942  | 57,017   | NA         | 63,745        | 74,583    | NA      |

This box indicates where the comparison State's individual income tax is lower than SC's at the same AGI level.  
If no box is shown in the column, then the state's individual income tax is always higher than SC's.

**TABLE 6 - 1999 INDIVIDUAL INCOME TAX RETURNS  
BY TAX LIABILITY  
(Through 10/30/00)**

| <b><u>Tax Liability</u></b> | <b><u>Number of Returns</u></b> | <b><u>Percent of Total</u></b> | <b><u>Amount of Tax</u></b> | <b><u>Percent of Total</u></b> |
|-----------------------------|---------------------------------|--------------------------------|-----------------------------|--------------------------------|
| \$0.00                      | 473,385                         | 26.71                          | 0                           | 0                              |
| \$0.01-\$25                 | 74,825                          | 4.22                           | 906,198                     | .04                            |
| \$26-\$50                   | 60,913                          | 3.44                           | 2,265,182                   | .10                            |
| \$51-\$75                   | 48,314                          | 2.73                           | 3,007,250                   | .14                            |
| \$76-\$100                  | 39,124                          | 2.21                           | 3,436,286                   | .16                            |
| \$100-\$125                 | 38,988                          | 2.20                           | 4,392,881                   | .20                            |
| \$126-\$150                 | 28,302                          | 1.60                           | 3,881,043                   | .18                            |
| \$151-\$200                 | 51,597                          | 2.91                           | 9,010,117                   | .42                            |
| \$201-\$250                 | 44,301                          | 2.50                           | 9,945,640                   | .46                            |
| \$251-\$300                 | 37,066                          | 2.09                           | 10,282,205                  | .47                            |
| \$301-\$400                 | 62,358                          | 3.52                           | 21,787,730                  | 1.01                           |
| \$401-\$500                 | 51,713                          | 2.92                           | 23,262,913                  | 1.07                           |
| \$501-\$600                 | 42,017                          | 2.37                           | 23,104,728                  | 1.07                           |
| \$601-\$700                 | 39,491                          | 2.23                           | 25,588,490                  | 1.18                           |
| \$701-\$800                 | 40,158                          | 2.27                           | 30,096,086                  | 1.39                           |
| \$801-\$900                 | 35,319                          | 1.99                           | 30,060,692                  | 1.39                           |
| \$901-\$1,000               | 33,033                          | 1.86                           | 31,344,460                  | 1.45                           |
| \$1,001-\$1,250             | 76,186                          | 4.30                           | 85,418,772                  | 3.95                           |
| \$1,251-\$1,500             | 64,298                          | 3.63                           | 88,277,003                  | 4.08                           |
| \$1,501-\$2,000             | 102,622                         | 5.79                           | 178,586,375                 | 8.25                           |
| \$2,001-\$2,500             | 79,471                          | 4.48                           | 178,008,635                 | 8.22                           |
| \$2,501-\$3,000             | 59,894                          | 3.38                           | 164,124,431                 | 7.58                           |
| \$3,001-\$4,000             | 77,885                          | 4.39                           | 268,657,476                 | 12.41                          |
| \$4,001-\$5,000             | 40,834                          | 2.30                           | 181,687,320                 | 8.39                           |
| \$5,001-\$7,500             | 38,600                          | 2.18                           | 230,512,047                 | 10.65                          |
| \$7,501-\$9,999             | 12,410                          | .70                            | 106,365,665                 | 4.91                           |
| OVER \$10,000               | 19,170                          | 1.08                           | 450,975,398                 | 20.83                          |
| <b>TOTALS</b>               | <b>1,772,274</b>                | <b>100.00</b>                  | <b>\$ 2,164,985,023</b>     | <b>100.00</b>                  |

NOTE: Amount of Tax is the tax before subtracting the credits.



## Individual Income Tax Returns by Tax Liability

| Tax Year 2007   |                   |                  |                        |                  |
|-----------------|-------------------|------------------|------------------------|------------------|
| Tax Liability   | Number of Returns | Percent of Total | Amount of Tax          | Percent of Total |
| \$0.00          | 849,919           | 41.04%           | (7,108,947)            | -0.23%           |
| \$0.01-\$25     | 41,435            | 2.00%            | 494,266                | 0.02%            |
| \$26-\$50       | 37,796            | 1.82%            | 1,396,700              | 0.05%            |
| \$51-\$75       | 33,278            | 1.60%            | 2,056,810              | 0.07%            |
| \$76-\$100      | 26,457            | 1.27%            | 2,278,790              | 0.08%            |
| \$101-\$125     | 24,991            | 1.20%            | 2,795,860              | 0.09%            |
| \$126-\$150     | 22,603            | 1.09%            | 3,094,026              | 0.10%            |
| \$151-\$200     | 42,517            | 2.05%            | 7,361,012              | 0.24%            |
| \$201-\$250     | 34,419            | 1.66%            | 7,721,214              | 0.25%            |
| \$251-\$300     | 32,456            | 1.56%            | 8,900,365              | 0.29%            |
| \$301-\$400     | 52,379            | 2.52%            | 18,169,972             | 0.60%            |
| \$401-\$500     | 46,363            | 2.23%            | 20,689,449             | 0.68%            |
| \$501-\$600     | 41,171            | 1.98%            | 22,623,035             | 0.75%            |
| \$601-\$700     | 36,609            | 1.76%            | 23,818,699             | 0.79%            |
| \$701-\$800     | 34,541            | 1.66%            | 25,874,555             | 0.85%            |
| \$801-\$900     | 32,688            | 1.57%            | 27,710,484             | 0.91%            |
| \$901-\$1,000   | 32,904            | 1.58%            | 31,218,345             | 1.03%            |
| \$1,001-\$1,250 | 71,795            | 3.46%            | 80,519,366             | 2.66%            |
| \$1,251-\$1,500 | 63,388            | 3.06%            | 86,853,483             | 2.86%            |
| \$1,501-\$2,000 | 103,828           | 5.01%            | 180,523,545            | 5.95%            |
| \$2,001-\$2,500 | 78,683            | 3.79%            | 176,237,698            | 5.81%            |
| \$2,501-\$3,000 | 61,890            | 2.98%            | 169,489,350            | 5.59%            |
| \$3,001-\$4,000 | 88,659            | 4.28%            | 306,809,429            | 10.12%           |
| \$4,001-\$5,000 | 55,876            | 2.69%            | 248,958,361            | 8.21%            |
| \$5,001-\$7,500 | 63,105            | 3.04%            | 379,863,342            | 12.53%           |
| \$7,501-\$9,999 | 23,525            | 1.13%            | 201,715,434            | 6.65%            |
| OVER \$10,000   | 37,506            | 1.81%            | 1,002,465,023          | 33.06%           |
| <b>Total</b>    | <b>2,070,781</b>  | <b>100%</b>      | <b>\$3,032,529,666</b> | <b>100%</b>      |

# FISCAL FACT

May 24, 2010  
No. 229

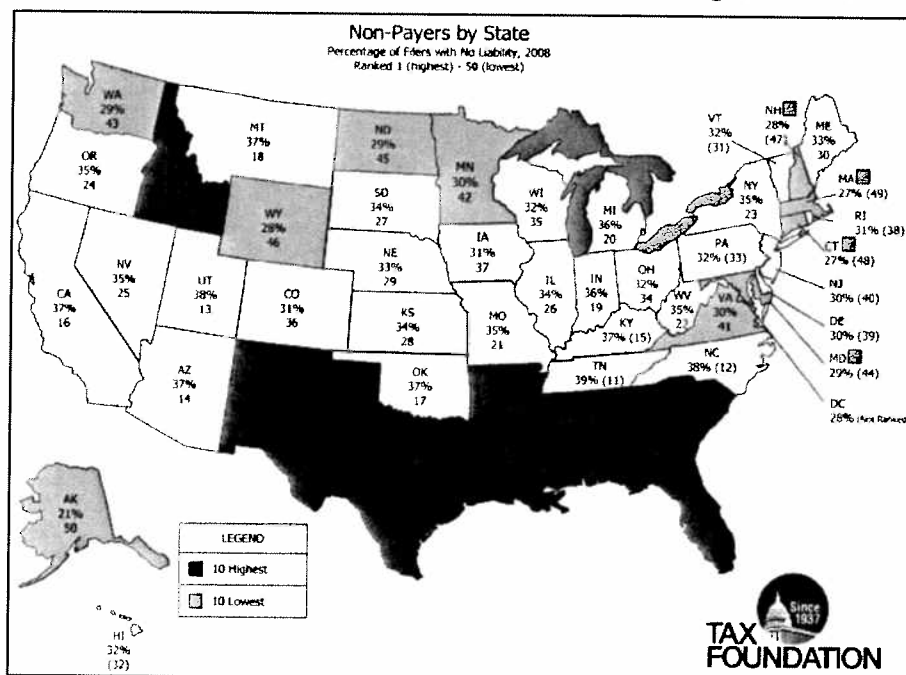
## States Vary Widely in Number of Tax Filers With No Income Tax Liability

*Southern States Have Highest Percentages of “Nonpayers”*

By Scott A. Hodge

One of the most reported topics during the latest tax filing season was the record number of Americans who filed an income tax return but had no income tax liability after taking their credits and deductions.

According to the latest IRS figures for 2008, a record 52 million filers – 36 percent of the 143 million who filed a tax return – had no tax liability because their credits and deductions reduced their liability to zero. Indeed, tax credits such as the child tax credit and earned income tax credit have become so generous that a family of four earning up to about \$52,000 can expect to have their income tax liability erased entirely.<sup>1</sup>



<sup>1</sup> Scott A. Hodge, “Record Numbers of People Paying No Income Tax; Over 50 Million ‘Nonpayers’ Include Families Making over \$50,000,” *Tax Foundation Fiscal Fact*, No. 214, March 10, 2010.

*Scott A. Hodge is president of the Tax Foundation.*

There are millions of other Americans who have some income but not enough to be required to file a tax return. The Tax Policy Center has estimated that when these people are added to the 52 million nonpaying filers, some 47 percent of all households pay no income taxes at all.<sup>2</sup>

New data from the IRS allow us to calculate the number of nonpayers in each state who filed a tax return. Here we compare the percentage of nonpayers in each state, both the absolute number of returns and the percentage of returns filed in each state.

Generally speaking, the most populated states have the most nonpayers. More than 6 million tax-filing Californians paid nothing to Uncle Sam for the 2008 tax year. That was 37 percent of the 16.4 million tax filers in California.

The map on page 1 and the table below show the percentage of tax filers in each state who have no income tax liability as well as the state's rank among the other 50 states. Nine of the ten states with the largest percentage of nonpayers are in the South and Southwest. In Mississippi, 45 percent of federal tax returns remit nothing or receive money with their federal tax returns; that is the highest percentage nationally. Georgia is next at 41 percent, followed by Arkansas at 41 percent, and Alabama, South Carolina, and New Mexico at 40 percent.

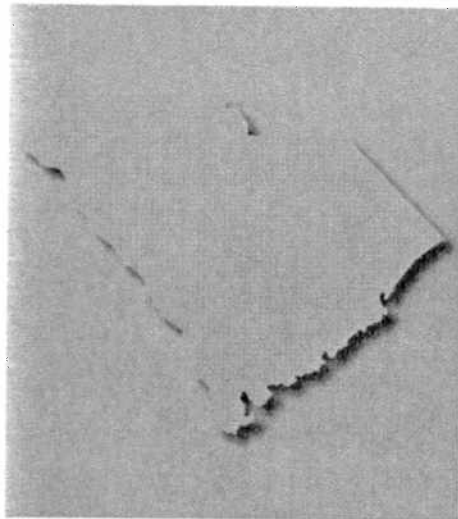
All of the top 10 ranking states have among the lowest median family incomes in the country. Of this group, Georgia has the highest median family income at \$60,268. Mississippi has the lowest at \$46,668.

By contrast, the states with the lowest percentage of nonpayers are not as geographically concentrated. What they tend to have in common is higher incomes. Half of the 10 with the lowest percentage of nonpayers are in the Northeast and half are in the West and Northern Plains states. Alaska has the lowest percentage of nonpayers, 21 percent of filers. Massachusetts has the second lowest at 27 percent, followed by Connecticut (27 percent), New Hampshire (28 percent), and Wyoming (28 percent) to round out the bottom five.

| <b>Nonpayers of Federal Income Taxes by State<br/>Calendar Year 2008</b> |                     |  |   |   |   |
|--|---------------------|--|---|---|---|
| <b>State</b>   | <b>Total Filers</b> | <b>Filers with<br/>a Tax<br/>Liability</b> | <b>Filers with<br/>No Tax<br/>Liability</b> | <b>Percentage<br/>of Filers<br/>with No<br/>Liability</b> | <b>Rank<br/>(Most<br/>to<br/>Least)</b> |
| US Total   | 143,490,468         | 95,520,933                                 | 51,045,911                                  | 36%   |   |
| Mississippi  | 1,254,942           | 719,916                                    | 567,195                                     | 45%   | 1                                       |
| Georgia  | 4,255,054           | 2,598,415                                  | 1,753,675                                   | 41%   | 2                                       |
| Arkansas   | 1,223,637           | 755,772                                    | 498,682                                     | 41%   | 3                                       |
| New Mexico   | 923,431             | 573,865                                    | 372,148                                     | 40%   | 4                                       |
| Alabama  | 2,076,195           | 1,288,134                                  | 833,877                                     | 40%   | 5                                       |
| South Carolina   | 2,047,201           | 1,273,969                                  | 818,631                                     | 40%   | 6                                       |
| Louisiana  | 1,983,957           | 1,250,519                                  | 780,097                                     | 39%   | 7                                       |
| Texas  | 10,792,258          | 6,822,725                                  | 4,226,513                                   | 39%   | 8                                       |
| Florida  | 8,875,483           | 5,645,900                                  | 3,468,156                                   | 39%   | 9                                       |
| Idaho  | 666,723             | 423,714                                    | 258,528                                     | 39%   | 10                                      |
| Tennessee  | 2,842,898           | 1,814,965                                  | 1,100,304                                   | 39%   | 11                                      |
| North Carolina   | 4,180,091           | 2,664,444                                  | 1,607,594                                   | 38%   | 12                                      |

<sup>2</sup> <http://www.taxpolicycenter.org/taxtopics/federal-taxes-households.cfm>.

|  |            |            |           |     |    |
|--|------------|------------|-----------|-----|----|
| Utah   | 1,145,303  | 730,938    | 432,744   | 38% | 13 |
| Arizona  | 2,714,182  | 1,756,481  | 1,010,982 | 37% | 14 |
| Kentucky   | 1,869,439  | 1,218,223  | 694,890   | 37% | 15 |
| California   | 16,478,215 | 10,809,941 | 6,083,777 | 37% | 16 |
| Oklahoma   | 1,605,411  | 1,051,298  | 591,878   | 37% | 17 |
| Montana  | 477,153    | 314,174    | 174,568   | 37% | 18 |
| Indiana  | 3,019,320  | 1,992,138  | 1,083,040 | 36% | 19 |
| Michigan   | 4,626,365  | 3,059,154  | 1,659,010 | 36% | 20 |
| Missouri   | 2,739,220  | 1,832,981  | 963,611   | 35% | 21 |
| West Virginia  | 785,966    | 527,282    | 275,876   | 35% | 22 |
| New York   | 9,203,531  | 6,233,030  | 3,223,814 | 35% | 23 |
| Oregon   | 1,753,860  | 1,182,640  | 608,311   | 35% | 24 |
| Nevada   | 1,272,433  | 854,584    | 441,251   | 35% | 25 |
| Illinois   | 6,112,426  | 4,128,709  | 2,100,258 | 34% | 26 |
| South Dakota   | 389,575    | 266,064    | 131,608   | 34% | 27 |
| Kansas   | 1,328,944  | 905,922    | 446,675   | 34% | 28 |
| Nebraska   | 857,622    | 591,594    | 282,150   | 33% | 29 |
| Maine  | 633,674    | 443,576    | 206,378   | 33% | 30 |
| Vermont  | 320,162    | 224,748    | 103,669   | 32% | 31 |
| Hawaii   | 656,452    | 459,268    | 211,696   | 32% | 32 |
| Pennsylvania   | 6,130,055  | 4,264,743  | 1,975,694 | 32% | 33 |
| Ohio   | 5,562,764  | 3,876,376  | 1,789,893 | 32% | 34 |
| Wisconsin  | 2,767,859  | 1,940,996  | 873,884   | 32% | 35 |
| Colorado   | 2,340,854  | 1,654,661  | 731,210   | 31% | 36 |
| Iowa   | 1,415,088  | 1,000,188  | 441,887   | 31% | 37 |
| Rhode Island   | 510,709    | 361,016    | 159,378   | 31% | 38 |
| Delaware   | 425,490    | 303,666    | 129,186   | 30% | 39 |
| New Jersey   | 4,304,848  | 3,077,401  | 1,301,727 | 30% | 40 |
| Virginia   | 3,727,792  | 2,674,714  | 1,120,668 | 30% | 41 |
| Minnesota  | 2,569,679  | 1,850,504  | 764,698   | 30% | 42 |
| Washington   | 3,185,705  | 2,302,518  | 939,240   | 29% | 43 |
| Maryland   | 2,776,026  | 2,012,029  | 811,278   | 29% | 44 |
| North Dakota   | 322,761    | 235,533    | 92,955    | 29% | 45 |
| Wyoming  | 274,041    | 201,684    | 77,085    | 28% | 46 |
| New Hampshire  | 668,971    | 497,127    | 184,299   | 28% | 47 |
| Connecticut  | 1,742,470  | 1,296,183  | 474,410   | 27% | 48 |
| Massachusetts  | 3,197,925  | 2,387,861  | 866,220   | 27% | 49 |
| Alaska   | 359,709    | 290,564    | 74,876    | 21% | 50 |
| Dist. of Columbia  | 302,531    | 223,339    | 84,641    | 28% |    |
| Source: Tax Foundation calculations based on IRS data.                         |            |            |           |     |    |
| Adjustments were made to account for EITC recipients in the nonpayer estimate. |            |            |           |     |    |



# PERSONAL INCOME TAX

## STATEWIDE ECONOMIC GROWTH AND TAXATION ISSUES IN SOUTH CAROLINA

SC DEPARTMENT OF COMMERCE

The personal income tax is the largest source of revenue for the General Fund in South Carolina (South Carolina), accounting for 46.6% of revenues in Fiscal Year (FY) 2009-2010. Between 2000 and 2005, personal income tax revenue hovered around \$2 billion. Between 2006 and 2008, revenues increased sharply, ranging from \$2.6 billion to \$2.9 billion. However, in 2009, revenues decreased substantially by around 19% with \$2.3 billion in personal income tax collected. While a decline was anticipated given the economic conditions of the state and nation as a result of the Great Recession, the magnitude of the decline was unexpected.

This study is a comprehensive, high-level analysis of the state's personal income tax system, identifying inefficiencies with the current income tax structure and developing recommendations for the implementation of an adequate, efficient, and equitable income tax structure that will provide revenue stability in periods of economic cycles.

### BACKGROUND

South Carolina is one of 41 states that collects state personal income taxes. It follows federal income tax

laws, allowing many of the same adjustments, exemptions, and deductions, with only a few modifications.

The state's personal income tax structure was created with the intent of being progressive. Tax brackets currently range from 3% to 7%. The 7% tax bracket is the 14<sup>th</sup> highest in the nation.

In 2008, South Carolina's tax burden—or the percentage of income taxpayers pay in state and local taxes—was 8.8%, below the national average of 9.7%. Bordering states, North Carolina and Georgia, had tax burdens of 9.8% and 9.9%, respectively.

State-level personal income tax collections for South Carolina were \$748 per capita in 2008, below the national average of \$918 per capita and lower than both North Carolina's (\$1,201) and Georgia's (\$920).

### BRIEF OVERVIEW OF ECONOMIC MODELS & ISSUES

Taxes are levied for the primary purpose of adequately covering government expenditures. When considering an optimal form of taxation, the balance of equity and

efficiency is often considered. Equity measures the partiality of the tax, and efficiency measures how close to market equilibrium the economy remains in response to the imposed tax.

The personal income tax has several features that often offset the balance of equity and efficiency thereby propagating negative effects in the marketplace. These effects include factors such as an excess or shortage of labor supply, human capital, entrepreneurship, and investment. Salient features of the personal income tax are as follows.

#### Marginal Tax Rates

The marginal tax rate is the rate on the last dollar of earned income and differs from the average tax rate, which is the percentage of total income paid in taxes. Thus, it is possible for individuals qualifying for substantial deductions and exemptions to face a moderate average tax on income but also face a high marginal tax on any activities that increase income, investment, or entrepreneurship.

Higher taxes on labor income discourage labor supply and output. This result is due to the fact that the reward to additional work has been reduced in the face of the new tax. While labor supply

is often equated to the number of hours worked, this measure is, alone, very simplistic. Contribution to output also depends on an individual's effort as well as the individual's level of human capital. Thus, higher marginal tax rates may not simply incentivize people to work less, but they may also induce people to acquire less training (human capital) or accept easier but less productive jobs. These scenarios impact human capital investment and entrepreneurial activities.

Empirical studies substantiate this modeled effect. Countries with lower tax rates have more human capital and hence output than those with high marginal tax rates (Prescott 2004). High marginal tax rates have also been found to reduce work potential and effort (Karabegovic et. al. 2004).

The subsequent link to statewide and nationwide economic growth is established as well. Governments imposing low marginal tax rates have the fastest growing global economies (Barro and Sala-i-Martin 2004).

### Deadweight Loss

Higher tax rates on higher tax brackets result in greater inefficiencies, or deadweight loss. Deadweight loss is the value of work that would have taken place but does not because of tax incidence.

The tax revenue is a transfer of wealth from the marketplace to the government, but the deadweight loss is the amount of work that would have taken place but does not occur due to the tax incidence. Thus marginal taxes that discourage output that would

have existed without tax incidence are deemed inefficient.

As taxes rise, deadweight loss rises faster than the revenue raised by the tax. Thus, individuals alter their behavior with tax incidences, and distortions exist (Trostel 1993). Optimal tax incidence minimizes these distortions and deadweight loss.

## PERSONAL INCOME TAX HISTORY IN SOUTH CAROLINA

The personal income tax was instituted in 1921 with the purpose of eliminating the use of property tax revenue at the state level. The tax, based on the Federal Tax Act of 1921, taxed individuals and corporations one-third of the amount owed in Federal taxes. The 1926 state Income Tax Act created the foundation for the current state income tax, taxing a percentage of personal income and corporate income. And, in 1985, South Carolina adopted conforming

legislation to most of the Federal income tax system under the Internal Revenue Service code.

### A Timeline of Major Changes

Several laws enacted in the past decade that have affected the personal income tax structure in the state, namely:

1. Federal Jobs and Growth Tax Relief Reconciliation Act (2004)
2. Reduced tax rates for pass-through entities (2006)
3. 2.5% tax bracket elimination (2007)

The Federal Jobs and Growth Tax Relief Reconciliation Act increased the standard deduction for some married couples.

In 2006, South Carolina reduced the tax rates for pass through entities (e.g. sole proprietorships, partnerships, S-corporations, and Limited Liability Companies filing as one of the aforementioned types) from the graduated income

**Table 1: South Carolina Individual Income Tax Brackets, 1959 Vs. 2010**

| Tax Rate | Starting Income (1959) | Starting Income (2010) | Starting Income (CPI-Adjusted from 1959) |
|----------|------------------------|------------------------|--|
| 2.5%     | \$0                    | -                      | \$0                                      |
| 3%       | \$2,000                | \$2,670                | \$14,700                                 |
| 4%       | \$4,000                | \$5,340                | \$29,400                                 |
| 5%       | \$6,000                | \$8,010                | \$44,100                                 |
| 6%       | \$8,000                | \$10,680               | \$58,900                                 |
| 7%       | \$10,000               | \$13,350               | \$73,600                                 |

Source: SC Department of Revenue; US Bureau of Labor Statistics

tax bracket ranging up to 7% to a flat 5% rate. This change was phased in over four years, having been fully implemented in 2009.

Prior to fiscal year 2008, South Carolina had six tax brackets with the lowest bracket having a rate of 2.5% and the highest a rate of 7%. The elimination of the 2.5% tax bracket in 2007 effectively created a lowest tax bracket of zero percent. This change was enacted in 2008. Thus, in 2008, individuals no longer had any tax liability on the first \$2,630 of income.

The threshold for each tax bracket is adjusted annually to offset inflation. This adjustment is made in terms of the Consumer Price Index (CPI) but at the discretion of the South Carolina Board of Economic Advisors.

### South Carolina's Current Individual Income Tax

South Carolina's six tax brackets and the taxable income ranges for each are shown in Table 1. Compared with 50 years ago, the state's tax brackets have not varied much. In fact, had the taxable income thresholds been adjusted each year for inflation, they would currently be 5.5 times larger than the taxable income thresholds for 2010, as also shown in Table 1.

Over time, tax bracket changes have not kept pace with inflation, moving taxpayers into higher tax brackets with higher marginal tax rates.

Tax credits having the most substantial impact on state revenue are those for non-residents, two-wage earners and

accounted for 18% and childcare credits accounted for 7.5%. These three credits accounted for 87.5% of all tax credits in the state.

### South Carolina Versus Other States

All of the southeastern states have various personal income tax structures, with the exception of Florida which has no personal income tax. Tennessee is also a special case as it only taxes dividends and capital gains. Compared with the seven other southeastern states, South Carolina's top personal income tax bracket of 7% ranks second highest, only behind North Carolina which has a top tax bracket of 7.75%. See Table 2. However, the combination of the high rate and the threshold at which this top rate is applied is significantly lower than any of the other southeastern states and one

**Table 2: Southeast United States Individual Income Tax Rates & Deductions, 2010**

| State          | Highest Marginal Tax Rate | Top Tax Rate Income Threshold | Standard Deduction (Single) | Standard Deduction (Joint) | Personal Exemption (Single) | Personal Exemption (Dependent) |
|----------------|---------------------------|-------------------------------|-----------------------------|----------------------------|-----------------------------|--------------------------------|
| Alabama        | 5%                        | \$3,000                       | \$2,000                     | \$4,000                    | \$1,500                     | \$300                          |
| Georgia        | 6%                        | \$7,000                       | \$2,300                     | \$4,300                    | \$2,700                     | \$3,000                        |
| Louisiana      | 6%                        | \$50,000                      | NA                          | NA                         | \$4,500                     | \$1,000                        |
| Mississippi    | 5%                        | \$10,000                      | \$2,300                     | \$4,600                    | \$6,000                     | \$1,500                        |
| North Carolina | 7.75%                     | \$60,000                      | \$3,000                     | \$6,000                    | \$2,000                     | \$100 credit                   |
| South Carolina | 7%                        | \$13,350                      | \$5,700                     | \$11,400                   | \$3,650                     | \$3,650                        |
| Virginia       | 5.75%                     | \$13,000                      | \$3,000                     | \$6,000                    | \$930                       | \$930                          |

Source: SC Department of Revenue; Tax Foundation

childcare. Non-resident credits amounted to \$165,729,013 in 2008, accounting for 62% of all tax credits. Two-wage earner credits

of the lowest in the nation.

South Carolina is one of nine states (Colorado, Idaho, Minnesota, North

Carolina, North Dakota, Oregon, Utah, Vermont) that uses the federal taxable income as the state's starting point for calculating personal income taxes. This starting point is determined by subtracting itemized or standard deductions as well as personal income exemptions from federal adjusted gross income (AGI). As a result, South Carolina accepts all Federal standard deductions and exemptions (adjusted annually for inflation), which are higher than other states' own deductions and exemptions. Twenty-seven of the 41 states imposing a personal income tax use AGI as the starting point for calculating state income taxes.

Among the nine southeastern states, North Carolina also uses the Federal taxable income as the starting point for determining taxable income. However, North Carolina does not accept Federal standard deductions and exemptions but instead uses deductions and exemptions from AGI, which are lower than those applicable to Federal taxable income. South Carolina is the only southeastern state that modifies its deductions and exemptions annually for inflation.

South Carolina has more generous deductions than any other southeastern state (see Table 2). Alabama has a progressive deduction system as income increases, not to exceed \$2,500 for single filers and \$7,500 for married couples filing jointly. North Carolina's deductions and exemptions are deductions from Federal AGI. Since North Carolina's tax base is Federal taxable income, they require the difference between the Federal deductions

and exemptions and state deductions and exemptions be added back to taxable income.

All southeastern states have standard deductions and exemptions ranging from \$2,000 to \$4,500 for single filers and from \$3,000 to \$9,000 for married couples filing jointly. South Carolina's standard deduction is \$5,700 for single filers and \$11,400 for married couples filing jointly.

South Carolina also has the highest personal income exemption of any southeastern state at \$3,650. Standard deductions and exemptions, coinciding with the fact that South Carolina uses Federal taxable income as a starting point explain why South Carolina generally has a lower taxable income and tax liability than other states.

To illustrate the magnitude of the gap between deductions and exemptions in South Carolina versus other states, consider the scenario in which Georgia's standard deductions are applied to South Carolina's taxable income for FY 2007-2008. The total amount of standard deductions was \$2.35 billion less for single filers and \$5.82 billion less for married couples filing jointly, resulting in deductions totaling \$8.17 billion less than South Carolina's deductions. In addition, because South Carolina increases its standard deductions for inflation yearly while Georgia does not. This indexation serves to expand the gap between the two systems.

South Carolina (along with Mississippi and Virginia) possesses the same tax brackets for both single filers and married couples filing jointly. This is different from

its border states, Georgia and North Carolina, which increase the tax bracket for couples that are married and file jointly. South Carolina also differs from Alabama and Louisiana. These states double the base for each tax bracket for married couples filing jointly. Thus, the tax liability for couples who are married and filing jointly is higher than it would be in Alabama, Georgia, Louisiana, and North Carolina.

Most of the deductions and exemptions in southeastern states concern Social Security income, childcare, and tuition payments as do South Carolina's.

South Carolina, along with all other southeastern states, does not tax Social Security benefits. It is also one of five states (others are New Jersey, Ohio, Oklahoma, and Pennsylvania) that exempts disability retirement income from personal income taxes. Georgia and North Carolina conform to the Federal disability income tax regulations, where one is required to pay Federal income taxes if total income is above \$2,500 for an individual and above \$3,200 for a couple.



## STATE PERSONAL INCOME TAX REVENUES

As the largest source of revenue for the state general fund in South Carolina (44% in 2008), personal income tax revenue is a crucial component for education as well as health and social services funding.

### A Detailed View of Personal Income Tax Collections

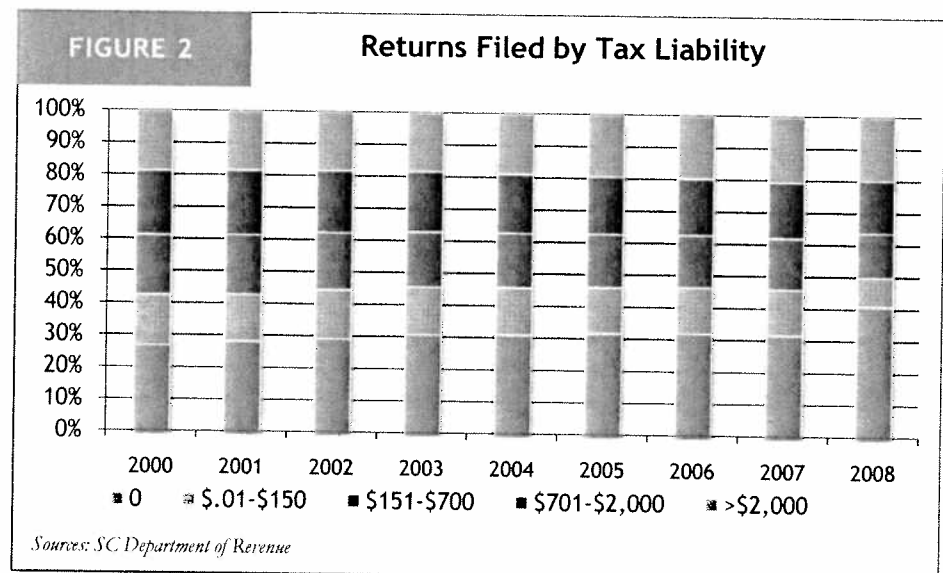
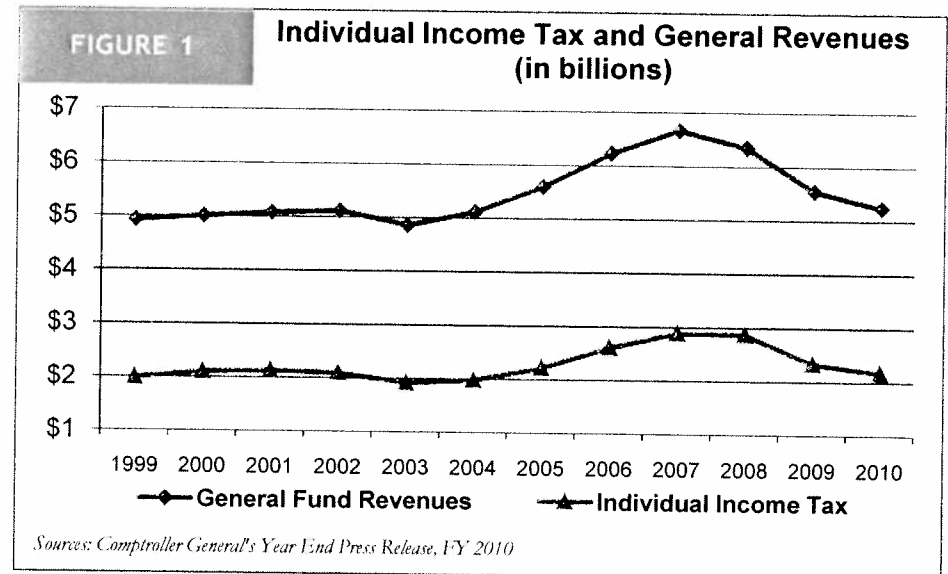
South Carolina has witnessed varied year-over-year personal income tax revenue in the past decade, as shown in Figure 1.

From 1999 to 2001 steady personal income tax growth occurred. However, this period was followed by a decrease from 2001 to 2003, due in part to the nationwide recession as well as the September 11<sup>th</sup> attacks.

Personal income tax revenue began increasing in 2003 and continued until 2006. South Carolina witnessed double-digit growth rates between fiscal years 2004 and 2006. Personal income tax revenue entered another period of decline in 2007, decreasing by as much as 19% between 2008 and 2009. This decline is attributed to both the elimination of the 2.5% income tax bracket and the impacts of the Great Recession.

### Returns by Liability

Considering the return type by the amount of tax liability, a tremendous disparity exists. From fiscal years 2000 through 2008, an average of 31.4% of all personal income tax returns filed was from individuals with a tax liability of



zero. Individuals with a tax liability of over \$10,000 represented only 1.4% of the returns filed from 2000 through 2008, on average. And, individuals with a tax liability over \$1,000 comprised 3.2% of all returns, on average, from 2000 through 2008.

The number of taxpayers with no personal income tax liability has been rapidly increasing since 2000, when 27% of those filing income tax returns had no personal income tax liability. (See Figure 2) In 2008, 41% of individual filers had no income tax liability. The extreme

increase in individuals with no income tax liability resulted from the elimination of the 2.5% income tax bracket.

### Liability by Taxable Income

A similar trend is observed when analyzing tax liability by taxable income. Individuals in the highest tax bracket (7%) with a taxable income greater than \$13,150 for tax year 2008, comprise 42% of the returns filed and bear 96% of the tax liability. (See Figure 3)

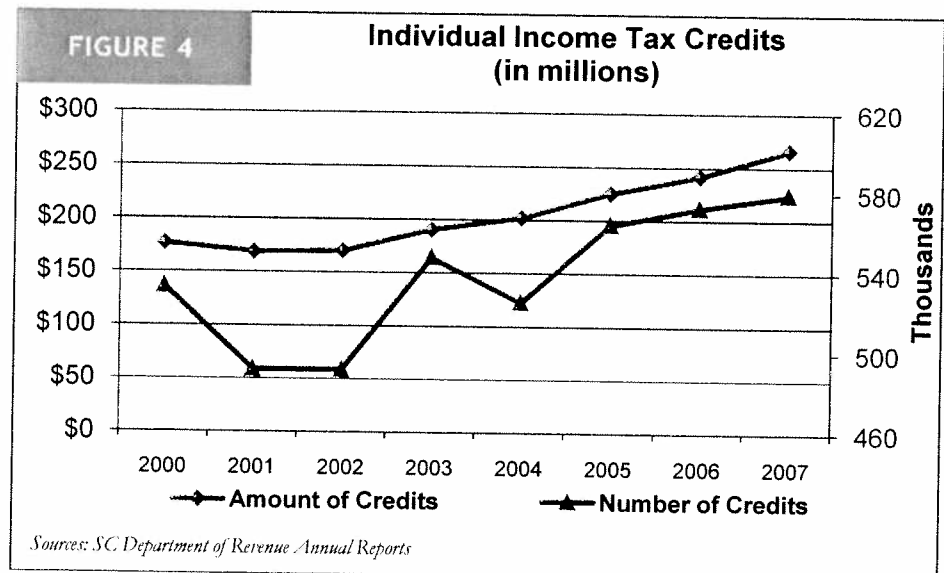
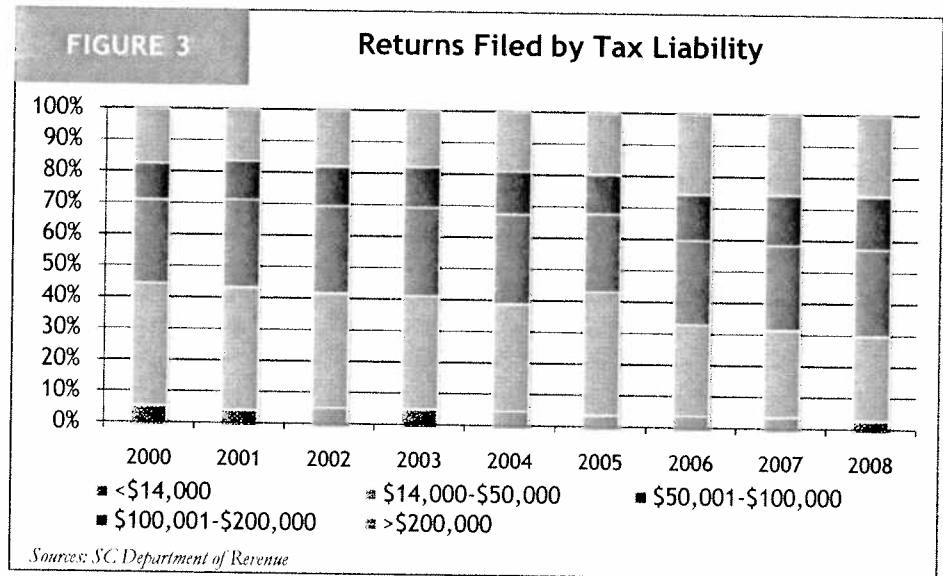
## Credits and Deductions

As addressed previously, South Carolina has substantially higher standard deductions and exemptions than any other southeastern state. In addition, South Carolina also has targeted deductions and advantages. One such deduction applies to net capital gains, on which a 44% deduction is allowed.

Another such targeted advantage lies in the disparity of taxation of income from W-2 wages versus Schedule C income. Although not formally termed a deduction, Schedule C income (or income as an independent contractor or from a pass-through entity) is taxed at a flat rate of 5% rather than the standard progressive income brackets that peak at 7%.

Social Security income is exempt in South Carolina. A \$3,000 deduction on qualified retirement income for individuals under the age of 65 and a \$10,000 deduction for individuals 65 and over are also allowed per individual. Thus, a couple 65 or older with qualified retirement income that is married and filing jointly is eligible for a \$20,000 deduction. In addition, a \$15,000 income deduction exists for individuals 65 and older if married and filing jointly.

South Carolina allows 36 personal income tax credits. The most substantial are the non-resident credit, accounting for 61% of all credits, followed by the two-wage earner credit (22%) and the child care credit (9%). The value of personal income tax credits has been steadily increasing since 2002. (See Figure 4)



## The County Level

South Carolina has 46 counties with varying personal income tax liability across all of them. These revenue differences come from differences in income level, poverty rate, cost of living, size of the population, and regional economic development.

Beaufort, Charleston, Greenville, Lexington, and Richland counties were the five counties with the highest per capita income tax liability in 2008 (See Appendix). On

the other end of the spectrum were Abbeville, Cherokee, Darlington, Laurens, and Pickens counties with the lowest per capita tax liability.

Average effective income tax rate measures the ratio of the state tax liability to the state taxable income. State tax liability is the actual tax each individual owes to the state subtracting non-refundable tax credits.

The average effective income tax rate ranged from 1.87% in York

County to 3.95% in Bamberg County in 2007. The state average effective income tax rate was 3.43%. 42 counties were below the state average. York and Lancaster counties may exhibit a lower average effective income tax rate, in part, due to the fact that the two counties border Charlotte, NC and may have residents who work in North Carolina.

## KEY ISSUES & RECOMMENDATIONS

### High Marginal Tax Rates on Low Taxable Income

South Carolina has the highest marginal tax rate on the lowest level of taxable income in the Southeast (and third in the nation).<sup>1</sup> This situation has evolved over a number of years as changes in tax bracket levels have not kept pace with inflation. As shown in Table 1, if the 1959 tax bracket levels were indexed to inflation, they would be 5.5 times higher in 2010 than they currently are.

While indexing the tax brackets is periodically performed, it is only done at half the rate of the Consumer Price Index (CPI) growth and cannot exceed a maximum of four percent per year. Thus, many individuals are catapulted into higher tax brackets quicker than the rate at which their wages

increase. This phenomenon serves as an implicit tax increase.

The high marginal tax rate is coupled with the fact that South Carolina allows larger standard deductions and exemptions than most southeastern states. As a result, South Carolina's income tax structure resembles a high flat tax with large income exemptions or a sharply progressive structure with effectively two-tiers—0% and 7%. As this trend continues, an increasing number of individuals will bear no tax liability, and the tax burden will fall on fewer and fewer individuals.

Reversing this trend and broadening the tax base can result in lower rates overall, which promotes both equity and efficiency. Also, by reducing tax rates, workers, investors, and business owners have more incentive to acquire human capital, pursue entrepreneurial activities, work overtime, and make investments.

A Federal Reserve Bank of Atlanta study examined how state and local taxes affect state economic growth and found that there is a significant negative correlation between state marginal tax rates and state economic growth. South Carolina has one of the highest marginal tax structures in the country. By cutting the rates, South Carolina will become more competitive.

### Increasing Number of Taxpayers with \$0 Tax Liability

In 2008, 41.0% of individual filers paid no state income tax. In 2000 that figure was 27.0%. The

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South Carolina's income tax structure resembles a high flat tax with large income exemptions or a sharply progressive structure with effectively two-tiers—0% and 7%.

• • •

declining tax liability can be attributed, in part, to several factors:

#### *Federal Taxable Income Versus Adjusted Gross Income*

South Carolina uses federal taxable income rather than AGI as the starting point for calculating state taxable income, after federal deductions and exemptions have already been removed.

Using AGI instead of federal taxable income when computing personal income taxes, would broaden the tax base, simplify the tax structure, and ameliorate inefficiencies caused by federal exemptions that are not available to everyone. AGI, by not including standard and itemized deductions, raises the taxable income.

South Carolina and North Carolina are the *only* southeastern states that use federal taxable income as the starting point for calculating state income taxes. Having a state personal income tax that is not tied to the federal tax code would also provide more stability in times of tax policy changes at the federal level, and would hence provide

<sup>1</sup> Idaho has 8 tax rates ranging from 1.6%-7.8%. Individuals in the 7.1% tax bracket include those making between \$6,605 and \$9,907. Idaho accepts all Federal deductions and exemptions, just like South Carolina. Oregon has 5 tax rates ranging from 5%-11%. Those making between \$3,049 and \$7,650 are taxed at 7%. However, Federal taxes are deductible up to \$5,600. Oregon's deductions are: Single-\$1,945, Married \$3,895 and personal exemptions are \$176.

more revenue stability and predictability for the state.

#### *Deductions*

South Carolina then applies state standard deductions and exemptions which are higher than other southeastern states, further reducing the level of taxable income. Additionally, targeted tax credits and deduction amounts have been increasing in value.

#### *2.5% Tax Bracket Elimination*

In 2007, the 2.5% tax bracket was eliminated, allowing the first \$2,670 of taxable income (after all the deductions and exemptions) to be tax free.

### Targeted Credits and Deductions

While the purpose of itemized deductions and exemptions is to encourage specific economic activities and reduce potential hardships, they may create a means for tax avoidance and inequity. All exemptions, deductions, and tax credits create loopholes in the tax code and set one group (the one receiving the tax break) at a particular advantage over another (the one not receiving the tax break). Additionally, deductions and exemptions lower taxable income thereby decreasing revenue for the state.

Several important deductions, in terms of favoring one situation over another and impacting state revenues include the following:

#### *State Standard Deductions*

The federal tax system is more progressive and has higher tax rates than South Carolina, which is why federal deductions and exemptions are often much higher

than those at the state level for personal income tax. Deductions and exemptions should accurately reflect the tax brackets and tax rates of the entity that is being taxed. South Carolina, however, uses the federal levels as its own state levels.

#### *Retirement Income*

Qualifying retirement income is deductible at rates of \$3,000 per individual before age 65 and \$10,000 per individual afterwards. Additionally, those 65 and over receive an additional \$15,000 income deduction, and all social security income is exempt from state taxation. The number of filers claiming these deductions is anticipated to increase rapidly with the retirement of the baby boomers. Additionally, the percentage of elderly population in poverty is declining, statewide and nationwide (13.9% in 2000 vs. 12.1% in 2008), while the percentage of children under 18 in poverty is increasing (18.5% in 2000 vs. 21.8% in 2008)

#### *Schedule C Income*

In 2006, the income tax rate of pass through entities was reduced in increments of 0.5% per year to a rate of 5% by 2009. This change was intended to provide tax parity between large C-corporations, who were taxed as an entity at 5% before profit distribution, and small businesses whose profits are taxed as Schedule C income on individual income tax returns. As a result of this change, individual filers of income reported on Schedule C of form SC-1040 pay income tax at a lower rate (5%) than filers who report income from W-2 wages or dividends (7% for taxable income over \$13,350).

Furthermore, pass-through entities, by definition, are not taxed, whereas C-corporations are. Thus, shareholders in C-corporations must pay the 5% corporate tax on profits of the entity, followed by individual income tax on dividend distributions (7% for taxable income over \$13,350). Even if the shareholder is an employee and can take most of the earnings in the form of W-2 wages, those are still taxed at the higher 7% rate.

## CONCLUSION

In general, South Carolina's individual income tax system has become more focused and narrow, as fewer individuals bear a greater percentage of the tax burden.

Reducing the marginal tax rate, indexing tax brackets for inflation, reducing dependency on federal taxable income, evaluating the equity of targeted deductions and exemptions, will serve as a catalyst for instituting a more equitable, efficient, stable, and simple personal income tax structure.

The personal income tax is one part of a whole in South Carolina's tax structure. Any changes to one should be evaluated comprehensively across all elements to ensure they operate in concert.

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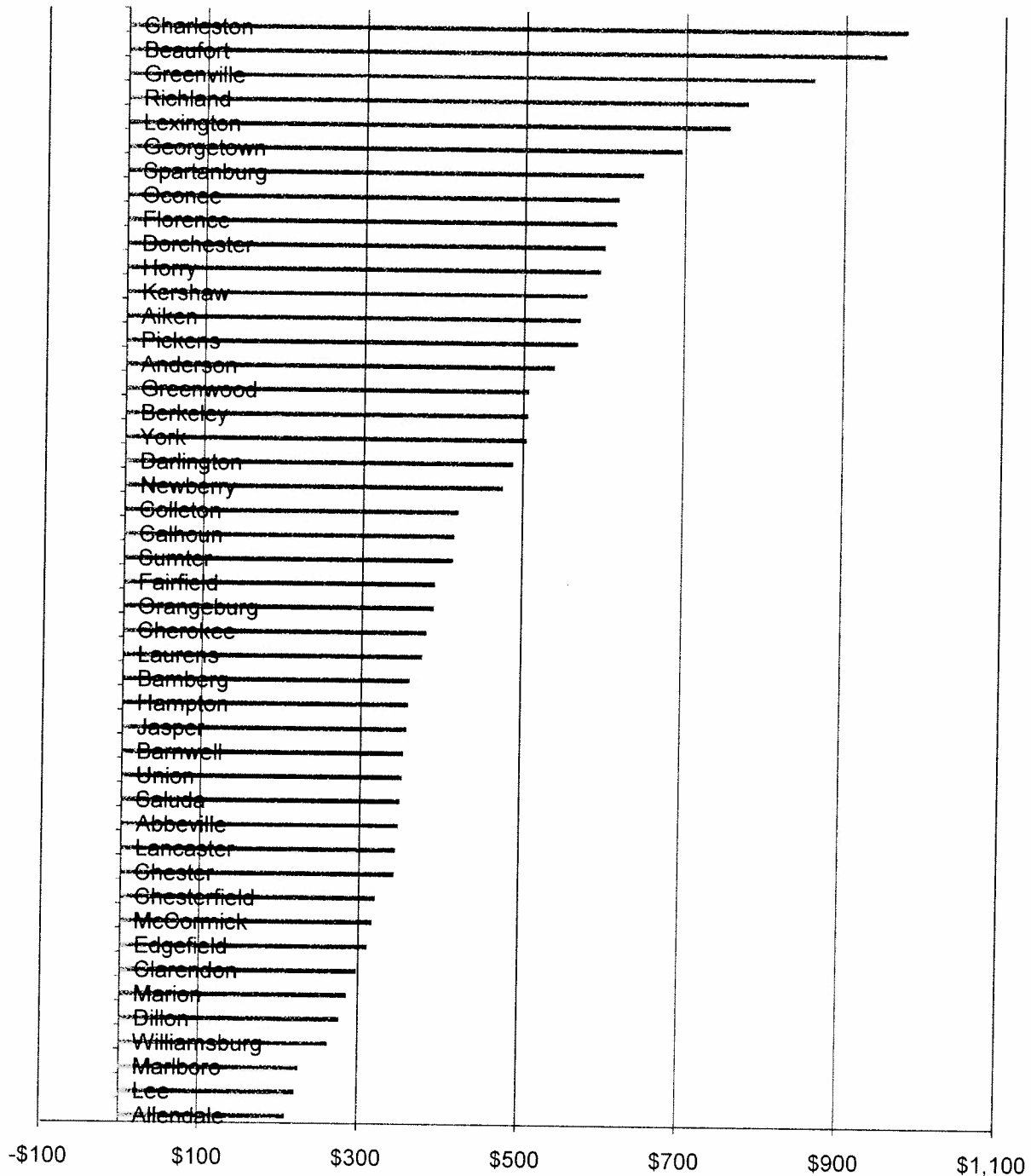
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## APPENDIX

FIGURE A1

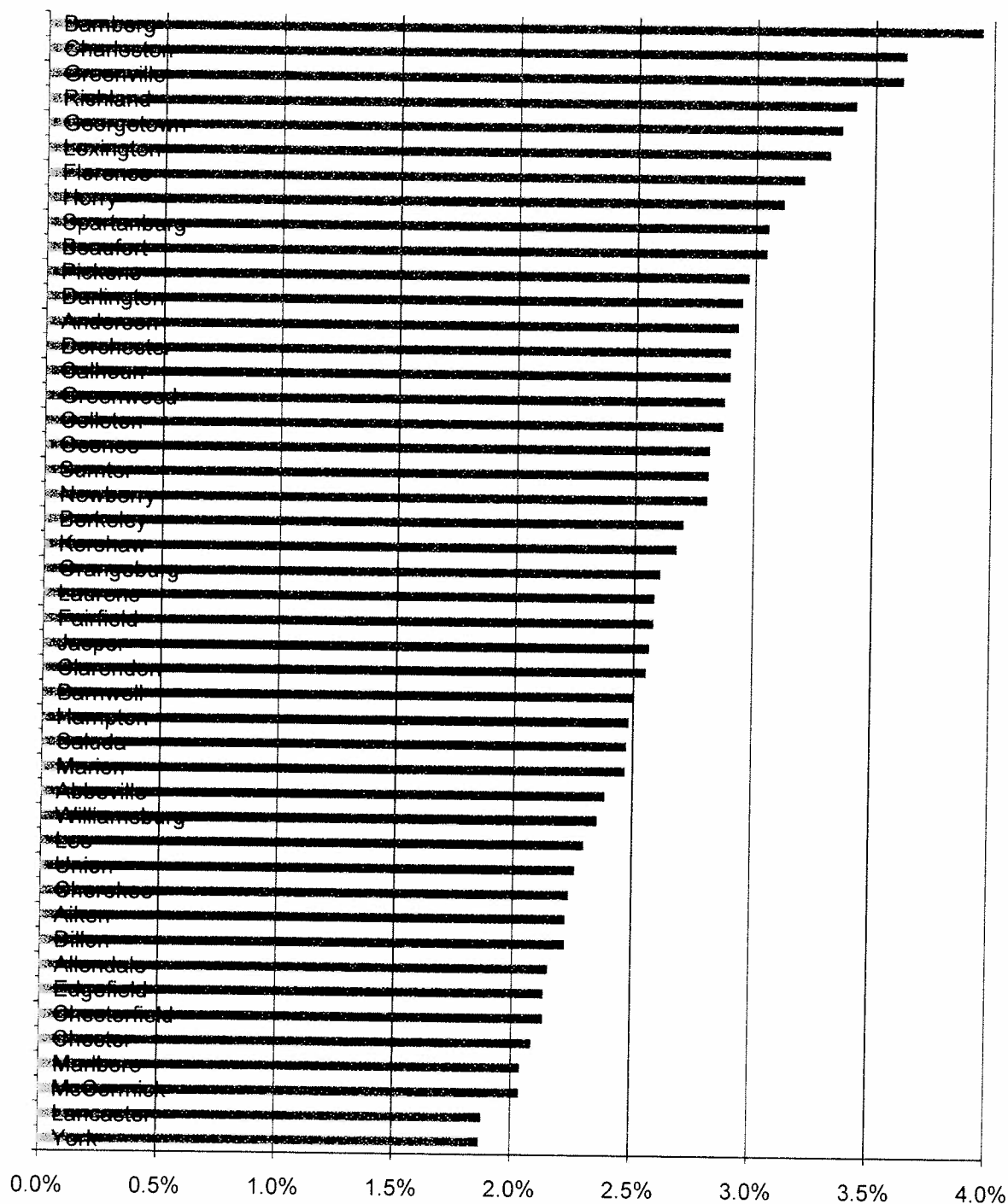
## Per Capita Individual Income Tax Liability by County, 2007



Source and notes: Per capita individual income tax is total tax liability divided by mid-year population in 2007. Total tax liability is from South Carolina Department of Revenue Annual Report 2007-2008. Mid-year population is from the U.S. Census Bureau, population division.

FIGURE A2

## Average Effective Income Tax Rate by County in 2007



Source and notes: South Carolina Department of Revenue, Annual Report 2007-2008

Table A1: South Carolina Standard Deductions and Exemptions (\$)

| Tax Year | Standard Deductions |         | Personal Exemptions |           |
|----------|---------------------|---------|---------------------|-----------|
|          | Single              | Married | Single              | Dependent |
| 2000     | 4,300               | 7,200   | 2,750               | 2,750     |
| 2001     | 4,400               | 7,350   | 2,800               | 2,800     |
| 2002     | 4,550               | 7,600   | 2,900               | 2,900     |
| 2003     | 4,700               | 7,850   | 3,000               | 3,000     |
| 2004     | 4,750               | 7,950   | 3,050               | 3,050     |
| 2005     | 4,850               | 9,700   | 3,100               | 3,100     |
| 2006     | 5,000               | 10,000  | 3,200               | 3,200     |
| 2007     | 5,150               | 10,300  | 3,300               | 3,300     |
| 2008     | 5,350               | 10,700  | 3,400               | 3,400     |
| 2009     | 5,450               | 10,900  | 3,500               | 3,500     |
| 2010     | 5,700               | 11,400  | 3,650               | 3,650     |

Table A2. South Carolina Individual Income Tax Credits (Fiscal Year 2008)

| Individual Income Tax Credits  | Number of Credits | Total Amount of Credits (\$) | % of Total Amount of Credits |
|--|-------------------|------------------------------|------------------------------|
| A credit is allowed for income taxes paid to another state on income which is taxable in both states               | 75,098            | 165,729,013                  | 62.34                        |
| Qualified retirement plan  | 490               | 1,012,099                    | .38                          |
| Two wage-earners credit  | 377,766           | 48,202,108                   | 18.13                        |
| Credit for care expenses on dependent child under age 13 and disabled spouse                                       | 115,919           | 19,917,510                   | 7.49                         |
| 25% of tuition for each taxable year up to \$850 for a 4-year institution and up to \$350 for a 2-year institution | 7,670             | 5,193,332                    | 1.95                         |
| New Jobs Credits   | 361               | 7,255,598                    | 2.73                         |
| Qualified Conservation   | 222               | 6,913,672                    | 2.6                          |
| Economic Impact Zone   | 177               | 1,363,396                    | .51                          |
| 20% of the expenses on nursing facilities up to \$300 each tax year  | 206               | 55,887                       | .02                          |
| Other 25 types   |                   | 10,207,731                   | 3.84                         |
| <b>Total</b>   |                   | <b>\$265,850,346</b>         | <b>100%</b>                  |



### Capital Gains Taxation: Federal and State

***What is capital gains income?***

When a taxpayer sells a capital asset, such as stock holdings, a home, or longer-lived business assets, the difference between the amount realized on the sale and the taxpayer's basis is either a capital gain or a loss. The taxpayer's "basis" is usually what the taxpayer paid for and invested in the asset, less any depreciation deductions claimed for business assets. Special rules apply to assets received as a gift or through inheritance.

***What are short-term and long-term gains and losses?***

The gain or loss on an asset held for more than one year is considered "long term." If the taxpayer disposes of an asset after holding it for a year or less, the gain or loss is "short term."

***How does the federal government tax capital gains income?***

The maximum federal income tax rate for most net long-term capital gains income is 15 percent in tax year 2010. There is no tax on capital gains income in 2009 and 2010 for taxpayers in the 10 percent or 15 percent bracket for ordinary income—in tax year 2010 the 0-percent rate applies for married joint filers with taxable income under \$67,100. The amount of net capital gains income that qualifies for the maximum 15- or 0-percent rate is the long-term capital gain after subtracting both long-term capital losses and net short-term capital losses (i.e., in excess of short-term capital gains). Short-term capital gains do not qualify for the preferential federal rates but are taxed as ordinary income.

***Are there higher rates for certain kinds of income?***

Three exceptions to the maximum 15- and 0-percent federal rates apply:

- The portion of the gain from qualified small business stock is subject to a maximum 28-percent rate (up to 50 percent of the gain on the sale of this stock may be excluded from taxable income entirely)
- The net capital gain from selling collectibles (such as coins or art) is subject to a maximum 28-percent rate
- The part of any net capital gain on property for which the taxpayer claimed "additional depreciation" (Section 1250 real property) is taxed at a maximum 25-percent rate

***Is there special tax treatment for gains realized through the sale of the taxpayer's home?***

Yes. Taxpayers who meet "use" and "ownership" tests may exclude up to \$250,000 of gain on the sale of the home (\$500,000 for married joint taxpayers). Under the "use" test, the taxpayer must have used the home as his or her principal residence for two of the five years preceding the sale. Under the "ownership" test, the taxpayer must have owned the home for at least two years. There is no limit to the number of times a taxpayer may claim this exclusion. Beginning in January 2009, the exclusion is apportioned based on the amount of time in which the home was used as the principal residence, from January 2009 to the time of sale.

***Can capital losses reduce ordinary income?***

Yes, up to \$3,000 per year of capital losses can be deducted from ordinary income. Losses over \$3,000 are carried forward to future tax years. Losses on personal use items, such as a home or car, are not deductible.

***How does Minnesota tax capital gains income?***

Minnesota includes all net capital gains income in taxable income and subjects it to the same tax rates as apply to other kinds of income: 5.35, 7.05, and 7.85 percent. Minnesota does recognize the federal exclusion of up to \$250,000 of gain realized on the sale of the taxpayer's home (\$500,000 for married joint taxpayers) and the exclusion of part of the gain on qualified small business stock.

***How do other states that impose an individual income tax treat capital gains income in tax year 2009?***

- 23 states, including Minnesota, do not provide preferential treatment for capital gains income
- Seven states (Arkansas, Montana, New Mexico, North Dakota, South Carolina, Vermont, and Wisconsin) exclude a portion of capital gains income or allow a credit
- Four states exclude all or part of the gain on property located in the state (Colorado, Idaho, Iowa, and Oklahoma); the exclusion also applies to gains on sale of stocks of in-state companies in Colorado and Oklahoma
- Six states exclude all or part of the gain for certain investments, such as in new businesses or low-income housing (Arkansas, Missouri, Montana, Nebraska, New York, and Utah)
- Three states exclude gains on some or all state and local bonds (Connecticut, Kentucky, and Ohio)
- Rhode Island applies lower rates to capital gains income, depending on how long the taxpayer has held the asset
- Kentucky excludes gains resulting from eminent domain

***What are the income levels and filing types of people who have capital gains income?***

In tax year 2007, about 24 percent of all returns filed by Minnesota residents reported some capital gains income. Married taxpayers filing joint returns received 78 percent of capital gain income. Filers with incomes over \$100,000 received over 86 percent of capital gain income, and capital gain income made up over 15 percent of total income for those returns reporting capital gains.

| Federal adjusted gross income   | \$ of capital gains reported (millions) | % of all gains reported | % of income consisting of gains | Average gains per return |
|---------------------------------|---|-------------------------|---------------------------------|--------------------------|
| returns with capital gains only |   |                         |                                 |                          |
| Less than \$50,000              | \$618                                   | 5.7%                    | 15.3%                           | \$2,758                  |
| \$50,000 to \$99,999            | \$858                                   | 7.9%                    | 6.6%                            | \$4,841                  |
| \$100,000 to \$500,000          | \$3,030                                 | 27.8%                   | 9.8%                            | \$17,492                 |
| Over \$500,000                  | \$6,387                                 | 58.6%                   | 28.5%                           | \$418,117                |
| All incomes                     | \$10,893                                | 100.0%                  | 15.5%                           | \$18,470                 |

***What are the ages of taxpayers who have capital gains income?***

Almost half of taxpayers aged 65 and older reported some capital gains income in tax year 2007. The table shows the percent of gains by age of taxpayer.

| Taxpayer age               | \$ of capital gains reported (millions) | % of all gains reported | % of income consisting of gains | Average gains per return |
|----------------------------|---|-------------------------|---------------------------------|--------------------------|
| returns with capital gains |   |                         |                                 |                          |
| Less than 25               | \$144                                   | 1.3%                    | 17.5%                           | \$2,712                  |
| 25 to 39                   | \$661                                   | 6.1%                    | 7.7%                            | \$7,924                  |
| 40 to 64                   | \$6,606                                 | 60.6%                   | 14.5%                           | \$22,890                 |
| 65 or older                | \$3,483                                 | 32.0%                   | 22.6%                           | \$21,135                 |
| All ages                   | \$10,893                                | 100.0%                  | 15.5%                           | \$18,470                 |

**For more information:** Contact legislative analyst Nina Manzi at 651-296-5204 or Joel Michael at 651-296-5057.

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# Capital Gains Tax Rates

## Federal / South Carolina Combined

### 1989 - 2010

| Tax Year/<br><u>Hold Period</u> | Federal Top<br>Marginal Rate<br>(%) | SC<br>Rate<br>(%) | Combined<br>Rate<br>(%) | Notes:  |
|---------------------------------|-------------------------------------|-------------------|-------------------------|---|
| <b>1989</b>                     |                                     |                   |                         |   |
| < 1 yr                          | 28                                  | 7                 | 35                      | Federal top marginal rate excludes 5% surtax<br>for certain filers (1989 and 1990 only)<br>No SC Deduction 1989 and prior |
| 1 - 2 yrs.                      | 28                                  | 7                 | 35                      |   |
| >2 yr                           | 28                                  | 7                 | 35                      |   |
| <b>1990</b>                     |                                     |                   |                         |   |
| < 1 yr                          | 28                                  | 7                 | 35                      | Between TY's 1990 and 2000, SC required<br>a holding period of 2 yrs. to receive a deduction.<br>SC Deduction 14% in 1990 |
| 1 - 2 yrs.                      | 28                                  | 7                 | 35                      |   |
| >2 yr                           | 28                                  | 6.02              | 34.02                   |   |
| <b>1991-1992</b>                |                                     |                   |                         |   |
| < 1 yr                          | 31                                  | 7                 | 38                      | SC Deduction 29% 1991-1994  |
| 1 - 2 yrs.                      | 28                                  | 7                 | 35                      |   |
| >2 yr                           | 28                                  | 4.97              | 32.97                   |   |
| <b>1993-1994</b>                |                                     |                   |                         |   |
| < 1 yr                          | 39.6                                | 7                 | 46.6                    |   |
| 1 - 2 yrs.                      | 28                                  | 7                 | 35                      |   |
| >2 yr                           | 28                                  | 4.97              | 32.97                   |   |
| <b>1995-1997*</b>               |                                     |                   |                         | *Thur May 6, 1997   |
| < 1 yr                          | 39.6                                | 7                 | 46.6                    | SC Deduction 44% 1995-Present   |
| 1 - 2 yrs.                      | 28                                  | 7                 | 35                      |   |
| >2 yr                           | 28                                  | 3.92              | 31.92                   |   |
| <b>1997*</b>                    |                                     |                   |                         | *May 7, 1997 - July 28, 1997  |
| < 1 yr                          | 39.6                                | 7                 | 46.6                    |   |
| 1 - 2 yrs.                      | 20                                  | 7                 | 27                      |   |
| >2 yr                           | 20                                  | 3.92              | 23.92                   |   |
| <b>1997-1998*</b>               |                                     |                   |                         | *July 29, 1997 - July 21, 2008  |
| <1 yr                           | 39.6                                | 7                 | 46.6                    |   |
| 1 - 1.5 yrs.                    | 28                                  | 7                 | 35                      |   |
| 1.5 yrs. - 2 yrs.               | 20                                  | 7                 | 27                      |   |
| >2 yr                           | 20                                  | 3.92              | 23.92                   |   |
| <b>1998-2000*</b>               |                                     |                   |                         | *July 22, 2008 - Dec. 31, 2000  |
| < 1 yr                          | 39.6                                | 7                 | 46.6                    |   |
| 1 - 2 yrs.                      | 20                                  | 7                 | 27                      |   |
| >2 yr                           | 20                                  | 3.92              | 23.92                   |   |

# Capital Gains Tax Rates

## Federal / South Carolina Combined

### 1989 - 2010

| Tax Year/<br>Hold Period | Federal Top<br>Marginal Rate<br>(%) | SC<br>Rate<br>(%) | Combined<br>Rate<br>(%) | Notes:                       |
|--------------------------|-------------------------------------|-------------------|-------------------------|------------------------------|
| 2001                     |                                     |                   |                         |                              |
| < 1 yr                   | 39.1                                | 7                 | 46.1                    |                              |
| >1 yr                    | 20                                  | 3.92              | 23.92                   |                              |
| 2002-2003*               |                                     |                   |                         | *Jan. 1, 2002 - May 5, 2003  |
| < 1 yr                   | 38.6                                | 7                 | 45.6                    |                              |
| >1 yr                    | 20                                  | 3.92              | 23.92                   |                              |
| 2003-2010*               |                                     |                   |                         | *May 6, 2003 - Dec. 31, 2010 |
| < 1 yr                   | 35                                  | 7                 | 42                      |                              |
| >1 yr                    | 15                                  | 3.92              | 18.92                   |                              |

Note: This analysis only factors taxpayers at top federal marginal rate. For taxpayers at lower federal marginal rates, the combined federal/state total will be less in each year represented here.

Sources: Tax Foundation, South Carolina Code of Laws

## COMPARING STATE INCOME TAX PREFERENCES FOR THE ELDERLY IN THE SOUTHEAST

Over the past 20 years, states have altered their income tax codes to give preferential treatment to seniors. Most of these statutory changes have fallen within three areas: the treatment of social security income, the treatment of retirement income, especially that coming from pensions, and the inclusion of age-specific deductions, exemptions, and credits. This Policy Brief looks at the current state of these tax preferences in the Southeast for those states that impose a major income tax.<sup>1</sup> It also estimates the dollar value of these preferences.

### The 2004 Tax Laws

We use the *State Handbook of Economic, Demographic and Fiscal Indicators 2006* (Baer, 2006), published by the AARP, to compile information on the tax codes for each of the Southeastern states for 2004. Table I summarizes the major ways that Georgia and a set of comparison states have adjusted their income tax codes to create preferences for the elderly. Georgia has the second highest additional elderly deduction of \$1,300 per person, which trails only Mississippi's \$1,500. Overall, 6 states offer an additional exemption, 2 states offer an additional tax credit, and only two states, Alabama and West Virginia, offer no additional tax credit or exemption based on age.

Georgia is generally more generous with exempting public pension income than private pension income. Three states (Alabama, Louisiana and Mississippi) fully exempt public pension income, whereas the remaining seven states offer amounts between \$4,000 and \$38,775. For private pensions, West Virginia does not exempt any income, nor does Alabama unless the income comes from a defined benefit plan, in which case it exempts all the income. Mississippi exempts all private pension income, and the remaining states exempt amounts between \$2,000 and \$38,775.

Rather than make a distinction between private and public pensions, Georgia, along with South Carolina and Virginia, apply their exemptions to "retirement income" broadly defined. Georgia is the most generous of states using this definition; it exempted \$15,000 of retirement income per elderly individual in 2004.<sup>2</sup> Georgia has two additional unique features.

<sup>1</sup> Florida has no personal income tax and Tennessee taxes only interest and dividend income.

<sup>2</sup> Note that this amount increased to \$25,000 per individual for 2006, \$30,000 per individual for 2007 and is scheduled to increase to \$35,000 for 2008 under current law.

First is that this exemption holds for anyone 62 and over, as opposed to the normal age of 65. By contrast, both Virginia and South Carolina reduce the amount exempted for the 62-65 age group.

Second, Georgia allows for \$4,000 in earned income to count towards the retirement income exemption. It appears as though no other state in the Southeast allows for such a provision.

Finally, in addition to pension income exemptions, Georgia, along with every Southeastern state, fully exempts all social security income. West Virginia makes this exemption means-tested, but they are the lone exception.

What do we make of all these different preferences? Georgia is consistently in the top tier of Southeastern states for all the various categories. But what does this mean dollar-wise? To find out, we created a summary measure that incorporates all these differences.

### Calculating the Elderly Bonus

To calculate the state income tax benefit afforded the elderly, we constructed profiles of elderly and non-elderly households following Conway and Rork (2007). We extracted data from the 2002 March Current Population Survey for elderly (aged 65 and over) and non-elderly (age 25-55) married households. For each group, we further divided the group into four income quartiles. For each quartile, we calculate the median income and the composition of that income into its major components -- social security benefits, pension income, dividend and interest income, earnings, other income and unemployment benefits.

However, for a crisp comparison, we want to keep the income levels the same between elderly and non-elderly households. Thus, all our high-income households are assumed to have the income from the top elderly income quartile, whereas our low-income households are assumed to have the income level corresponding to the bottom elderly quartile. We then use the CPS to allow the composition of income between elderly and non-elderly households to differ. By keeping the income level constant, we can isolate the effects of *composition* of income plus any extra benefits given simply on the basis of age.

Once these profiles are created, we use the TAXSIM model at the National Bureau of Economic Research to estimate the state income tax liabilities each type of household would face, given its state of residence. We adjust our profiles for inflation to bring them up to 2004 levels, so that they correspond to the 2004 tax laws.

Table 2 shows the breakdown of income by source for elderly and non-elderly households in the highest and lowest quartiles. For our low-income elderly, 86 percent of their income comes from social security, and another 10 percent comes from pension and dividend income. For the high-income elderly, their income is evenly distributed between wages, social security, pensions and dividends, which combined account for approximately 93 percent of income. The main source of income for the non-elderly, regardless of income-level, is wage income, accounting for over 92 percent of all income for low-income and over 94 percent for high-income non-elderly.

The results generated by TAXSIM are reported in Table 3. The elderly tax liability is the estimated tax bill created by TAXSIM for our elderly household. The non-elderly tax liability is the same exercise for our non-elderly household. The elderly tax savings is the difference between the estimated tax liabilities for elderly and non-elderly households of the same income level who live in the same state. The estimated elderly tax savings as a percentage of household income is the elderly tax bonus. This measures the percentage savings the elderly receives in their tax bill compared to non-elderly with similar income. Doing so has the additional benefit of allowing for easy comparison across income levels.

Note that the low-income elderly have no income tax liability in any state in the Southeast. Moreover, the low-income elderly would receive an estimated \$40 from Arkansas in the form of a tax rebate. On the other hand, the low-income non-elderly would have no tax liability in only 3 states. The largest difference between elderly and non-elderly is in Kentucky, where the elderly household would pay an estimated \$489 less in income taxes than the non-elderly, a tax savings of approximately 3 percent of income. Georgia ranks sixth in the Southeast, with an estimated elderly bonus of \$197, representing a tax savings for the elderly of 1.2 percent compared to the non-elderly.

Not surprisingly, the tax liability for high-income elderly, as compared to low-income elderly, is higher in 9 states, with South Carolina imposing zero tax liability. In Georgia, our hypothetical high-income elderly household pays only \$445 in state income tax, which amounts to 0.56 percent of their \$78,395 in income. By contrast, the non-elderly household would pay \$2,385 in income tax, or a little over 3 percent of their income. Thus, the elderly tax savings in Georgia amounts to an estimated \$1,938, or just under 2.5 percent of income.

Overall, this places Georgia fourth in the Southeast in terms of elderly tax liability, but when we compare the elderly and non-

**TABLE I: STATE EXEMPTIONS AND CREDITS FOR AN ELDERLY TAXPAYER IN TAX YEAR 2004 FOR GEORGIA AND ITS COMPARISON STATES**

| State          | Extra Personal<br>Exemption, Deduction<br>or Credit<br>for Elderly | Public Pension<br>Exemption | Private Pension<br>Exemption | Social Security<br>Exemption |
|----------------|--|-----------------------------|------------------------------|------------------------------|
| Alabama        | none   | full                        | full or zero [g]             | full                         |
| Arkansas       | \$20-\$40 credit [a]   | \$6,000                     | \$6,000                      | full                         |
| GEORGIA        | \$1,300  | \$15,000 [b]                | \$15,000 [b]                 | full                         |
| Kentucky       | \$40 credit  | \$38,775-full [c]           | \$38,775                     | full                         |
| Louisiana      | \$1,000  | full                        | \$6,000                      | full                         |
| Mississippi    | \$1,500  | full                        | full                         | full                         |
| North Carolina | \$750  | \$4,000-full [d]            | \$2,000 [h]                  | full                         |
| South Carolina | \$1,200  | \$10,000 [e]                | \$10,000 [e]                 | full                         |
| Virginia       | \$900  | \$12,000 [f]                | \$12,000 [f]                 | full                         |
| West Virginia  | none   | \$2,000                     | none                         | if income < \$25,000 [i]     |

- [a]: If resident does not claim the retirement income deduction, they get additional \$80 credit, otherwise they get additional \$40 credit.
- [b]: In Georgia, any individual over the age of 62 can exempt \$15000 in retirement income, including \$4000 in earned income.
- [c]: In Kentucky, public pensions are fully exempt if employee worked before January 1, 1998. For workers employed afterwards, the exemption is at least \$38775 per person, although the final amount depends on time served.
- [d]: In North Carolina, public pensions are fully exempt if employee worked five years as of August 12, 1989. Otherwise, the exemption is limited to \$4000 per person.
- [e]: In South Carolina, an individual under the age of 65 is allowed to exempt \$3000 of retirement income from taxation. For individuals over the age of 65, this amount becomes \$10000.
- [f]: In Virginia, an individual between the ages of 62 and 64 can exempt \$6000 in retirement income. For individuals 65 and over, this amount increases to \$12000 per individual.
- [g]: If pension is a defined benefit plan, all income is exempt. Otherwise, there is no exemption.
- [h]: In North Carolina, no more than \$4000 per individual in total pension (private and public) income is exempt.
- [i]: This is provisional income, as defined in West Virginia. The amount is \$32,000 if filing jointly.

**TABLE 2: 2004 INCOME BREAKDOWNS OF THE MARRIED ELDERLY AND MARRIED NON-ELDERLY**

| Income Source        | Low Income Households |                  | High Income Households |                  |
|----------------------|-----------------------|------------------|------------------------|------------------|
|                      | Elderly               | Non-Elderly      | Elderly                | Non-Elderly      |
| Wages                | \$319 [1.9%]          | \$15,197 [92.4%] | \$20,526 [26.2%]       | \$73,842 [94.2%] |
| Dividends & Interest | \$618 [3.7%]          | \$113 [0.7%]     | \$18,309 [23.4%]       | \$2,746 [3.5%]   |
| Pension Income       | \$887 [5.3%]          | \$85 [0.5%]      | \$17,990 [22.9%]       | \$369 [0.5%]     |
| Social Security      | \$14,360 [86.3%]      | \$419 [2.5%]     | \$16,619 [21.2%]       | \$50 [0.1%]      |
| Unemployment         | \$134 [0.8%]          | \$346 [2.1%]     | \$1,153 [1.5%]         | \$242 [0.3%]     |
| Other Income         | \$322 [1.9%]          | \$479 [2.9%]     | \$3,797 [4.8%]         | \$1,120 [1.4%]   |
| Total Income         | \$16,640              | \$16,440         | \$78,395               | \$78,395         |

**TABLE 3: CALCULATED 2004 ELDERLY TAX SAVINGS AND TAX BONUS, BY STATE**

| State          | Low Income Households |                           |                     |                   | High Income Households |                           |                     |                   |
|----------------|-----------------------|---------------------------|---------------------|-------------------|------------------------|---------------------------|---------------------|-------------------|
|                | Elderly Tax Liability | Non-Elderly Tax Liability | Elderly Tax Savings | Elderly Tax Bonus | Elderly Tax Liability  | Non-Elderly Tax Liability | Elderly Tax Savings | Elderly Tax Bonus |
| Alabama        | 0                     | 389                       | 389                 | 2.337             | 1685                   | 1877                      | 192                 | 0.245             |
| Arkansas       | -40                   | 0                         | 40                  | 0.240             | 2185                   | 2895                      | 710                 | 0.905             |
| GEORGIA        | 0                     | 197                       | 197                 | 1.184             | 445                    | 2385                      | 1938                | 2.471             |
| Kentucky       | 0                     | 489                       | 489                 | 2.941             | 1095                   | 2873                      | 1778                | 2.268             |
| Louisiana      | 0                     | 135                       | 135                 | 0.810             | 959                    | 2593                      | 1634                | 2.084             |
| Mississippi    | 0                     | 0                         | 0                   | 0.000             | 391                    | 1891                      | 1501                | 1.914             |
| North Carolina | 0                     | 285                       | 285                 | 1.710             | 1443                   | 3068                      | 1626                | 2.074             |
| South Carolina | 0                     | 0                         | 0                   | 0.000             | 0                      | 2823                      | 2823                | 3.601             |
| Virginia       | 0                     | 327                       | 327                 | 1.966             | 142                    | 2633                      | 2491                | 3.177             |
| West Virginia  | 0                     | 370                       | 370                 | 2.222             | 2782                   | 3636                      | 854                 | 1.089             |



elderly tax liability, Georgia rises to third with their 2.5 percent elderly tax bonus for high income elderly households. Only South Carolina and Virginia have higher elderly tax bonuses.

### Conclusion

Every state in the Southeast has at least one tax preference that benefits the elderly. These preferences, however, tend to benefit wealthier elderly more so than poor elderly. Georgia has a consistently high elderly tax bonus regardless of income levels, although the wealthy elderly appear to benefit more from current regulations, suggesting that the preferential treatment of the elderly in the Georgia tax code does not treat all elderly the same. Georgia might want to consider the potential inequities in the design of the current tax code, not only between young and old, but also between rich elderly and poor elderly.

### References

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# State Income Tax Treatment of the Elderly

BARBARA EDWARDS and SALLY WALLACE

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The state and local tax treatment of the elderly varies significantly from state to state. In this article, we analyze the differences in effective tax rates for the state personal income tax for elderly versus non-elderly taxpayers. We find that in a majority of states, the average effective tax rate facing the elderly is significantly lower than that of non-elderly taxpayers. The consequences of this tax rate difference may impact long-term state income tax revenues as the elderly population continues to grow.

## INTRODUCTION

Tax relief for Americans over age 65 varies widely from state to state, and political pressure from this growing demographic group ensures that federal tax relief will continue to be subject to constant revision, particularly during election cycles. Although federal programs may have a greater impact on the income of the elderly than do state programs, state tax relief for some taxes such as property taxes, sales taxes, and individual income taxes contribute significantly to the overall loss of tax revenue. This research focuses on the individual income tax relief to the elderly as provided by the states and presents estimates of the magnitude of such tax relief.

Much of the current public finance literature focuses on the effects of an aging population on the Social Security system; only a small body of research analyzes the types of tax relief offered to the elderly by states. For example, Penner (2000), documents selected characteristics of state income tax systems and includes the provisions related to the elderly.<sup>1</sup> The report provides estimates of the impact of these preferences on different

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1. Rudolph G. Penner, "Tax Benefits for the Elderly," The Retirement Project, Occasional Paper No. 5 (Washington, DC: The Urban Institute, 2000).

representative couples (over and under the age of 65) and finds a significant amount of relief for the elderly in the tax system. Similarly, Forman finds that federal and/or state income tax laws provide significant benefits to the elderly in terms of increased deductions and exemptions for certain types of income.<sup>2</sup> Wheeler estimated the impact of the tax preferences for the elderly in the state of Georgia and projected that the aging of the population in that state is expected to have a small negative impact on state personal income tax revenues due to the general increase in population in Georgia.<sup>3</sup> Wheeler also assumes that consumption and other patterns of behavior will remain constant over the forecast period. Baer provides detailed information regarding numerous statewide property tax rates, exemptions, and circuit breakers and state personal income tax exemptions by state, and serves as a good reference for determining the differential treatment of various taxpayers by state.<sup>4</sup>

In this article, we analyze the magnitude of state personal income tax preferences for the elderly. Using microlevel data from the IRS Statistics of Income (SOI), we simulate the personal income tax treatment for a sample of tax filers in each state with an income tax. Given the different types of income tax preferences afforded the elderly, we find that effective state personal income tax rates for Americans over 65 relative to the rates for younger taxpayers are significantly lower in most states.<sup>5</sup> Based on these findings, we analyze the long-term revenue implications of these preferences.

The first section of this article summarizes the issue of tax preferences, and the second section summarizes the structure of state individual income taxes in the United States. Data and methodology are discussed in the third section. Section four presents the estimates of tax rates by state for the elderly and non-elderly. Section five addresses the impact of the tax rate differentials on revenue, followed by our conclusions.

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2. Jonathan Barry Forman, "Taxation of the Elderly," *University of Pittsburgh Law Review* 56, no. 3 (1995): 589-626.

3. Laura Wheeler, "The Effect of the Growth in Elderly Population on Georgia Tax Revenue," Fiscal Research Program Report #44 (Atlanta, GA: Andrew Young School of Policy Studies, Georgia State University, 2000).

4. David Baer, *The State, Economic, Demographic and Fiscal Handbook 2000*, Publication No. D17295 (Washington, DC: Public Policy Institute, AARP, 2000).

5. The effective income tax rate is calculated as an average tax rate, measured as the ratio of state income tax liability divided by comprehensive income, for individual observations in the SOI sample. Comprehensive income is calculated as the sum of AGI, social security income not included in AGI, tax-exempt interest income, dividends not reported in AGI, pension income not reported in AGI, capital gains not reported in AGI, retirement contributions, and self-employed health insurance deductions. By income group, the effective tax rates are weighted using the SOI-produced decimal weight to represent the population. Tax-exempt interest is often under reported and because many elderly hold tax-exempt bonds, this may reduce their comprehensive income relative to nonbond holders.

## DEMOGRAPHIC CHANGES AND LITERATURE

The U.S. population is aging. In 1950, the proportion of the U.S. population over 65 was 8.1 percent and by 2002 it had risen to 12.0 percent.<sup>6</sup> Due to the aging of the baby boom generation and the increase in life expectancy, demographers expect this trend to continue for the next 25 years. As seen in Table 1, a number of western states (Idaho, Utah, Alaska, and Colorado) are expected to see larger gains in their elderly population than other states for the next 25 years. The northeastern states are expected to see the slowest (even negative) growth in the elderly over the next 5 to 25 years. This is in part due to a decline in the general growth of the population in the Northeast compared with faster growth in the West and South and to the migration of the elderly to warmer climates.

As the demographic mix in the states shifts to a greater proportion of elderly individuals, the value of the tax relief granted to the elderly will become more pronounced. It is not clear whether increases in the concentration of elderly significantly impact the expenditure side of the equation as well. Researchers have attempted to quantify the costs and benefits of public finance policies aimed at the elderly by forecasting the costs associated with Social Security and health care. Fuchs, Hurd, Congressional Budget Office (CBO), and Cutler and Sheiner, among others, project from moderate to severe federal budget problems associated with expenditures for Social Security and health care due to increases in this segment of the population and the growth in health care costs.<sup>7</sup> These increased expenditures for health and Social Security should be weighed against any decreases in associated expenditures such as potential decreases in public school expenditures and changes in the mix of other publicly provided goods. Unfortunately, there is scant empirical evidence on these issues, which, some might argue, should be analyzed in a life-cycle context.

In this article, we concentrate on the state income tax treatment of the elderly, a topic we believe to be understudied. We do not attempt to estimate the expenditure issues

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6. P. R. Campbell, *Population Projections for States by Age, Sex, Race, and Hispanic Origin: 1995 to 2025* (Washington, DC: U.S. Bureau of the Census, Population Division, 1996); U.S. Department of Labor, Bureau of Labor Statistics, available from: <http://data.bls.gov/cgi-bin/surveymost?lf>, accessed May 2002; and U.S. Department of Commerce, Bureau of the Census, "Projections of Total Population of the States," available from: <http://www.census.gov/population/projections/state/stpjpopt.txt>, accessed May 2002.

7. Victor R. Fuchs, "Health Care for the Elderly: How Much? Who Will Pay for It?" NBER Working Paper No. 6755 (Cambridge, MA: National Bureau of Economic Research, 1998); Michael D. Hurd, "The Effects of Demographic Trends on Consumption, Saving and Government Expenditures in the U.S.," NBER Working Paper No. W4601 (Cambridge, MA: National Bureau of Economic Research, 1993); Congressional Budget Office, *Long-Term Budgetary Pressures and Policy Options* (Washington, DC: 1998); Congressional Budget Office, *The Future Growth of Social Security: It's Not Just Society's Aging* (Washington, DC: 2003); and David M. Cutler and Louise Sheiner, "Demographics and Medical Care Spending: Standard and Non-Standard Effects," NBER Working Paper No. W6866 (Cambridge, MA: National Bureau of Economic Research, 1998).

**TABLE 1**  
**Average Annual Growth by State Population over Age 65**

|               | 2000–2005 | 2005–2015 |                | 2000–2005 | 2005–2015 |
|---------------|-----------|-----------|----------------|-----------|-----------|
| Alabama       | 1.07      | 2.81      | Montana        | 2.34      | 3.85      |
| Alaska        | 4.21      | 4.57      | Nebraska       | 0.75      | 2.22      |
| Arizona       | 2.27      | 3.68      | Nevada         | 3.47      | 3.62      |
| Arkansas      | 1.33      | 3.26      | New Hampshire  | 0.85      | 3.11      |
| California    | 0.40      | 2.93      | New Jersey     | 0.06      | 1.70      |
| Colorado      | 3.14      | 4.24      | New Mexico     | 2.14      | 3.60      |
| Connecticut   | – 0.22    | 1.54      | New York       | – 0.31    | 1.32      |
| Delaware      | – 0.82    | 2.28      | North Carolina | 1.82      | 3.37      |
| DC            | – 1.16    | 0.92      | North Dakota   | 0.81      | 2.23      |
| Florida       | 1.13      | 3.14      | Ohio           | 0.38      | 1.63      |
| Georgia       | 1.87      | 3.79      | Oklahoma       | 1.36      | 2.98      |
| Hawaii        | 0.89      | 2.87      | Oregon         | 2.17      | 4.20      |
| Idaho         | 3.18      | 4.34      | Pennsylvania   | – 0.34    | 1.21      |
| Illinois      | 0.13      | 1.61      | Rhode Island   | – 0.68    | 1.33      |
| Indiana       | 0.81      | 2.13      | South Carolina | 1.63      | 3.46      |
| Iowa          | 0.45      | 1.79      | South Dakota   | 0.73      | 2.02      |
| Kansas        | 0.39      | 2.21      | Tennessee      | 1.50      | 3.08      |
| Kentucky      | 1.14      | 2.75      | Texas          | 1.87      | 3.45      |
| Louisiana     | 1.22      | 2.70      | Utah           | 3.17      | 4.44      |
| Maine         | 0.12      | 2.66      | Vermont        | 1.10      | 3.12      |
| Maryland      | 0.75      | 2.49      | Virginia       | 1.45      | 3.12      |
| Massachusetts | – 0.38    | 1.67      | Washington     | 2.10      | 4.28      |
| Michigan      | 0.23      | 1.73      | West Virginia  | 0.63      | 2.16      |
| Minnesota     | 1.04      | 2.66      | Wisconsin      | 0.71      | 2.23      |
| Mississippi   | 1.10      | 2.56      | Wyoming        | 2.90      | 4.23      |
| Missouri      | 0.50      | 2.17      | All            | 0.84      | 2.60      |

*Source:* U.S. Department of Commerce, Bureau of the Census, *Projections of Total Population of the States*; available from: <http://www.census.gov/population/projections/state/stpjage.txt>; accessed August 2000.

associated with the growth in the number of elderly, nor do we use a life-cycle approach to estimate the taxes paid and public goods consumed by the elderly over their entire life.

#### STATE INDIVIDUAL INCOME TAXES IN THE UNITED STATES: OVERVIEW

Forty-three states and the District of Columbia each impose widely varying versions of an individual income tax on their citizenry. The state individual income tax is a major revenue producer throughout the United States, providing 35 percent of state tax

revenues in fiscal year 2001.<sup>8</sup> Forty-one of those states impose a broad-based individual income tax, while Tennessee and New Hampshire tax only capital income, thus reducing the individual income tax to a relatively minor component of the states' tax structure.

All 43 states that levy an individual income tax offer special tax relief to the elderly by excluding some amount of retirement or other income, or by providing additional deductions or credits for their older taxpayers. Some states means test some or all of their relief. Thirty-nine states exempt some or all Social Security income from taxation, while exemption of pension income from taxation varies widely across the states. Thirty-six states offer additional exemptions or credits for the elderly. Table 2 presents a state-by-state summary of income tax relief targeted to the elderly and indicates whether the relief is means tested. We now turn to an analysis of the effects of these tax preferences for the elderly.

## DATA SOURCE AND METHODOLOGY

We use the 1995 Public Use File from the IRS Statistics of Income to estimate the effects of the differences in tax treatment between the elderly and the non-elderly.<sup>9</sup> This file contains 50,396 detailed records for taxpayers in the tax-levying states who have federal adjusted gross income (FAGI) of \$200,000 or less for tax returns filed during calendar year 1995. Although the file is designed to make national-level estimates, the records also provide a good basis on which to estimate the different average effective state income tax rates of the elderly and the non-elderly. Because most states use federal income tax information as a starting point for calculating state individual income taxes, this file is superior to other data sources for state income tax incidence studies. The file lacks only a small amount of detail needed for accurate estimation of average effective tax rates for state individual income taxes. To preserve the confidentiality of the individuals' records, certain data elements, such as alimony paid and received, home mortgage interest paid to financial institutions, etc., are "blurred" by reporting those amounts as averages of a few records rather than as the exact or rounded amounts reported by the taxpayers.

The IRS file does not contain state identifiers or age indicators on the records for "high-income taxpayers" (those with FAGI > \$200,000), but does include 42,519 nonstate-identified high-income records. The lack of age identifiers precludes the use of these records in the detailed state-by-state effective tax calculations. However, data on high-income individuals are not needed to conclude that the taxation of the non-elderly differs significantly from that of the elderly for the *majority* of the population because the FAGI of most tax filers, regardless of their age, is less than \$200,000.

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8. Tax Foundation, 2003; available from: <http://www.taxfoundation.org/collectionsbytypeoftax.html>; accessed May 2002.

9. The 1995 file is used because it was readily available for purposes of this research, but a similar analysis could be carried out with any SOI Public Use File. The Public Use Files are available from the IRS, SOI for a fee, and with a two- to three-year lag.

**TABLE 2**  
**State Income Tax Relief for the Elderly, by State, Tax Year 1999**

| State          | Retirement Income Exemptions |  |                  | Other            |
|----------------|------------------------------|--|------------------|------------------|
|                | Social Security              | Pensions <sup>d</sup>  | Exemption        |                  |
| Alabama        | Full                         | Full for government pensions   | No               | No               |
| Arizona        | Full                         | \$2,500 for government pensions  | Yes              | No               |
| Arkansas       | Full                         | \$6,000 for all pensions   | No               | Yes              |
| California     | Full                         | No exemption   | No               | Yes              |
| Colorado       | Full                         | \$20,000 (includes Social Security)  | Yes              | Yes              |
| Connecticut    | Yes <sup>a</sup>             | No exemption   | No               | No               |
| Delaware       | Full                         | \$5,000 for all pensions   | Yes              | Yes              |
| Georgia        | Full                         | \$13,000 for all pensions  | Yes              | Yes <sup>a</sup> |
| Hawaii         | Full                         | Full for all pensions  | Yes              | No               |
| Idaho          | Full                         | \$16,788 for government pensions (includes Social Security)  | Yes              | Yes              |
| Illinois       | Full                         | Full for all pensions  | Yes              | No               |
| Indiana        | Full                         | \$2,000 for <i>fed.</i> government pensions (includes Social Security)                                     | Yes <sup>b</sup> | Yes <sup>a</sup> |
| Iowa           | Partial                      | \$5,000 for all pensions   | No               | Yes              |
| Kansas         | Partial                      | Full for government pensions   | Yes              | No               |
| Kentucky       | Full                         | \$35,700 for all pensions  | No               | Yes              |
| Louisiana      | Full                         | Full for government pensions; \$6,000 for private pensions   | Yes              | No               |
| Maine          | Full                         | Same as federal treatment  | Yes              | Yes              |
| Maryland       | Full                         | \$16,100 (includes Social Security)  | Yes <sup>a</sup> | No               |
| Massachusetts  | Full                         | Full for government pensions   | Yes              | No               |
| Michigan       | Full                         | Full for government pensions; \$34,170 for private pensions  | Yes <sup>c</sup> | No               |
| Minnesota      | Full <sup>a</sup>            | \$9,600 <sup>a</sup> for all income  | Yes <sup>a</sup> | No               |
| Mississippi    | Full                         | Full   | Yes              | No               |
| Missouri       | Full                         | \$3,000 for private pensions <sup>a</sup> ; \$6,000 for government pensions <sup>a</sup> (maximum for all) | No               | Yes <sup>a</sup> |
| Montana        | Full <sup>a</sup>            | \$3,600 for all pensions <sup>a</sup>  | Yes <sup>a</sup> | No               |
| Nebraska       | No                           | No exemption   | Yes              | Yes              |
| New Hampshire  | Full                         | Full   | NA               | NA               |
| New Jersey     | Full                         | \$7,500 for all pensions   | Yes              | No               |
| New Mexico     | Full                         | \$8,000 (includes Social Security)   | Yes <sup>d</sup> | No               |
| New York       | Full                         | \$20,000 for all pensions  | No               | No               |
| North Carolina | Full                         | \$2,000 for private pensions; \$4,000 for government pensions (maximum for all)                            | Yes <sup>d</sup> | No               |

TABLE 2 *Continued*

| State          | Retirement Income Exemptions |   |                  | Other            |
|----------------|------------------------------|---|------------------|------------------|
|                | Social Security              | Pensions <sup>d</sup>   | Exemption        |                  |
| North Dakota   | Full <sup>a</sup>            | \$5,000 for government pensions (includes Social Security)                                    | No               | No               |
| Ohio           | Full                         | Limited tax credits   | Yes <sup>a</sup> | Yes              |
| Oklahoma       | Full                         | \$3,300 for private pensions <sup>a</sup> ; \$5,500 for government pensions (maximum for all) | Yes              | No               |
| Oregon         | Full                         | Full/partial for <i>fed.</i> government pensions  | Yes <sup>a</sup> | Yes              |
| Pennsylvania   | Full                         | Full  | No               | No               |
| Rhode Island   | Federal rules                | Federal rules   | Yes              | Yes              |
| South Carolina | Full                         | \$15,000 for all income   | Yes              | No               |
| Tennessee      | Full                         | Full  | Yes <sup>a</sup> | NA               |
| Utah           | Full                         | \$7,500 for all pensions  | Yes <sup>a</sup> | No               |
| Vermont        | Federal rules                | Federal rules   | Yes              | Yes              |
| Virginia       | Full                         | \$12,000 for all income   | Yes              | No               |
| West Virginia  | Federal rules                | \$2,000 from government pensions  | Yes              | No               |
| Wisconsin      | Yes <sup>a</sup>             | Full for some government pensions; others fully taxable                                       | Yes <sup>a</sup> | Yes <sup>a</sup> |

Sources: State Income Tax Regulations, State Income Tax Forms and Instructions, Tax Year 1999.

Notes: Amounts are for individuals who file single returns.

Alaska, Florida, Nevada, South Dakota, Texas, Washington, and Wyoming do not levy individual income taxes.

<sup>a</sup>Means tested.

<sup>b</sup>Indiana provides two special deductions for individuals over 65 years of age—one is means tested.

<sup>c</sup>Michigan also allows a deduction for interest, dividends, and capital gains included in AGI if the individual is over age 65.

<sup>d</sup>No age limits exist for pension deductions for Alabama, Arizona, Arkansas, Hawaii, Illinois, Kansas, Kentucky, Massachusetts, Mississippi, Missouri, Montana, New Hampshire, North Carolina, Ohio (except lump sum distributions), Oregon, Tennessee, West Virginia, and Wisconsin. South Carolina and Utah provide lower deduction limits for taxpayers younger than age 65; Delaware provides lower deduction limits for taxpayers younger than age 60. Age limit for pension deductibility in Michigan depends on the source of pension income. The following states allow pension deductions for individuals with the age as indicated: Colorado, 55; Georgia, 62; Idaho, 65; Indiana, 62; Iowa, 55; Louisiana, 65; Maryland, 65; Minnesota, 65; New Jersey, 62; New Mexico, 65; New York, 59 1/2; North Dakota, 50; Oklahoma, 65; Pennsylvania, 59 1/2.

To estimate average effective tax rates for individual taxpayers, we use a microsimulation model that incorporates the 1999 tax code for those 43 states that impose an individual income tax. This simulation model contains the unique characteristics of the different state income tax codes for which data are available in



the IRS file, ranging from tax rates to exemptions and credits offered by the different states, and allows us to calculate the tax liability for all observations in our SOI sample. For each observation in the sample, the calculated tax liability is divided by comprehensive income. To produce summary tables of the average effective tax rates, the observations are weighted by the SOI decimal weight, so that the results are representative of the population.

There are, admittedly, some problems with applying the 1999 tax law to 1995 data due to potential changes in the income distribution between the years.<sup>10</sup> The Taxpayer Relief Act (TRA) of 1997 established the child tax credit and two higher education credits (HOPE and the lifetime learning credit), reduced the tax rate on capital gains income, increased the exemption of gains from the sale of a primary residence, expanded eligibility for deductible investment retirement accounts (IRAs), and created tax-free withdrawal rules for IRAs. TRA97 also created the Roth IRA, which allows nondeductible contributions to the IRA and tax-free accumulation of interest income (if used as retirement income or for a first-home purchase).

These changes in tax law may have had an impact on the distribution of certain types of income. For example, the increased tax advantage of the Roth IRA may have reduced some forms of interest income, which could be sheltered via the Roth IRA. This could decrease taxable capital income and alter the distribution we worked with in our simulations. The tax treatment of sales of primary housing could have increased capital income between 1995 and 1999 due to the relatively generous gains exclusions for those selling their homes after TRA97. The distribution of income itself did change between 1995 and 1999, largely due to the growth in capital income. Even with these shortcomings, we believe that our results are representative of the differences in average effective tax rates in 1999.

#### **STATE PERSONAL INCOME TAXES: EFFECTIVE RATES FOR ELDERLY AND NON-ELDERLY**

The results for the different states obtained by the microsimulation model show that, in most states, taxpayers over 65 have lower average effective tax rates than those of the non-elderly. Generally, states that closely follow the federal rules regarding Social Security and other pension exemptions and do not allow other credits or deductions show smaller differences between the average effective tax rates between the two

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10. The 1995 data and 1999 law choice is somewhat arbitrary. We were constrained by the IRS SOI data we had in-house and wanted to choose a tax law year that was recent but not too far removed from the year of the data. The U.S. Treasury uses a similar span between the data year and tax law year, but they explicitly age the data to account for changes in income distribution, composition, and demographic changes.

**TABLE 3**  
**Average Effective Tax Rates—Taxpayers with Incomes Less than \$200,000—All States**

| State          | Average Effective Tax Rates |             |         |                                     |                                       |
|----------------|-----------------------------|-------------|---------|-------------------------------------|---------------------------------------|
|                | Elderly                     | Non-Elderly | Overall | Difference<br>(Elderly–Non-Elderly) | % Difference<br>(Elderly–Non-Elderly) |
| Alabama        | 2.04*                       | 2.25*       | 2.22    | – 0.21                              | – 9.3                                 |
| Arizona        | 0.95*                       | 1.47*       | 1.38    | – 0.52                              | – 35.4                                |
| Arkansas       | 1.27*                       | 2.36*       | 2.21    | – 1.09                              | – 46.2                                |
| California     | 1.50                        | 1.54        | 1.53    | 0.04                                | – 2.3                                 |
| Colorado       | 1.46*                       | 2.24*       | 2.13    | – 0.78                              | – 34.8                                |
| Connecticut    | 0.95*                       | 2.03*       | 1.94    | – 1.08                              | – 53.2                                |
| Delaware       | 1.97*                       | 2.67*       | 2.54    | – 0.70                              | – 26.2                                |
| Georgia        | 0.99*                       | 2.56*       | 2.36    | – 1.57                              | – 61.3                                |
| Hawaii         | 2.35*                       | 3.66*       | 3.40    | – 1.31                              | – 35.8                                |
| Idaho          | 1.01*                       | 2.20*       | 2.03    | – 1.19                              | – 54.1                                |
| Illinois       | 1.27*                       | 2.32*       | 2.13    | – 1.05                              | – 45.3                                |
| Indiana        | 1.44*                       | 2.66*       | 2.48    | – 1.22                              | – 45.9                                |
| Iowa           | 1.92*                       | 2.43**      | 2.33    | – 0.51                              | – 20.9                                |
| Kansas         | 2.01*                       | 2.22*       | 2.19    | – 0.21                              | – 9.5                                 |
| Kentucky       | 1.29*                       | 2.93*       | 2.67    | – 1.64                              | – 55.9                                |
| Louisiana      | 0.76*                       | 1.23*       | 1.17    | – 0.47                              | – 38.2                                |
| Maine          | 2.13                        | 2.06        | 2.08    | 0.07                                | 3.4                                   |
| Maryland       | 1.81*                       | 2.42*       | 2.33    | – 0.61                              | – 25.2                                |
| Massachusetts  | 3.72*                       | 4.56*       | 4.42    | – 0.84                              | – 18.4                                |
| Michigan       | 0.74*                       | 2.91*       | 2.55    | – 2.17                              | – 74.6                                |
| Minnesota      | 1.80*                       | 2.25*       | 2.18    | – 0.45                              | – 20.0                                |
| Mississippi    | 0.56*                       | 1.18*       | 1.10    | – 0.62                              | – 52.5                                |
| Missouri       | 1.30*                       | 1.60*       | 1.55    | – 0.30                              | – 18.7                                |
| Montana        | 1.44*                       | 2.15*       | 2.00    | – 0.71                              | – 33.0                                |
| Nebraska       | 1.75                        | 1.66        | 1.67    | 0.09                                | 5.4                                   |
| New Hampshire  | 1.15*                       | – 0.06*     | 1.01    | 1.21                                | > 100                                 |
| New Jersey     | 0.94*                       | 1.58*       | 1.49    | – 0.64                              | – 40.5                                |
| New Mexico     | 1.12                        | 1.98        | 1.85    | – 0.86                              | – 43.4                                |
| New York       | 1.76*                       | 2.30*       | 2.21    | – 0.54                              | – 23.5                                |
| North Carolina | 2.24*                       | 1.93*       | 1.97    | 0.31                                | 16.1                                  |
| North Dakota   | 1.12                        | 1.09        | 1.09    | 0.03                                | 2.7                                   |
| Ohio           | 1.23                        | 2.04        | 1.92    | – 0.81                              | – 39.7                                |
| Oklahoma       | 0.89*                       | 1.13*       | 1.10    | – 0.24                              | – 21.2                                |
| Oregon         | 2.68*                       | 3.84*       | 3.63    | – 1.16                              | – 30.3                                |
| Pennsylvania   | 1.51*                       | 2.55*       | 2.37    | – 1.04                              | – 40.8                                |
| Rhode Island   | 1.84*                       | 2.59*       | 2.47    | – 0.75                              | – 28.9                                |
| South Carolina | 0.36*                       | 1.81*       | 1.60    | – 1.45                              | – 80.1                                |
| Tennessee      | 0.31*                       | 0.11*       | 0.14    | – 0.20                              | > 100                                 |

TABLE 3 *Continued*

| State         | Average Effective Tax Rates |             |         |                                     |                                       |
|---------------|-----------------------------|-------------|---------|-------------------------------------|---------------------------------------|
|               | Elderly                     | Non-Elderly | Overall | Difference<br>(Elderly–Non-Elderly) | % Difference<br>(Elderly–Non-Elderly) |
| Utah          | 1.16*                       | 1.73*       | 1.66    | – 0.57                              | – 49.1                                |
| Vermont       | 1.12*                       | 1.88*       | 1.78    | – 0.57                              | – 30.3                                |
| Virginia      | 1.29*                       | 2.99*       | 2.74    | – 1.70                              | – 56.9                                |
| West Virginia | 2.34                        | 2.54        | 2.51    | – 0.20                              | – 7.8                                 |
| Wisconsin     | 2.03*                       | 3.13*       | 2.96    | – 1.10                              | – 35.1                                |

Notes: Significance levels are based on comparisons of the effective tax rates of the elderly and the non-elderly using t-tests.

\*Significantly different from the other group (elderly vs. non-elderly) at the 1 = percent level.

\*\*Significantly different from the other group (elderly vs. non-elderly) at the 5 = percent level.

\*\*\*Significantly different from the other group (elderly vs. non-elderly) at the 10 = percent level.

groups.<sup>11</sup> Tables 3–5 show average effective tax rates for both age groups in all states that impose an income tax, based on taxpayers with FAGI of less than \$200,000. The tables also contain the average effective tax rate for all taxpayers, and present the difference between the elderly and non-elderly effective rate in absolute levels and as a percent difference. States that exempt either all or a large portion of pension or Social Security income and those that provide either generous credits or exemptions to the elderly relative to the tax relief offered to the non-elderly show the largest differences in average effective tax rates.

Table 3 shows that, for all taxpayers with FAGI of less than \$200,000, 33 of the 43 states that levy income taxes have statistically significantly lower average effective tax rates for the elderly compared with those of the non-elderly. In this income range, the largest percentage differential between average effective tax rates for the two groups occurs in states that provide generous exemptions of income to the elderly. For 21 of the 33 states, the average effective tax rates for the under-65 group are at least one and one-half times higher than comparable rates for the elderly and the difference in the average tax rate in 13 of these states is at least one percentage point. In two of these states, the exemption for Social Security income is means tested; for the remaining 11 states, Social Security income is fully exempt from taxation. Most of these 21 states also offer generous pension income exclusions. Michigan has the largest percentage difference between the two rates, due largely to generous exemptions offered to the elderly by the state—full exemption of Social Security income and a \$34,170 exemption for pension income, regardless of the source.<sup>12</sup>

11. Given the relatively generous state treatment of the elderly for income tax purposes (relative to the federal tax treatment), the federal exemptions are like a floor or minimum allowed exemptions, with states adding additional exemptions, deductions, and credits.

12. Government pensions are fully exempt, although this exemption is limited to \$34,170 in the microsimulation model due to lack of detail on the sources of pension income.

**TABLE 4**  
**Average Effective Tax Rates—Taxpayers with Incomes Less than \$40,000**

| State          | Average Effective Tax Rates |             |         |                                     |                                       |
|----------------|-----------------------------|-------------|---------|-------------------------------------|---------------------------------------|
|                | Elderly                     | Non-Elderly | Overall | Difference<br>(Elderly–Non-Elderly) | % Difference<br>(Elderly–Non-Elderly) |
| Alabama        | 1.61                        | 1.80*       | 1.77    | – 0.19                              | – 10.6                                |
| Arizona        | 0.47*                       | 1.03*       | 0.94    | – 0.56                              | – 54.4                                |
| Arkansas       | 0.67*                       | 1.41*       | 1.30    | – 0.74                              | – 52.4                                |
| California     | 0.23*                       | 0.50*       | 0.47    | – 0.27                              | – 54.0                                |
| Colorado       | 0.43*                       | 1.49*       | 1.36    | – 1.06                              | – 71.1                                |
| Connecticut    | 0.56*                       | 0.77*       | 0.74    | – 0.21                              | – 27.3                                |
| Delaware       | 0.15*                       | 1.65*       | 1.43    | – 1.50                              | – 90.9                                |
| Georgia        | 0.12*                       | 1.77*       | 1.58    | – 1.65                              | – 93.2                                |
| Hawaii         | 1.22*                       | 3.14*       | 2.76    | – 1.92                              | – 61.1                                |
| Idaho          | 0.30*                       | 1.10*       | 0.98    | – 0.80                              | – 72.7                                |
| Illinois       | 1.02*                       | 3.97*       | 3.44    | – 2.95                              | – 74.3                                |
| Indiana        | 1.42*                       | 2.66*       | 2.46    | – 1.24                              | – 46.6                                |
| Iowa           | 0.80*                       | 1.40*       | 1.29    | – 0.61                              | – 43.6                                |
| Kansas         | 1.03*                       | 1.41*       | 1.35    | – 0.36                              | – 27.0                                |
| Kentucky       | 0.77*                       | 2.17*       | 1.93    | – 1.40                              | – 64.5                                |
| Louisiana      | 0.25*                       | 0.76*       | 0.70    | – 0.51                              | – 67.1                                |
| Maine          | 0.61*                       | 1.21*       | 1.14    | – 0.60                              | – 49.6                                |
| Maryland       | 0.68*                       | 1.58*       | 1.46    | – 0.90                              | – 57.0                                |
| Massachusetts  | 3.03*                       | 3.57*       | 3.48    | – 0.54                              | – 15.1                                |
| Michigan       | 0.24*                       | 2.48*       | 2.05    | – 2.24                              | – 90.3                                |
| Minnesota      | 0.82**                      | 1.18**      | 1.12    | – 0.36                              | – 30.5                                |
| Mississippi    | 0.21*                       | 0.64*       | 0.59    | – 0.43                              | – 67.2                                |
| Missouri       | 0.39*                       | 0.66*       | 0.61    | – 0.27                              | – 40.9                                |
| Montana        | 0.21*                       | 1.23*       | 1.04    | – 1.02                              | – 82.9                                |
| Nebraska       | 0.68*                       | 0.86*       | 0.83    | – 0.18                              | – 20.9                                |
| New Hampshire  | 1.25*                       | 0.07*       | 0.25    | 1.18                                | > 100                                 |
| New Jersey     | 0.17*                       | 0.88*       | 0.76    | – 0.71                              | – 80.7                                |
| New Mexico     | 0.30                        | 1.23        | 1.09    | – 0.93                              | – 75.6                                |
| New York       | 0.55*                       | 0.86*       | 0.81    | – 0.31                              | – 36.0                                |
| North Carolina | 1.14*                       | 1.59*       | 1.54    | – 0.45                              | – 28.3                                |
| North Dakota   | 0.56*                       | 0.72*       | 0.69    | – 0.16                              | – 22.2                                |
| Ohio           | 0.47*                       | 1.24*       | 1.12    | – 0.77                              | – 62.1                                |
| Oklahoma       | 0.70*                       | 1.08*       | 1.03    | – 0.38                              | – 35.2                                |
| Oregon         | 1.49*                       | 2.93*       | 2.67    | – 1.44                              | – 49.1                                |
| Pennsylvania   | 1.42*                       | 2.62*       | 2.40    | – 1.20                              | – 45.8                                |
| Rhode Island   | 0.54*                       | 1.94*       | 1.71    | – 1.40                              | – 72.2                                |
| South Carolina | 0.01*                       | 0.67*       | 0.59    | – 0.66                              | – 98.5                                |
| Tennessee      | 0.06*                       | 0.10*       | 0.09    | – 0.04                              | – 40.0                                |

TABLE 4 *Continued*

| State         | Average Effective Tax Rates |             |         |                                     |                                       |
|---------------|-----------------------------|-------------|---------|-------------------------------------|---------------------------------------|
|               | Elderly                     | Non-Elderly | Overall | Difference<br>(Elderly–Non-Elderly) | % Difference<br>(Elderly–Non-Elderly) |
| Utah          | 0.57*                       | 1.14*       | 1.06    | – 0.57                              | – 50.0                                |
| Vermont       | 0.43*                       | 1.26*       | 1.13    | – 0.83                              | – 65.8                                |
| Virginia      | 0.16*                       | 2.05*       | 1.81    | – 1.89                              | – 92.2                                |
| West Virginia | 1.63                        | 1.81        | 1.79    | – 0.18                              | – 9.9                                 |
| Wisconsin     | 0.95*                       | 2.25*       | 2.06    | – 1.30                              | – 57.8                                |

Notes: Significance levels are based on comparisons of the effective tax rates of the elderly and the non-elderly using t-tests.

\*Significantly different from the other group (elderly vs. non-elderly) at the 1 = percent level.

\*\*Significantly different from the other group (elderly vs. non-elderly) at the 5 = percent level.

\*\*\*Significantly different from the other group (elderly vs. non-elderly) at the 10 = percent level.

Kentucky has a high percentage difference in the two rates, which can be attributed to the full exemption of Social Security income, \$35,700 exemption for all pension income, and a tax credit for the elderly. This pattern is common among the states that exhibit large differences in average effective tax rates for the elderly and the non-elderly. In Virginia, individuals who are 65 or older are allowed an extra exemption of \$800, the same amount provided for children. However, a more significant effect on the differences between the average effective tax rates for the two age groups is the subtraction from federal adjusted gross income of \$12,000 of any type of income for all taxpayers age 65 or older; the under-65 group receives no comparable deduction.<sup>13</sup> The special exemption of income is not means tested, so all elderly taxpayers benefit from this tax relief. Four other states have lower effective tax rates for the elderly, but in this income range the difference between the rates is not statistically significant.

Table 3 shows that six states have higher effective tax rates for the elderly in comparison with the non-elderly. Only three of these states show statistically significant effective tax rate differences between the two age groups, and two of those states, New Hampshire and Tennessee, tax only interest and dividend income. As the elderly tend to derive a significant portion of their income from capital, the higher average effective tax rates for the elderly are not surprising in these two states.

The other state that shows a statistically significantly lower average effective tax rate for the under-65 group is North Carolina. This anomaly results from both the

13. The state allows annual exemptions from taxation of \$6,000 for taxpayers who were age 62, 63, or 64 on January 1, 2000. As ages of taxpayers are not disclosed in the IRS file, the exemption for these people is not considered in the microsimulation model. Although child and dependent care expenses are allowed up to \$2,400 per dependent, to a maximum of \$4,800, not all non-elderly taxpayers incur qualifying expenditures.

**TABLE 5**  
**Average Effective Tax Rates—Taxpayers with Incomes between \$40,000 and \$200,000**

| State          | Average Effective Tax Rates |             |         |                                     |                                       |
|----------------|-----------------------------|-------------|---------|-------------------------------------|---------------------------------------|
|                | Elderly                     | Non-Elderly | Overall | Difference<br>(Elderly–Non-Elderly) | % Difference<br>(Elderly–Non-Elderly) |
| Alabama        | 2.89*                       | 3.16*       | 3.12    | – 0.27                              | – 8.5                                 |
| Arizona        | 1.70*                       | 2.22*       | 2.13    | – 0.52                              | – 23.4                                |
| Arkansas       | 2.55*                       | 4.19*       | 3.97    | – 1.64                              | – 39.1                                |
| California     | 2.64*                       | 2.94*       | 2.88    | – 0.30                              | – 10.2                                |
| Colorado       | 2.36*                       | 3.11*       | 2.98    | – 0.75                              | – 24.4                                |
| Connecticut    | 2.56*                       | 3.31*       | 3.19    | – 0.75                              | – 122.7                               |
| Delaware       | 2.90*                       | 3.79*       | 3.59    | – 0.89                              | – 23.5                                |
| Georgia        | 1.93*                       | 3.75*       | 3.48    | – 1.82                              | – 148.5                               |
| Hawaii         | 3.65*                       | 4.60*       | 4.40    | – 0.95                              | – 120.7                               |
| Idaho          | 3.65*                       | 4.32*       | 4.26    | – 0.67                              | – 15.5                                |
| Illinois       | 1.74*                       | 2.53*       | 2.39    | – 0.79                              | – 31.2                                |
| Indiana        | 2.15*                       | 3.04*       | 2.94    | – 0.89                              | – 29.3                                |
| Iowa           | 3.61*                       | 4.22*       | 4.09    | – 0.61                              | – 14.5                                |
| Kansas         | 3.15*                       | 3.41*       | 3.37    | – 0.26                              | – 7.6                                 |
| Kentucky       | 2.50*                       | 4.24*       | 4.01    | – 1.74                              | – 41.0                                |
| Louisiana      | 1.56*                       | 2.06*       | 1.99    | – 0.50                              | – 24.3                                |
| Maine          | 3.22**                      | 4.05**      | 3.82    | – 0.83                              | – 20.5                                |
| Maryland       | 2.73*                       | 3.39*       | 3.28    | – 0.66                              | – 19.5                                |
| Massachusetts  | 4.54*                       | 5.74*       | 5.55    | – 1.20                              | – 20.9                                |
| Michigan       | 1.67*                       | 3.41*       | 3.18    | – 1.74                              | – 51.0                                |
| Minnesota      | 3.82*                       | 4.46*       | 4.37    | – 0.64                              | – 14.3                                |
| Mississippi    | 1.24*                       | 2.49*       | 2.29    | – 1.25                              | – 50.2                                |
| Missouri       | 2.44*                       | 3.24*       | 3.08    | – 0.80                              | – 24.7                                |
| Montana        | 3.69*                       | 4.42*       | 4.24    | – 0.52                              | – 11.8                                |
| Nebraska       | 3.93*                       | 3.25*       | 3.37    | – 0.68                              | – 20.9                                |
| New Hampshire  | 1.19*                       | 0.21*       | 0.37    | 0.98                                | > 100                                 |
| New Jersey     | 1.60*                       | 2.24*       | 2.13    | – 0.64                              | – 28.6                                |
| New Mexico     | 2.97*                       | 3.58*       | 3.49    | – 0.61                              | – 17.0                                |
| New York       | 2.97*                       | 4.11*       | 3.90    | – 1.14                              | – 27.7                                |
| North Carolina | 3.63*                       | 2.54*       | 2.72    | 0.82                                | 32.2                                  |
| North Dakota   | 1.80                        | 1.70        | 1.72    | 0.10                                | 5.9                                   |
| Ohio           | 2.57*                       | 3.45*       | 3.31    | – 0.88                              | – 25.5                                |
| Oklahoma       | 1.21                        | 1.23        | 1.23    | 0.02                                | 1.6                                   |
| Oregon         | 4.14*                       | 4.95*       | 4.81    | – 0.81                              | – 16.4                                |
| Pennsylvania   | 1.78*                       | 2.61*       | 2.48    | – 0.83                              | – 31.8                                |
| Rhode Island   | 3.60                        | 3.82        | 3.79    | – 0.22                              | – 5.7                                 |
| South Carolina | 0.84*                       | 3.80*       | 3.31    | – 2.96                              | – 77.9                                |
| Tennessee      | 0.64*                       | 0.15*       | 0.21    | 0.49                                | > 100                                 |

TABLE 5 *Continued*

| State         | Average Effective Tax Rates |             |         |                                     |                                       |
|---------------|-----------------------------|-------------|---------|-------------------------------------|---------------------------------------|
|               | Elderly                     | Non-Elderly | Overall | Difference<br>(Elderly–Non-Elderly) | % Difference<br>(Elderly–Non-Elderly) |
| Utah          | 2.30                        | 2.46        | 2.44    | – 0.16                              | – 6.5                                 |
| Vermont       | 3.11                        | 2.95        | 2.96    | 0.16                                | 5.4                                   |
| Virginia      | 2.17*                       | 4.03*       | 3.71    | – 1.86                              | – 46.2                                |
| West Virginia | 4.03                        | 4.07        | 4.07    | 0.04                                | 1.0                                   |
| Wisconsin     | 3.75*                       | 4.52*       | 4.41    | – 0.77                              | – 17.0                                |

Notes: Significance levels are based on comparisons of the effective tax rates of the elderly and the non-elderly using t-tests.

\*Significantly different from the other group (elderly vs. non-elderly) at the 1 = percent level.

\*\*Significantly different from the other group (elderly vs. non-elderly) at the 5 = percent level.

\*\*\*Significantly different from the other group (elderly vs. non-elderly) at the 10 = percent level.

composition of the sample for the state (the sample contains a high proportion of records for elderly individuals who have significantly higher incomes than the non-elderly), and the generous exemptions that the state offers taxpayers with children compared with exemptions provided to the elderly. For taxpayers with incomes of less than \$40,000, North Carolina's results are similar to those of other states, with significantly lower average effective tax rates for the elderly (Table 4). The other three states with higher effective tax rates for the elderly offer generous exemptions to families, in comparison with exemptions offered to the non-elderly, but the differences in the average rates for the two groups are not statistically significant.

Table 4 presents the average effective tax rates for taxpayers with incomes of less than \$40,000 and reveals more about the effects of the preferential treatment afforded to the elderly. For this income range, 38 states have statistically significantly lower average effective tax rates for the elderly. Only New Hampshire imposes a larger rate for the over-65 group. Thirty-two states have average effective tax rates that are at least 50 percent lower for the elderly; 14 of these states have differences of at least one percentage point between the rates for the elderly versus the non-elderly. The percentage differences in average effective tax rates between the elderly and the non-elderly are generally wider for lower-income taxpayers. Part of the reason for this difference is that 15 states means test some of their tax relief provided to the elderly, allowing a larger percentage of income of the lower-income elderly to escape state income taxation, but restricting tax relief for the elderly with higher incomes.

Tennessee provides an excellent example of how means testing exemptions can cause the elderly with lower incomes to have lower effective tax rates than the non-elderly, but not for taxpayers with higher incomes. The state taxes only dividends and interest but totally exempts such income from taxation for the elderly who have total income less

than \$14,000 (\$23,000 for joint filers). When taxpayers exceed that threshold, they only receive an exemption of \$1,250 for each taxpayer. This structure results in a large jump in the tax burden for the elderly who have taxable income above the exemption limit. Joint filers who have income of \$22,999 owe no tax, while those with income of \$23,000 will owe tax on \$20,500 (assuming only two exemptions) at the 6-percent rate or \$1,830.

Illinois, with an average effective tax rate for the elderly almost three percentage points below that of the non-elderly, has the largest difference in average effective tax rates for taxpayers with AGI less than \$40,000, primarily due to the full exemption of pension and Social Security income from taxation, coupled with an additional exemption of \$1,000 for each elderly taxpayer. Michigan and Virginia also show large differences in the average effective tax rates between the elderly and the non-elderly for this income range, for the reasons previously noted.

Georgia's average effective tax rates for both the elderly and the non-elderly are low, with the over-65 rate being significantly below that of the non-elderly. Both elderly and non-elderly Georgia taxpayers with incomes less than \$40,000 benefit from a means tested tax credit allowed by the state, based on the number of exemptions claimed, with an extra exemption of \$1,300 provided for individuals who are age 65 or over. Additionally, the state allows full exemption of Social Security income from taxation and the exemption of a maximum of \$13,000 for pension income for the elderly. Older taxpayers can exempt up to \$4,000 of wages per taxpayer, provided the total exemption for wages plus pension income does not exceed \$13,000.

Table 5 shows that the elderly with incomes between \$40,000 and \$200,000 have significantly lower average effective tax rates in 30 states. The difference between the elderly and the non-elderly in the average effective tax rates for this income range is less likely to be as large as those for taxpayers with AGI of less than \$40,000. Only nine states have a difference in rates of at least one percentage point for the upper-income range, compared with 14 states for taxpayers with AGI less than \$40,000; only seven of the nine states have more than a 50 percent difference between the rates of the elderly and the non-elderly.

Table 5 shows that South Carolina has the widest difference between average effective tax rates for the elderly and the non-elderly for those with incomes between \$40,000 and \$200,000 due to generous exemptions for the elderly. The actual tax rate for the elderly in South Carolina may be slightly lower because the rate obtained by the microsimulation model ignores any additional income exemptions for two-income households. However, South Carolina's average effective tax rate for the non-elderly is overstated to some extent because the state laws permit a special exemption of \$2,750 for dependents under the age of six. As the IRS file does not contain age indicators for dependents, all dependents are assumed to fall outside this narrow range of ages. In 2000, 6.6 percent of South Carolina's population was expected to be zero to four years of age; if that amount is extrapolated to include individuals who are five years old, 8.3 percent of the population were eligible for this additional tax deduction. However, this omission is not



expected to significantly alter the results because the exemption is a relatively low amount compared to the exemption afforded to the elderly.

Other states that show the most marked differences between the average effective tax rates of the elderly and the non-elderly are Virginia, Kentucky, Georgia, and Michigan. As previously discussed, the factors causing these wide differences in average effective tax rates center primarily around the total exemption of Social Security earnings and the generous exemptions afforded to the elderly for pension income or income in general.

There are many other ways to analyze the differences in tax rates, but we believe that these tables demonstrate that there are significant differences between the effective tax rate of the elderly and non-elderly, and that there are important variations among the states. To determine the relative importance of the types of state income tax policies used, we estimate the following equation:

$$D_i = \alpha_0 + \alpha_1 * SSXMPT + \alpha_2 * PENS + \alpha_3 * OTHXMPT + \alpha_4 * OTHCRED, \quad [1]$$

where  $D_i$  the difference between the elderly and non-elderly rate, for elderly group  $i$  ( $= 1$  for those with less than \$ 40,000 in income  $= 2$  for those with \$ 40,000–\$ 200,000)  
 SSXMPT = a dummy variable for exemption of Social Security income ( $= 1$  for full exemption  $= 0$  for partial to zero exemption)

PENS = a dummy variable for exemption of pension income ( $= 1$  for any exemption greater than 0  $= 0$  for no exemption)

OTHXMPT = a dummy variable for other income exemptions ( $= 1$  for any exemption  $= 0$  for no other exemptions)

OTHCRED = a dummy variable for elderly credits ( $= 1$  for any credit  $= 0$  for no credits)

The results demonstrate that certain components of the state income tax codes are more significant determinants of the income tax differentials than other components. The results displayed in Table 6 demonstrate that those policy instruments that significantly affect the tax differential are the exemptions for pension and other income (non-Social Security exemptions) and other credits afforded the elderly. Among these instruments, the pension exemption explains slightly more of the differential than other exemptions and credits, which produce similar impacts. Once the elderly reach higher income levels (group 2), we notice that the policy instruments are not such strong determinants of the tax differentials. No other policy instrument is as significant as the Social Security exemption. It is not surprising that at higher income levels the impact of the preferential treatment of the elderly is reduced, as the marginal benefit from exemptions becomes much smaller. Generally, states that exempt some Social Security benefits from taxation allow complete exemption of these benefits, with no upper limit, as is common with pension exemptions.

The results of our estimation of Equation 1 suggest that the policy instruments used by states do work to significantly reduce the tax rate of the elderly vis-à-vis the non-elderly. Across income groups, however, the impact of these policies is reduced, which

**TABLE 6**  
**Regression Results: Dependent Variable Elderly-Non-Elderly Effective State**  
**Personal Income Tax Rate (t-Statistic)**

| Independent Variable | Group 1             | Group 2             |
|----------------------|---------------------|---------------------|
| Constant             | 0.354<br>– (1.09)   | – 0.119<br>(0.307)  |
| SSXMPT               | 0.278<br>(1.24)     | – 0.501**<br>(1.89) |
| PENS                 | – 0.493**<br>(2.91) | – 0.159<br>(0.79)   |
| OTHXMPT              | – 0.369*<br>(1.81)  | 0.504<br>(0.224)    |
| OTHCRED              | – 0.349**<br>(1.90) | – 0.239<br>(1.08)   |
| R-sq                 | .32                 | 0.12                |

\*Significant at the 0.1 = percent level.

\*\*Significant at the 0.05 = percent level.

makes the regression coefficients less useful for determining, across the population, the revenue impact of these policies. To analyze the revenue impact, we turn to one last exercise.

### THE IMPACT OF TAX DIFFERENTIALS

The differences in effective tax rates may have an impact on state income tax revenue. We take a very simple approach to forecasting the effect of the tax differential on state personal income tax revenues. Tax revenues can be expressed as:

$$\text{Income tax revenues} = \text{Average tax rate} \times \text{average taxable income} \times \text{population} \quad [2]$$

Over time, growth in tax revenues comes from tax rate increases, or increases in the taxpaying population, or increases in income. We consider separate tax revenue expressions for the elderly and for the non-elderly. For simplicity, we assume that population is the only variable that changes over the forecast period, that is, we assume that average tax rates and the distribution of average taxable income for the elderly and non-elderly remain the same over the forecast period. This helps us to retain our focus on the impacts of the change in the elderly population on state income tax revenues, holding other factors constant.<sup>14</sup>

14. The distribution of income of the elderly has changed significantly over time and the future projections are for more changes in this distribution. From 1967 to 1987, the median income of preretirement and retirement-aged households increased by between 7 (for those with heads 45–64 from

We assume that the growth in the population aged 25–64 represents the growth in the non-elderly taxpaying population, and the growth in the population over age 64 represents the growth in the elderly taxpaying population. We calculate the change in tax revenue as:

*Change in revenue =*

*Growth in tax revenue from the elderly + growth in tax revenue from the non-elderly*

where:

Growth in tax revenue from the elderly = average tax rate for the elderly \* growth in the elderly population

Growth in tax revenue from the non-elderly = average tax rate for the non-elderly \* growth in the non-elderly population

This gives us a simple forecast of the average annual growth in state personal income tax revenue attributed to the growth in the relative populations. These figures are found in columns 1 and 2 (case 1) of Table 7 for the ten largest states. We then calculate a hypothetical growth in state income tax revenues. In the second case, we assume that there are no state income tax preferences for the elderly and we simulate the new effective tax rates for the elderly in the absence of the preferences, and calculate the average annual growth in state income tax revenues under the “no preference” scenario for the elderly. These figures are found in column 3 in Table 7 (case 2). The difference between the growth in case 1 and case 2 gives us a straightforward measure of the difference in average annual growth of state income tax revenues due to the preferential tax treatment of the elderly. This is found in the last column of Table 7.

As seen there, the average annual growth in states’ elderly populations and the differences in elderly and non-elderly tax rates vary significantly within our sample of ten states. The age category differences in state personal income tax rates will exacerbate the fiscal effect of the population trend in those states in which the tax differentials are relatively large and the growth in the share of the elderly in the population is more pronounced. The last column of Table 7 shows the difference in the growth rate of state personal income taxes under the tax scenarios. The states facing the biggest slowdown in

*(footnote continued)*

1977 to 1987) and 27 percent (for those with heads 65 and older from 1967 to 1977; Rose M. Rubin, Shelley I. White-Means, and Luoia Mao Daniel, “Income Distribution of Older Americans,” *Monthly Labor Review* 123, no. 11 (November 2000): 19–30). From 1987 to 1997, the growth rates declined significantly. Projected income and poverty rates for the elderly suggest a pattern of increased wage-adjusted poverty for the elderly (62–89 years of age). Barbara Butrica, Karen Smith, and Eric Toder (*Projecting Poverty Rates in 2020 for the 62 and Older Population: What Changes Can We Expect and Why?* [Washington, DC: The Urban Institute, 2002]) find that this increase in poverty is due in large part to projected changes in marriage patterns and in the normal retirement age. These projected changes in income distribution would most certainly impact the average effective tax rate differential, but we do not incorporate those changes in this exercise.

**TABLE 7**  
**Simulated State Personal Income Tax Revenue Growth: Ten Largest States**  
**(Average Annual Growth in %, 2005–2015)**

| State          | Case 1   |  | Case 2   |  |  |
|----------------|--|--|--|--|--|
|                | Growth in Revenue Associated with Growth in Elderly Population (1) | Growth in Revenue Associated with Growth in Non-Elderly Population (2) | Growth in Revenue Associated with Growth in Elderly Population, No Preferences (3) | Growth in Revenue Associated with Growth in Non-Elderly Population (4) | Difference in Revenue Growth Due to State Income Tax Preferences for the Elderly (1+2) – (3+4) |
| California     | 4.40   | 4.54   | 4.74   | 4.54   | – 0.34   |
| Georgia        | 3.75   | 5.91   | 8.56   | 5.91   | – 4.81   |
| Illinois       | 2.04   | 2.69   | 2.24   | 2.69   | – 0.20   |
| Michigan       | 1.28   | 2.77   | 3.47   | 2.77   | – 2.19   |
| New Jersey     | 1.58   | 2.37   | 2.28   | 2.37   | – 0.70   |
| New York       | 2.32   | 2.87   | 2.43   | 2.87   | – 0.11   |
| North Carolina | 7.55   | 4.18   | 8.90   | 4.18   | – 1.36   |
| Ohio           | 2.00   | 1.80   | 2.69   | 1.80   | – 0.69   |
| Pennsylvania   | 1.83   | 1.92   | 2.07   | 1.92   | – 0.25   |
| Virginia       | 4.02   | 6.32   | 7.53   | 6.32   | – 3.50   |

their personal income tax revenues are those with large effective tax differentials and large annual increases in the elderly relative to the non-elderly. Michigan, Georgia, and Virginia are expected to see the most pronounced decrease in the growth of their personal income tax revenue due to the relatively large tax differentials as well as the large increases in the elderly population.

This exercise helps to put a value to the cost of differential state income tax treatment of the elderly relative to the non-elderly. In some states, the effects are economically significant. For example, in Georgia, the annual cost of these preferences amounts to about 60 percent of the revenue taken from the state corporate income tax. In other states, the effect is much smaller. As this exercise was done for only the state personal income tax, the total cost of the preferential tax treatment of the elderly at the state and local levels is obviously higher.

## CONCLUSIONS

Many states provide income tax breaks for various groups in their populations. The number of states with special income exemptions and credits for the elderly has been on the rise for a number of years, so that in most states, there is some type of specialized income

tax treatment for the elderly. We find that the differences in effective income tax rates for the elderly and non-elderly are significant in over 70 percent of the states that levy income taxes. This is a function of both tax law and income composition of both groups. Also, for the tax-filing population with income of less than \$40,000, state pension and general exemptions and credits for the elderly contribute significantly to explaining the differences in the tax rates of the elderly versus non-elderly. As income increases, state tax policy toward the elderly plays less of a role in explaining the tax rate differentials.

What does the preferential state income tax treatment for the elderly mean over the long term? As the population ages, the value of things such as tax exemptions for the elderly will grow. All else equal, states that grow older, faster will witness less growth in revenue sources that allow tax preferences for the growing elderly population than if those preferences did not exist. We simulated the impact of the state income tax treatment of the elderly on state income tax revenue growth. We conclude that in the ten states we examined (Georgia, California, Illinois, Michigan, New Jersey, New York, North Carolina, Ohio, Pennsylvania, and Virginia), state income tax revenues would have been higher in all states if the elderly were not allowed the tax preferences that were law in 1999. Some of the differences are small. For example, in California, the difference is less than 0.13 percent over ten years. However, in Georgia, the difference is significant, although still relatively small. We find that for the period 2000–2005, Georgia's state income taxes will be about 3 percent lower per year than they would be if the elderly faced the same, higher, effective tax rate as the non-elderly. From 2005 to 2015, the difference would be about 5 percent per year. This is assuming similar growth in income of the elderly and non-elderly so that the difference in income tax revenue is due only to the difference in the growth of the elderly population versus the non-elderly and the difference in tax rates. For the last two decades, the growth in the income of the elderly has been at least as high as the overall population, and in many years, higher than that of the average population. If this trend continues, then the special state income tax treatment of the elderly would be even more costly than this analysis suggests.

Future research should look at the expenditure side of the story as well as the cost of other tax preferences for the elderly, at both the state and local levels. A full analysis of the differential fiscal treatment of the elderly and non-elderly will require a thorough assessment of both the revenue and expenditure sides of the issue.

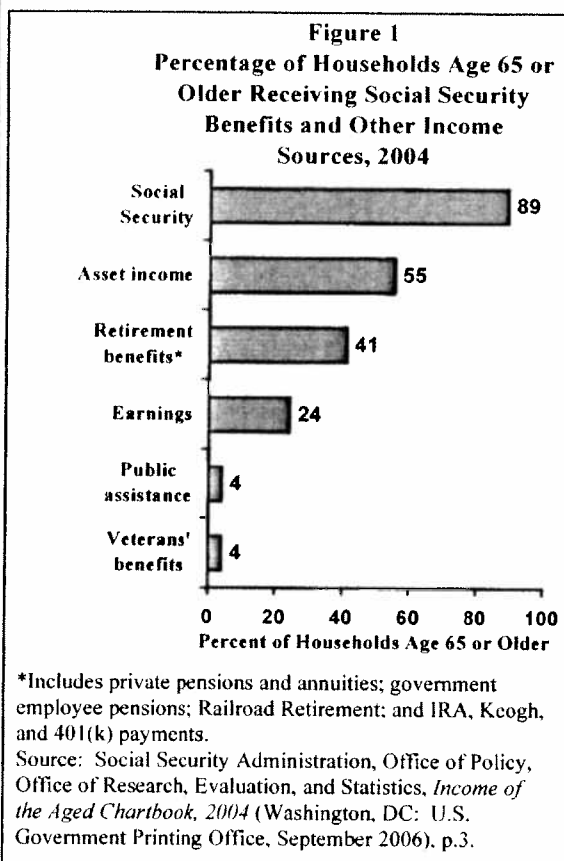
#### NOTES

The views expressed in this article are those of the authors and should not be interpreted as those of the Congressional Budget Office.

## STATE TAXATION OF SOCIAL SECURITY AND PENSIONS IN 2006

### Introduction

The tax treatment of Social Security benefits and pension income by state governments is a critical concern for older Americans because these are two of their primary sources of income. As shown in Figure 1, in 2004, nearly 9 out of 10 households age 65 or older<sup>1</sup> received Social Security benefits, and about 2 in 5 (41 percent) received other retirement income benefits.



In 2006 the percentage of income from different sources for persons age 65 or older was

<sup>1</sup> Households (which the Social Security Administration calls aged units) can be a married couple living together with either the husband or wife age 65 or older, or a person age 65 or older who does not live with a spouse.

39 percent from Social Security benefits, 16 percent from pension income (company or union pension, federal government retirement, military retirement, and Railroad Retirement), 24 percent from earnings, and 13 percent from dividends and interest.<sup>2</sup> At the upper ends of the income scale, people relied more on pension income; at lower income levels, people were more dependent upon Social Security benefits (see Table 1). Social Security benefits made up at least half of total income for 66 percent of Social Security beneficiaries in 2004.<sup>3</sup>

Since 1984, the federal government has taxed a portion of the Social Security and Railroad Retirement benefits of higher-income beneficiaries. Social Security benefits are taxed if the "provisional income"<sup>4</sup> of beneficiaries exceeds \$25,000 for single persons or \$32,000 for married couples filing jointly.

From 1984 to 1993, if provisional income exceeded the \$25,000 or \$32,000 thresholds, the amount of benefits subject to taxes was the lesser of:

- (a) One-half of the excess of provisional income over the threshold amount, or
- (b) One-half of Social Security benefits and Railroad Retirement Social Security equivalent benefits.

<sup>2</sup> Bureau of the Census, Current Population Survey (CPS), March 2007 (Washington, DC: Bureau of the Census, 2007). The CPS is conducted by the Bureau of the Census for the Bureau of Labor Statistics.

<sup>3</sup> Social Security Administration, Office of Policy, Office of Research, Evaluation and Statistics, *Income of the Aged Chartbook, 2004* (Washington, DC: U.S. Government Printing Office, September 2006), p.4.

<sup>4</sup> Provisional income in tax year 2006 was defined as the sum of (1) federal adjusted gross income (AGI) (excluding Social Security benefits, the deduction for student loan interest, and the deduction for domestic production activities), (2) tax-free interest income, and (3) one-half of Social Security benefits.

**Table 1**  
**Shares of 2006 Aggregate Income for Persons**  
**Age 65 or Older by Income Range**  
**(in percents)**

| <b>Income Sources</b>    | <b>First Quartile<br/>Up to \$9,762</b> | <b>Second Quartile<br/>\$9,762 to<br/>\$16,397</b> | <b>Third Quartile<br/>\$16,397 to<br/>\$29,586</b> | <b>Fourth Quartile<br/>\$29,586+</b> | <b>All Persons<br/>Age 65 or<br/>Older</b> |
|--------------------------|---|--|--|--------------------------------------|--|
| Social Security Benefits | 85%                                     | 81%  | 57%  | 20%                                  | 39%  |
| Pension Income           | 2                                       | 6  | 17   | 20                                   | 16   |
| Dividends and Interest   | 5                                       | 6  | 9  | 16                                   | 13   |
| Earnings                 | 1                                       | 3  | 10   | 35                                   | 24   |
| Other Income             | 7                                       | 4  | 7  | 9                                    | 8  |
| <b>Total</b>             | <b>100</b>                              | <b>100</b>   | <b>100</b>   | <b>100</b>                           | <b>100</b>                                 |

Source: Bureau of the Census, *Current Population Survey, March 2007* (Washington, DC: Bureau of the Census, 2007).

However, in 1994, the percentage of Social Security benefits that were taxable increased for some higher-income taxpayers (as described below under the Omnibus Budget Reconciliation Act of 1993 [OBRA 93]).

Because the income thresholds of \$25,000 and \$32,000 have not been indexed for inflation, as incomes increase each year, a greater proportion of Social Security beneficiaries is likely to pay taxes on their benefits. To illustrate, in tax year 1984, about 8 percent of beneficiaries paid taxes on their benefits; whereas, the Congressional Budget Office (CBO) estimates that about 39 percent of beneficiaries had some benefits taxed in 2003 (using 2000 population and income data).<sup>5</sup>

Moreover, in tax year 2004, about 58 percent of all Social Security benefits reported

on the federal income tax form were taxable.<sup>6</sup> These data refer only to taxpayers who filed income tax returns. About half of households with one person age 65 or older either were not required to file a return or had no tax liability.

#### **The Omnibus Budget Reconciliation Act of 1993 (OBRA 93)**

Since 1994, some Social Security beneficiaries have paid even higher federal income taxes than before on their Social Security benefits because of a provision of OBRA 93.

There is no change in taxable Social Security due to OBRA 93 if provisional income is between \$25,000 and \$34,000 (single filers) or between \$32,000 and \$44,000 (married, filing jointly). At these income levels, up to 50

<sup>5</sup> U.S. House of Representatives, Committee on Ways and Means, *2004 Green Book* (Washington, DC: U.S. Government Printing Office, March 2004), p.1-25.

<sup>6</sup> Special Tabulation of Tax Year 2004 Individual Complete Report File, Statistics of Income Division, IRS, August 2007.

percent of the Social Security benefits may be taxed.

However, OBRA 93 increased the percentage of benefits that may be taxed from 50

percent to 85 percent for those whose provisional incomes are greater than \$34,000 (single filers) or \$44,000 (married, filing jointly) (see Tables 2 and 3).

**Table 2**  
**Maximum Percentage of Social Security Benefits**  
**That May Be Taxed for Single Households**  
**(in percents)**

| <b>Provisional Incomes</b> | <b>Pre-OBRA 93</b> | <b>Post-OBRA 93</b> |
|----------------------------|--------------------|---------------------|
| \$0 to \$25,000            | 0%                 | 0%                  |
| \$25,001 to \$34,000       | 50                 | 50                  |
| \$34,001+                  | 50                 | 85                  |

**Table 3**  
**Maximum Percentage of Social Security Benefits That**  
**May Be Taxed for Married Households Filing Jointly**  
**(in percents)**

| <b>Provisional Incomes</b> | <b>Pre-OBRA 93</b> | <b>Post-OBRA 93</b> |
|----------------------------|--------------------|---------------------|
| \$0 to \$32,000            | 0%                 | 0%                  |
| \$32,001 to \$44,000       | 50                 | 50                  |
| \$44,001+                  | 50                 | 85                  |

For taxpayers whose provisional incomes exceed the higher thresholds, the amount of benefits subject to tax is the lesser of:

- (a) 85 percent of Social Security benefits and Railroad Retirement Social Security equivalent benefits, or
- (b) 85 percent of income over the higher OBRA 93 threshold, plus the smaller of

- (1) \$4,500 (single filers), \$6,000 (married, filing jointly), or

- (2) 50 percent of the Social Security benefit amount.<sup>7</sup>

Like the pre-OBRA 93 thresholds, none of these new thresholds are indexed for inflation. In 2001, approximately 6.7 million tax returns were filed by persons who were required to pay higher Social Security federal income taxes due to OBRA 93.<sup>8</sup>

Many states' income taxes are directly tied to the federal tax code because their taxable

<sup>7</sup> Laurel Beedon and Alison Shelton, *Will Your Social Security Benefits Be Taxed?* (Washington, DC: AARP, August 2001), p.1.

<sup>8</sup> Estimate based on the AARP-Barents Group Individual Income Tax Model.



base begins with federal adjusted gross income or federal taxable income. Therefore, changes in the income tax base at the federal level, such as those resulting from the inclusion of Social Security benefits in income, will automatically result in higher or lower state income taxes unless state legislatures enact provisions offsetting the federal action.

### **State Taxation of Social Security Benefits**

Currently, 26 of the 41 states (and the District of Columbia) that have broad-based personal income taxes do not tax Social Security benefits. The 15 states that tax Social Security benefits are Colorado, Connecticut, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Rhode Island, Utah, Vermont, West Virginia, and Wisconsin.

The impact of higher state taxes on Social Security benefits among the 15 states that tax the benefits has been lessened because of actions some of the states have taken. Wisconsin, Iowa, and Connecticut did not pass on the higher OBRA 93 Social Security taxes. Wisconsin and Iowa require beneficiaries to pay income tax on up to 50 percent of Social Security benefits based on the original thresholds of \$25,000 for single filers and \$32,000 for married couples filing jointly.

Connecticut subjects only taxpayers whose federal adjusted gross income is \$50,000 or more (single filers) or \$60,000 or more (married, filing jointly) to taxation of their Social Security benefits. For those taxpayers who are affected, only up to a maximum of 25 percent of benefits can be taxed.

Starting in 2008, Wisconsin will no longer tax Social Security benefits. Iowa is phasing out the taxation of Social Security benefits from 2007 to 2014.

Missouri is phasing out the taxation of Social Security benefits from 2007 to 2012 through income deductions for taxpayers age 62 and older whose adjusted gross income equals \$85,000 or less (single filers) or \$100,000 or

less (married, filing jointly). These deductions are reduced by one dollar for each dollar that a taxpayer's adjusted gross income exceeds these income thresholds.

Colorado, Minnesota, New Mexico, Utah, and West Virginia allow Social Security benefits to be deducted as part of a retirement income exemption (as described in the notes in Table 2).

Beneficiaries in Iowa, Missouri, Montana, North Dakota, and Utah who pay more in federal income taxes on Social Security benefits will pay less in state taxes, since federal taxes are either fully (Iowa, North Dakota) or partially (Missouri, Montana, and Utah) deductible from taxable income. However, only taxpayers who itemize can deduct federal taxes in Montana, and only those who use the ND-2 form can deduct federal taxes in North Dakota.

Some beneficiaries in Montana also get an exclusion from Social Security benefits based on differences between the federal and Montana tax bases.

### **State Taxation of Pension Income in 2006**

#### Relevant Supreme Court Cases

Prior to 1989, many states fully exempted state pensions from income taxation. In March 1989, the U.S. Supreme Court's *Davis v. Michigan* decision (489 U.S. 803) ruled that states must treat federal pensioners at least as well as they treat their state pensioners. The Court expanded this decision in April 1992, ruling in *Barker v. Kansas* (503 U.S. 594) that states are prohibited from taxing the pension benefits of U.S. military retirees while exempting the pensions of state and local government retirees.

An issue not addressed by *Davis* was whether states affected by that decision must give refunds to federal retirees who had paid taxes under laws that had been struck down by that decision. In June 1993, the U.S. Supreme Court gave its first direct ruling on this matter in *Harper v. Virginia Department of Taxation* (509

U.S. 86). The Court did not require states to pay refunds, but ruled that they would have to “provide relief consistent with federal due process principles” if state “predeprivation procedures” were unavailable.

Predeprivation procedures are any means by which state governments allow taxpayers to contest a tax before it is paid. This relief could involve refunds. All affected states have settled with or have paid affected federal retirees.

#### State Treatment of Pension Income in 2006

Most states that impose an income tax exempt at least part of pension income from taxable income. Various types of pension income (private, military, federal civil service, and state or local government) are often treated differently for tax purposes.

Table 4 summarizes the state income tax treatment of pension income for tax year 2006 for the 41 states and the District of Columbia that have a broad-based income tax. The table describes pension exemptions for *single filers* only.

In Table 4, the final column (income restrictions) reveals only whether pensioners’ incomes preclude them from receiving *any* state exemption; it does not indicate whether exemption *amounts* are reduced based on income levels. The notes to Table 2 give more detail about other state retirement income exclusions and credits (e.g., exclusions based on *all* retirement income, not just pension income), other filing status information, and age and income restrictions (both for pension income and other retirement income).

Only three states—Illinois, Mississippi, and Pennsylvania—fully exempt all public and private pensions from taxation.

Seven states fully exempt public pensions (federal civil service; military; and state and local government pensions) from taxes, but do not fully exempt private pensions. These states

are Alabama, Hawaii, Kansas, Louisiana, Massachusetts, Michigan, and New York.<sup>9</sup>

In Hawaii, employee contributions and pension earnings are exempt from tax in noncontributory private pensions (where contributions are only from employers). However, private pensions involving employee contributions are partially taxable with only earnings attributable to employee contributions being subject to tax. Alabama fully exempts public pensions, but exempts only those private pensions that are defined benefit plans.

Twelve states and the District of Columbia offer pension exemptions that vary by type, with public pensions generally being treated more favorably than private pensions.<sup>10</sup>

Many states offer at least partial exemptions from state taxes for some types of pensions. Ten states specifically offer identical partial exemptions for public and private pensions. These are Arkansas, Colorado, Delaware (under age 60), Iowa, Maine, Missouri, Montana, Oklahoma, South Carolina, and Utah (under age 65).

Delaware (age 60 and older), Georgia, Minnesota, New Mexico, Utah (age 65 and older), Virginia, and West Virginia provide the same partial exemptions for all income sources, not just for pension income (both public and private).

Five states (California, Connecticut, Nebraska, Rhode Island, and Vermont) allow no exemptions or tax credits for pension and other retirement income that is counted in federal adjusted gross income.

Most in-state government pensions are taxed the same as out-of-state government pensions. However, Arizona, Idaho, Kansas, Louisiana,

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<sup>9</sup> Of the seven states, Kansas, Louisiana, Massachusetts, Michigan, and New York fully exempt in-state government pensions but not out-of-state government pensions.

<sup>10</sup> These states are Arizona, Idaho, Indiana, Kansas, Kentucky, Louisiana, Massachusetts, Michigan, New York, North Carolina, North Dakota, and West Virginia.

Massachusetts, Michigan, and New York provide greater tax relief for in-state government pension plans than for those that are out-of-state. The District of Columbia also provides greater tax relief for District of Columbia government pensions than for state government pensions.

Michigan and Massachusetts do not tax residents who receive public pensions from other states if those states do not tax out-of-state government pensions of residents who were Michigan or Massachusetts employees.

Pension and other income exemptions are reduced dollar for dollar by Social Security and/or Railroad Retirement benefits in Idaho, Indiana (for federal civil service pensioners only), Maine, Maryland, Minnesota, and North Dakota.

#### Age Limitations

Thirty-six states and the District of Columbia offer exemptions or tax credits primarily for pension and other retirement income. Fifteen of those states and the District of Columbia require pensioners to be a minimum age (varying from 50 to 65) to receive a tax exemption or credit.<sup>11</sup>

#### Income Limitations

Tax exemption amounts or tax credits for pension and other retirement income vary with taxpayer income in seven of the states (Minnesota, Missouri, Montana, New Mexico, Ohio, Oregon, and Utah).

Even though the pension exemption amount does not vary with income in New Jersey and Oklahoma, pensioners are ineligible for the exemption if their income exceeds certain income limits (\$100,000 for single filers in New Jersey and \$37,500 for single filers in Oklahoma).

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<sup>11</sup> These states are Colorado, Georgia, Idaho, Indiana, Iowa, Louisiana, Maryland, Minnesota, New Jersey, New Mexico, New York, North Dakota, Oregon, Pennsylvania, and Virginia.

#### Taxation of Nonresident State Pensions

Starting in tax year 1996, states were prohibited from taxing distributions from nonresident pension and other retirement income plans because of Public Law No. 104-95 (passed by Congress in December 1995). Most retirement plans of nonresidents are now exempt because of this law. Examples of nonresident retirement income that is still taxable include nonqualified plans that are periodically paid out over fewer than 10 years and various forms of compensation (such as stock options, severance pay lump sums, and incentive bonuses) that are typically granted to highly compensated employees.

Former residents who earn taxable nonqualified pension income must file nonresident income tax forms. In most states with an income tax, that tax can be credited against the income tax owed to the state of former residence.

The tax treatment of lump-sum distributions varies considerably by state, but most offer some kind of income averaging for tax purposes.

#### **State Taxation of IRAs in 2006**

Three states (New Jersey, Massachusetts, and Pennsylvania) do not allow IRA contributions to be deducted from taxable income. Of the three, only Pennsylvania does not tax IRA earnings of taxpayers age 59 1/2 years or older, since these earnings are treated like pension income, which is tax exempt.

#### **Conclusions**

Two of the primary sources of income for persons age 65 and older are Social Security benefits and pension income. Most states provide more favorable income tax treatment of Social Security benefits and pension income than the federal government.

Even though some taxpayers may pay a federal tax on Social Security benefits, many of them do not pay a state tax because only 15 states and the District of Columbia levy an

income tax on Social Security benefits. Moreover, in many cases, fewer benefits are taxed by the 15 states than by the federal government.

Most states with a broad-based income tax exempt at least part of pension income from taxation. In addition, many of these states tax public pensions more favorably than private pensions resulting in inequities between the taxation of public and private pensions.

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**Table 4**  
**State Income Tax Treatment of Social Security Benefits and Pension Income, 2006**  
(single filers)

| State                | Is Social Security Tax Exempt? | Exemption by Pension Type |                    |                   |                           |                       | Age Minimum for Pension Exclusions? | Income Restrictions for Pension Exclusions? |
|----------------------|--------------------------------|---------------------------|--------------------|-------------------|---------------------------|-----------------------|-------------------------------------|---|
|                      |                                | Private Exemption         | Military Exemption | Federal Exemption | State and Local Exemption |                       |                                     |   |
| Alabama              | Yes                            | None/Full                 | Full               | Full              | Full                      |                       | No                                  | No  |
| Arizona              | Yes                            | None                      | \$2,500            | \$2,500           | \$2,500                   |                       | No                                  | No  |
| Arkansas             | Yes                            | \$6,000                   | \$6,000            | \$6,000           | \$6,000                   |                       | No                                  | No  |
| California           | Yes                            | None                      | None               | None              | None                      |                       | N/A                                 | N/A   |
| Colorado             | No                             | \$24,000/\$20,000         | \$24,000/\$20,000  | \$24,000/\$20,000 | \$24,000/\$20,000         |                       | Yes                                 | No  |
| Connecticut          | No                             | None                      | None               | None              | None                      |                       | N/A                                 | N/A   |
| Delaware             | Yes                            | \$12,500/\$2,000          | \$12,500/\$2,000   | \$12,500/\$2,000  | \$12,500/\$2,000          |                       | No                                  | No  |
| District of Columbia | Yes                            | None                      | \$3,000            | \$3,000           | \$3,000                   |                       | Yes                                 | No  |
| Georgia              | Yes                            | \$25,000                  | \$25,000           | \$25,000          | \$25,000                  |                       | Yes                                 | No  |
| Hawaii               | Yes                            | Full/Part                 | Full               | Full              | Full                      |                       | No                                  | No  |
| Idaho                | Yes                            | None                      | \$24,636           | \$24,636          | \$24,636                  |                       | Yes                                 | No  |
| Illinois             | Yes                            | Full                      | Full               | Full              | Full                      |                       | No                                  | No  |
| Indiana              | Yes                            | None                      | \$2,000            | \$2,000           | None                      |                       | Yes                                 | No  |
| Iowa                 | No                             | \$6,000                   | \$6,000            | \$6,000           | \$6,000                   |                       | Yes                                 | No  |
| Kansas               | No                             | None                      | Full               | Full              | Full                      |                       | No                                  | No  |
| Kentucky             | Yes                            | \$41,110                  |                    |                   |                           | ----- See notes ----- | No                                  | No  |
| Louisiana            | Yes                            | \$6,000                   | Full               | Full              | Full                      |                       | Yes                                 | No  |

**Table 4**  
**State Income Tax Treatment of Social Security Benefits and Pension Income, 2006**  
(single filers)  
(continued)

| State          | Is Social Security Tax Exempt? | Exemption by Pension Type |                      |                   |                           |           | Age Minimum for Pension Exclusions? | Income Restrictions for Pension Exclusions? |
|----------------|--------------------------------|---------------------------|----------------------|-------------------|---------------------------|-----------|-------------------------------------|---|
|                |                                | Private Exemption         | Military Exemption   | Federal Exemption | State and Local Exemption |           |                                     |   |
| Maine          | Yes                            | \$6,000                   | \$6,000              | \$6,000           | \$6,000                   |           | No                                  | No  |
| Maryland       | Yes                            | \$22,600                  | \$22,600 to \$27,600 | \$22,600          | \$22,600                  |           | Yes                                 | No  |
| Massachusetts  | Yes                            | None                      | Full                 | Full              | Full                      |           | No                                  | No  |
| Michigan       | Yes                            | \$40,920                  | Full                 | Full              | Full                      |           | No                                  | No  |
| Minnesota      | No                             |                           |                      |                   |                           | See notes | Yes                                 | Yes   |
| Mississippi    | Yes                            | Full                      | Full                 | Full              | Full                      |           | No                                  | No  |
| Missouri       | No                             | \$6,000                   | \$6,000              | \$6,000           | \$6,000                   |           | No                                  | Yes   |
| Montana        | No                             | \$3,600                   | \$3,600              | \$3,600           | \$3,600                   |           | No                                  | Yes   |
| Nebraska       | No                             | None                      | None                 | None              | None                      |           | N/A                                 | N/A   |
| New Jersey     | Yes                            | \$15,000                  | Full                 | \$15,000          | \$15,000                  |           | Yes                                 | Yes   |
| New Mexico     | No                             |                           |                      |                   |                           | See notes | Yes                                 | Yes   |
| New York       | Yes                            | \$20,000                  | Full                 | Full              | Full                      |           | Yes                                 | No  |
| North Carolina | Yes                            | \$2,000                   | Full/\$4,000         | Full/\$4,000      | Full/\$4,000              |           | No                                  | No  |
| North Dakota   | No                             | None                      | \$5,000              | \$5,000           | \$5,000/ None             |           | Yes                                 | No  |
| Ohio           | Yes                            |                           |                      |                   |                           | See notes |                                     |   |
| Oklahoma       | Yes                            | \$10,000                  | \$10,000             | \$10,000          | \$10,000                  |           | No                                  | Yes   |
| Oregon         | Yes                            |                           |                      |                   |                           | See notes |                                     |   |

**Table 4**  
**State Income Tax Treatment of Social Security Benefits and Pension Income, 2006**  
**(single filers)**  
**(continued)**

| State          | Is Social Security Tax Exempt? | Exemption by Pension Type |                    |                   |                           |  | Age Minimum for Pension Exclusions? | Income Restrictions for Pension Exclusions? |
|----------------|--------------------------------|---------------------------|--------------------|-------------------|---------------------------|--|-------------------------------------|---|
|                |                                | Private Exemption         | Military Exemption | Federal Exemption | State and Local Exemption |  |                                     |   |
| Pennsylvania   | Yes                            | Full                      | Full               | Full              | Full                      |  | See notes                           | No  |
| Rhode Island   | No                             | None                      | None               | None              | None                      |  | N/A                                 | N/A   |
| South Carolina | Yes                            | \$3,000/\$10,000          | \$3,000/\$10,000   | \$3,000/\$10,000  | \$3,000/\$10,000          |  | No                                  | No  |
| Utah           | No                             | \$4,800/\$7,500           | \$4,800/\$7,500    | \$4,800/\$7,500   | \$4,800/\$7,500           |  | No                                  | Yes   |
| Vermont        | No                             | None                      | None               | None              | None                      |  | N/A                                 | N/A   |
| Virginia       | Yes                            | See notes                 |                    |                   |                           |  | Yes                                 | Yes   |
| West Virginia  | No                             | None                      | \$22,000           | \$2,000           | Full/\$2,000              |  | No                                  | No  |
| Wisconsin      | No                             | None                      | Full               | None/Full         | None/Full                 |  | No                                  | No  |

Sources (for table and accompanying notes): 2006 state income tax forms and telephone survey of state revenue offices.

**Notes:**

N/A stands for not applicable.

Seven states—Alaska, Florida, Nevada, South Dakota, Texas, Washington, and Wyoming—are excluded because they have no personal income tax.

Two states—New Hampshire and Tennessee—are excluded because they have limited income taxes.

Alabama—Private defined benefit pensions are tax-exempt. All out-of-state government pensions are tax-exempt if they are defined benefit plans.

Arizona—All out-of-state government pensions are fully taxed.

Arkansas—The total exemption from all pension plans cannot exceed \$6,000 per taxpayer. The exemption refers to income from public or private retirement systems, plans, or programs. Distributions from Simplified Employee Pension (SEP) plans do not qualify. However, IRA distributions

can be included as part of the \$6,000 exemption if a taxpayer is age 59 ½ or older. All out-of-state government pensions also qualify for the \$6,000 exemption. Persons age 65 or older who do not qualify for the \$6,000 deduction qualify for a \$20 tax credit per taxpayer.

**California**—All out-of-state government pensions are fully taxed.

**Colorado**—Pensioners age 55 to 64 qualify for a \$20,000 pension and annuity exemption; pensioners age 65 or older qualify for a \$24,000 pension and annuity exemption. The exemptions pertain to periodic payments received as a result of: personal services performed prior to retirement, contributions to retirement plans that were tax-deferred, lump-sum distributions from pension or profit-sharing plans, IRA distributions, self-employed retirement account distributions, annuities, and federally taxable Social Security benefits. All out-of-state government pensions qualify for the pension exemptions.

**Connecticut**—All out-of-state government pensions are fully taxed. Starting in tax year 2008, military pensioners are eligible for a 50 percent exclusion on their federal taxable military pension.

**Delaware**—Persons under age 60 receive a \$2,000 pension exemption; persons age 60 or older receive a \$12,500 retirement exemption. The \$12,500 retirement exemption covers qualified retirement plans (such as IRA distributions, 401(k) plans, Keogh plans, and government deferred compensation [section 457] plans). In addition, the exemption covers dividends, capital gains, interest, and net rental income from real property. Out-of-state government pensions qualify for the pension and retirement exemptions.

**District of Columbia**—Taxpayers age 62 or older qualify for the \$3,000 exemption. The exemption covers military retired pay, pension income, and annuity income from the District of Columbia government or the federal government. All state government pensions are fully taxed.

**Georgia**—Taxpayers who are age 62 or older or are permanently disabled can claim retirement income exemptions (including pension income, IRA distributions, interest, dividends, alimony, and capital gains) for a maximum exemption of \$25,000 per taxpayer. Taxpayers can exempt up to \$4,000 of earned income towards the \$25,000 exemption. The \$25,000 exemption will increase to \$30,000 in tax year 2007 and to \$35,000 for tax year 2008 and thereafter. All out-of-state government pensions are eligible for the \$25,000 exemption.

**Hawaii**—Private defined benefit pensions are exempt as are other employer-funded plans (such as profit-sharing and defined contribution plans). Private pensions featuring employee contributions are partially taxable; only earnings attributable to employee contributions are taxable. Public pension income or annuities are exempt. All out-of-state government pensions are tax-exempt.

**Idaho**—Pensioners must be age 65 or older, or age 62 or older and disabled, to qualify for the public pension exemption. Public pension exemption amounts are \$24,636 (single filers) and \$36,954 (married, filing jointly). These amounts are adjusted annually according to the maximum worker's retirement benefit under Social Security. The exemption amounts are reduced by the amount of Social Security and Railroad Retirement benefits received. Allowable state/local pension exemptions are pensions from a city's police retirement fund or from the state's retirement fund for fire fighters. Out-of-state government pensions are fully taxed.

**Illinois**—Exempt pension/retirement income includes qualified employee benefit plans, simplified employee pension (SEP) plans, IRA distributions, 401(k) plans, government retirement or government disability plans, Railroad Retirement income, lump-sum distributions of appreciated employer securities, and early distributions from qualified plans and IRAs. All out-of-state government pensions are tax-exempt.

**Indiana**—Federal civil service pensioners must be age 62 or older to claim the \$2,000 pension exemption, and it is offset by the Social Security and Railroad Retirement benefits received. Military pensioners must be age 60 or older to claim the exemption. Out-of-state pensions are fully taxed.



**Iowa**—Taxpayers age 55 or older or disabled can claim an exemption of \$6,000 (single filers) or \$12,000 (married, filing jointly) from pensions, annuities, self-employed retirement plans, deferred compensation, IRA distributions, or other retirement plan benefits. Out-of-state government pensions qualify for the exemptions.

**Kansas**—Exempt public pension income includes federal civil service and military pensions, Kansas government pensions, and lump-sum distributions from the Kansas Public Employee's Retirement System (KPERs). All out-of-state government pensions are fully taxed.

**Kentucky**—Kentucky state and local employees as well as federal employees retiring before January 1, 1998, receive a full exemption of their public pensions. Those retiring after that date receive an exemption of their public pensions based on the amount of the individual's service time prior to January 1, 1998, compared to his or her total service time. Both out-of-state and public pensioners are eligible for at least a \$41,110 exemption. Exempt public pensions are federal pensions, Kentucky state and local pensions, Railroad Retirement benefits, and disability pension income. Exempt private pension income includes defined benefit pensions, IRA distributions, 401(k) distributions, annuities, and disability retirement income.

**Louisiana**—Taxpayers must be age 65 or older to qualify for the \$6,000 (single filers) or \$12,000 (married, filing jointly with both spouses age 65 or older) private pension/retirement exemption. The private retirement exemption pertains to pensions and annuity income. Out-of-state government pensioners qualify for the private pension/retirement exemption.

**Maine**—The \$6,000 exemption for non-military pensions is reduced by taxable and nontaxable Social Security and Railroad Retirement benefits. Eligible qualified pension plans that are covered by the exemption include those under Internal Revenue Code section 401(a) (including the Savings Incentive Match Plan for Employees [SIMPLE]), section 403 (annuities), and section 457(b) (state and local government/tax-exempt organizations/eligible deferred compensation plans). Distributions from IRAs (including SIMPLE retirement accounts), simplified employee pension (SEP) plans, and benefits from ineligible deferred compensation plans *do not* qualify for the exemption. Out-of-state government pensions are eligible for the \$6,000 exemption.

**Maryland**—Pensioners must be age 65 or older and/or totally disabled to qualify for up to a \$22,600 exemption, which is reduced by Social Security and federal Railroad Retirement benefits. Exempt income includes pensions, annuities, or endowment income from employee retirement systems (not including IRA distributions, Keogh plans, or deferred compensation plans). The exemption amount changes annually according to the maximum benefit received under the Social Security Act. Out-of-state government pensions qualify for the \$22,600 exemption. Military pensioners may be eligible for an exemption of up to \$5,000 for military retirement income. Any part of military retirement income that is applied toward the \$5,000 exemption cannot be used toward the \$22,600 pension exemption.

**Massachusetts**—Pension income from other state or local governments that do not tax pension income from Massachusetts public employees is exempt from taxable income. Other states or local governments must have a specific deduction, exclusion, or exemption for pension income that applies to Massachusetts state or local contributory public pension plans or have no income tax.

**Michigan**—Private pension income is tax exempt up to \$40,920 (single filers) or \$81,840 (married, filing jointly). The maximum allowable exemptions for private pensions are reduced by the amount of any public pension deduction claimed. Examples of exempt income are pension plans that define eligibility for retirement and set contribution and benefit amounts in advance, qualified retirement plans for the self-employed, IRA distributions (received after age 59 1/2), and qualified life annuities for taxpayers age 65 or older. Taxpayers age 65 or older may deduct interest, dividends, and capital gains up to \$9,128 (single filers) or \$18,255 (married, filing jointly). These deductions are reduced by any pension exemption taken. Michigan has reciprocal agreements with other states. That is, if another state does not tax out-of-state government pensions of former Michigan state or local

government employees who are now citizens of the other state, then Michigan will not tax Michigan residents who receive public pensions from those other states. Otherwise, out-of-state government pensions qualify for the same exemptions as private pensions.

**Minnesota**—Taxpayers age 65 or older or those who are permanently disabled (receiving federal disability income) who qualify can be exempt from any income source (including taxable Social Security benefits)—\$9,600 (single filers) or \$12,000 (married, filing jointly)—less the following: nontaxable Social Security benefits, Railroad Retirement benefits, nontaxable veterans' pensions and benefits, and one-half of federal adjusted gross income (AGI) of more than \$14,500 (single filers or married, filing jointly if one spouse is under age 65 and one is age 65 or older) or \$18,000 (married, filing jointly if both spouses are age 65 or older). To qualify for the above exemptions, the AGI of single filers must be less than \$33,700, and Railroad Retirement benefits and nontaxable Social Security benefits must be less than \$9,600. For married taxpayers filing jointly (in which both spouses are age 65 or older or are disabled), the AGI must be less than \$42,000, and Railroad Retirement benefits and nontaxable Social Security benefits must be less than \$12,000.

**Mississippi**—Retirement income that qualifies for the exemption includes income from public pensions, annuities, and deferred compensation plans. Out-of-state government pensions are tax-exempt.

**Missouri**—Taxpayers qualify for the \$6,000 exemption if their Missouri adjusted gross income (not including taxable Social Security benefits) is less than \$25,000 per year (single filers) or \$32,000 (married, filing jointly). Exemptions are phased out for taxpayers whose income is greater than \$31,000 (single filers) or \$44,000 (married, filing jointly, assuming that both spouses are receiving pensions). Out-of-state government pensioners qualify for the \$6,000 exemption. Taxpayers cannot receive more than a combined exemption of \$6,000 from both private and public pension income.

Starting in 2007, taxpayers receiving public pensions can deduct \$6,000 or 20 percent of their pension income (whichever is greater). The 20 percent figure will gradually increase annually from 20 percent in 2007 to 100 percent in 2012. The deduction amount is reduced by one dollar for every dollar that a taxpayer's adjusted gross income exceeds \$85,000 (single filers) or \$100,000 (married, filing jointly). The deduction amount cannot exceed the maximum Social Security benefit. In addition, the deduction amount is reduced by any Social Security benefits that are untaxed by the federal government. Out-of-state government pensioners also qualify for the higher deduction amount.

**Montana**—The \$3,600 exemption pertains to qualified pensions, annuities, Keogh plans, Simplified Employee Pension (SEP) plans, deferred compensation, and IRA distributions. The exemption does not include premature distributions. Out-of-state government pensioners qualify for the \$3,600 exemption. The \$3,600 exemption is reduced by \$2 for every \$1 that the federal AGI exceeds \$30,000. The exemption is entirely phased out when income reaches \$31,800 (single filers) or \$33,600 (married, filing jointly, when both spouses have pension income).

**Nebraska**—Out-of-state government pensions are fully taxed.

**New Jersey**—Taxpayers must be age 62 or older or disabled (as defined by the Social Security Administration), and their gross income cannot exceed \$100,000 to qualify for pension exemptions. The exemptions include taxable pensions, annuities, and IRA withdrawals. Since employee contributions to pensions or annuities have been taxed previously, they are not taxed when they are withdrawn. Out-of-state government pensioners qualify for the \$15,000 (single filers) or \$20,000 (married, filing jointly) exemption. Taxpayers age 62 or older who do not claim the maximum pension exclusions of \$15,000 (single filers) or \$20,000 (married, filing jointly) and whose gross income is \$100,000 or less are eligible to apply the unclaimed portion of their pension exclusion to other types of income if their wages, net business profits, partnership income, and S Corporation income are \$3,000 or less. In addition, taxpayers age 62 or older who are unable to receive Social Security or Railroad Retirement benefits, but who would have been eligible for benefits had they been covered by either program, can deduct up to \$3,000 (single filers) or \$6,000 (married, filing jointly)

in other retirement income.

**New Mexico**—Taxpayers age 65 or older whose income is \$28,500 or less (single filers) or \$51,000 or less (married, filing jointly) may exempt up to \$8,000 per eligible taxpayers from any income source (including Social Security benefits) depending on the level of their adjusted gross income. Taxpayers who are age 100 or more are exempt from New Mexico's income tax.

**New York**—Taxpayers must be age 59 ½ or older to qualify for a \$20,000 exemption from private pensions, annuities, IRA distributions, Keogh plans, and disability income. Pensions from New York state and local governments, the military, and the federal civil service are tax-exempt. Out-of-state government pensions can be deducted as part of the \$20,000 exemption.

**North Carolina**—North Carolina state and local government retirees and federal retirees who worked for 5 years or more (as of August 12, 1989) can receive a full pension exemption from their defined benefit public pension plans (based on the "Bailey settlement"). This benefit also applies to the state's 401(k) and 457 plans if the retiree contributed to the plan prior to August 12, 1989. Other government retirees receive up to a \$4,000 exemption per taxpayer. However, pensioners cannot claim the \$4,000 exemption for the same pension income that they already claimed as a full deduction (based on the "Bailey settlement"). Out-of-state government pensions also qualify for the \$4,000 pension exemption. Total private and public pension exemptions for retirees may not exceed \$4,000 per taxpayer for those who do not qualify for the full public pension exemption. Exempt private pension income is paid by an employer to a former employee under a retirement plan to provide payments after the employee leaves.

**North Dakota**—Public pension exemptions are reduced by the amount of Social Security benefits received, and pensioners must file the ND-2 form to qualify. Military pensioners must be at least 50 years old to qualify for the \$5,000 exemption. Only highway patrol, city police, and city firefighters qualify to receive the \$5,000 exemptions under state/local retirement pension plans. Out-of-state government pensions are fully taxed.

**Ohio**—Tax credits are available for retirement income. These credits vary by retirement income and range from \$25 (retirement income of more than \$500 but not more than \$1,500) to \$200 (retirement income of more than \$8,000). To qualify for the retirement income credit, a taxpayer must be receiving retirement benefits; annuities; or distributions from a pension, retirement, or profit-sharing plan. The income must be retirement related and be included in Ohio adjusted gross income. Out-of-state government pensions can be applied toward the retirement income credit.

**Oklahoma**—The \$10,000 public pension exemption covers the pensions of retirees from Oklahoma state and local governments, the military, and the federal civil service. For military retirees, the exemption equals 50 percent of retirement benefits or \$10,000 (whichever is greater); for other public pensions, retirees can deduct up to \$10,000. Taxpayers whose adjusted gross income is \$37,500 or less (single filers) or \$75,000 or less (married, filing jointly) are eligible for the private pension exemption. Total public and private exemptions cannot exceed \$10,000 per person. Out-of-state government pensions qualify for the \$10,000 private exemption.

**Oregon**—Federal pensioners who worked prior to October 1, 1991, can deduct part or all of their federal pension income. Federal pensioners retiring before October 1, 1991, receive a full exemption for federal pensions. Those retiring after that date receive an exemption for their federal pension based on the amount of the individual's service time prior to October 1, 1991, compared to his or her total service time. Taxpayers age 62 or older whose household incomes (excluding Social Security benefits) are less than \$22,500 (single filers) or \$45,000 (married, filing jointly) are eligible for a retirement income tax credit if they have not received more than \$7,500 (single filers) or \$15,000 (married, filing jointly) in Social Security and Tier 1 Railroad Retirement benefits and if their household income, Social Security benefits, and Tier 1 Railroad Retirement benefits are less than \$22,500 (single filers) or \$45,000 (married, filing jointly). This retirement income tax credit can be as much as 9 percent of retirement income depending on the level of total income. Social Security benefits, and Tier 1 Railroad Retirement benefits. The credit can be applied to the following income: public and private pensions.

individual retirement plans, deferred compensation plans, and employee annuity plans. Out-of-state government pensions can be applied toward the retirement income tax credit.

**Pennsylvania**—Taxpayers who receive retirement income from plans whose benefits would be subject to additional taxes under Internal Revenue Code sections 72 (q) or 72 (t) must be age 59 ½ or older and terminated from employment to exempt this income. Exceptions to this age requirement apply to Internal Revenue Code sections 72 (q) (2) or 72 (t) (2). Traditional defined benefit plans have no age requirements for exempting retirement income. Exempt retirement income includes private and public pensions, annuities, Keogh plans, Simplified Employee Pension (SEP) income, deferred compensation plans, and IRA distributions. Out-of-state government pensions are tax-exempt as long as taxpayers meet the age requirement described earlier.

**Rhode Island**—Out-of-state government pensions are fully taxed.

**South Carolina**—Retirees under the age of 65 can deduct up to \$3,000 of their qualified retirement income. Retirees age 65 or older can deduct up to \$10,000 of their qualified retirement income. Qualified retirement income includes all public employee retirement plans defined in Internal Revenue Code sections 401, 403, 408, and 457 as well as IRA distributions, Keogh plans, and military retirement. In addition to the qualified retirement exemption of \$10,000, taxpayers age 65 or older qualify for a senior deduction of \$15,000 (single filers) or \$30,000 (married, filing jointly if both spouses are age 65 or older) against any taxable income. However, the senior deduction is reduced by any qualified retirement exemption taken.

**Utah**—Taxpayers under the age of 65 may exempt up to \$4,800 in pensions, annuities, and taxable Social Security benefits. Out-of-state government pensions qualify for the \$4,800 exemption. Taxpayers age 65 or older may exempt up to \$7,500 from *all* income sources. Exclusions for both age groups are subject to a \$1 reduction for every \$2 of federal AGI (plus interest on line 8b of federal form 1040 plus any lump-sum distribution amount) in excess of \$25,000 (single filers) or \$32,000 (married, filing jointly).

**Vermont**—Out-of-state government pensions are fully taxed.

**Virginia**—Taxpayers who were born before January 1, 1939, may claim a deduction of up to \$12,000 from *any* income source regardless of their income. Taxpayers who were born on or between January 2, 1939, and January 1, 1942, are also eligible for the deduction; however, the deduction amount depends on the taxpayer's modified federal adjusted gross income, which excludes taxable Social Security benefits. The \$12,000 deduction is reduced one dollar for every dollar that the taxpayer's modified adjusted gross income exceeds \$50,000 (single filers) or \$75,000 (married filers).

**West Virginia**—The West Virginia Teachers Retirement System, West Virginia Public Employees Retirement System, and federal pensions qualify for the \$2,000 pension exemption. West Virginia state or local police, deputy sheriffs, or firefighters receive a full pension exemption. Taxpayers who are age 65 or older or are permanently disabled qualify for up to an \$8,000 exemption from any income source including taxable Social Security benefits. However, the \$2,000 pension exemption for federal, state, and local pensioners; the full pension exemption for public safety officials; interest or dividends on United States or West Virginia obligations (which are subject to federal tax but exempt from state tax); and the \$22,000 military exemption count toward the \$8,000 ceiling. Out-of-state government pensions qualify for the \$8,000 exemption.

**Wisconsin**—First, pension income from some federal agencies, such as the Coast Guard, may be subtracted from taxable income. Second, federal civil service pensioners and some state/municipal pensioners who retired prior to January 1, 1964, (or became a member of the retirement system as of December 31, 1963, and then retired at a later date) qualify for a tax exemption on their pension income. Third, beneficiaries of pensioners who met those requirements also qualify. For state and local government retirees, only certain Milwaukee City, Milwaukee County, and the Wisconsin teachers' retirement systems qualify for exemptions subject to the conditions discussed above. Out-of-state government pensions are fully taxed.

# South Carolina Taxation Realignment Commission

An Appendix to:

## Corporate Income Tax Report

### Contents

Slide 17 of “South Carolina’s Corporate and Business Tax Climate Rates and Rankings”, a presentation to the South Carolina Taxation Realignment Commission, by Craig H. Parks, MPA, Sr. Research Analyst, Senate Finance Committee, October, 22, 2010.

“South Carolina’s Corporate and Business Tax Climate Rates and Rankings”, a presentation to the South Carolina Taxation Realignment Commission, by Craig H. Parks, MPA, Sr. Research Analyst, Senate Finance Committee, October, 22, 2010.

“Corporate Income Tax: Statewide Economic Growth and Taxation Issues in South Carolina” prepared by Dr. Rebecca Gunnlaugsson, Ph.D., Director, Research Division, SC Department of Commerce, October 28, 2010.

# SC's Business Climate – National Rankings

## Recap and Additional Rankings

### South Carolina

|  |                       |
|--|-----------------------|
| Corporate Tax Rate (Flat):                           |                       |
| Southeast  | 1 <sup>st</sup> best  |
| U.S.   | 3 <sup>rd</sup> best  |
| Corporate Tax Rate (Overall):                        | 10 <sup>th</sup> best |
| Corporate Collections (per capita)                   | 6 <sup>th</sup> best  |
| "Best and Worst States for Business – 2010"          |                       |
| Chief Executive Magazine                             | 10 <sup>th</sup> best |
| "CNBC-2010 Top States for Business                   |                       |
| Cost of Doing Business                               | 6 <sup>th</sup> best  |
| "Area Development-Top 10 States for Business"        |                       |
| Overall  | 3 <sup>rd</sup> best  |
| Lowest Business Cost                                 | 1 <sup>st</sup> best  |
| Business Friendliness                                | 3 <sup>rd</sup> best  |
| Corporate Tax Environment                            | 3 <sup>rd</sup> best  |
| "Pollina-Top 10 Pro-Business States for 2010"        |                       |
| Overall  | 4 <sup>th</sup> best  |
| Labor, Taxes and Other                               | 12 <sup>th</sup> best |
| Incentives and Econ. Develop. Agen.                  | 3 <sup>rd</sup> best  |
| Tax Foundation-2010 State Business Tax Climate Index |                       |
| Corporate Taxes                                      | 9 <sup>th</sup> best  |

### South Carolina (cont.)

|   |                      |
|---|----------------------|
| Small Business Survival Index 2009  | 7 <sup>th</sup> best |
| Additional Rankings-General:  |                      |
| Business Facilities Magazine 2010   | 1 <sup>st</sup> best |
| Economic Growth Potential   | 4 <sup>th</sup> best |
| Best Business Climate   |                      |
| Site Selection Magazine 2010  | 6 <sup>th</sup> best |
| Top Business Climates   |                      |
| Development Counselors International  |                      |
| Best Business Climate   | 6 <sup>th</sup> best |
| Additional Rankings-Industry Specific:  |                      |
| Business Facilities Magazine 2010   |                      |
| Automotive Manufacturing Strength   | 3 <sup>rd</sup> best |
| Wind Energy Manufacturing Strength  | 2 <sup>nd</sup> best |
| Alternative Energy Leaders  | 9 <sup>th</sup> best |
| IBM's "Global Location Trends Annual Report   |                      |
|   | 4 <sup>th</sup> best |
| Specific Deals:   |                      |
| Boeing was "Deal of the Year" in following:   |                      |
| Business Facilities Magazine  |                      |
| Southern Business and Development Magazine  |                      |
| Site Selection  |                      |
| Trade and Industry Development Magazine's "Corporate Investment and Community Impact Awards" - 30 given nationwide – 3 were in South Carolinas: |                      |
| Boeing  |                      |
| Crane Company   |                      |
| Red Ventures  |                      |

South Carolina one of only 11 states to receive "Area Development's" "2010 Silver Shovel Award" based on South Carolina's: a) number of high-value added jobs per capita, b) amount of investment, c) number of new facilities, and d) industry diversity

## South Carolina's Corporate and Business Tax Climate Rates and Rankings

Presented to: SC TRAC

Craig H. Parks, MPA

## SC Corporate / Business Tax Rate and Rankings

SC's Corporate Tax (Flat) Rate (C Corps)=5%

Southeast = 1<sup>st</sup> (e.g. Lowest)

U.S. = 3<sup>rd</sup> Lowest

SC's Corporate Tax (Overall) Rate

U.S. = 10<sup>th</sup> lowest

SC's Corporate Tax Collections\*

FY10 = \$110 Million

FY99-FY09= \$192 Million/yr.

FY05-FY08= \$244 Million/yr.

\*3<sup>rd</sup> largest source

44<sup>th</sup> highest / 6<sup>th</sup> best nationally (@ \$72 per capita)

## SC Corporate / Business Tax Rate and Rankings (cont.)

### Our Neighbors (Rate):

Georgia= 6.0% (20% higher than SC)

15<sup>th</sup> best nationally (SC 10<sup>th</sup> best)

NC\*= 6.9% (38% higher than SC)

23<sup>rd</sup> best nationally (SC 10<sup>th</sup> best)

### Our Neighbors (Collections):

Georgia= 9<sup>th</sup> best at \$98/pc (SC 6<sup>th</sup> best)

NC\*= 24<sup>th</sup> best at \$132/pc (SC 6<sup>th</sup> best)

\*This is before NC's recent enactment of their additional 3% "surtax" on corporate income over a certain threshold.

## SC Corporate / Business Tax Rate and Rankings (cont.)

### Corporate (C tax) – Who Pays?

|                                   |              |
|-----------------------------------|--------------|
| Number of Filers:                 | 98,000       |
| Number with \$0 Liability:        | 86,925 (89%) |
| Number with Liability:            | 11,075       |
| Of filers owing tax:              |              |
| Number (%) Domestic:              | 6,675 (60%)  |
| Number (%) Foreign (Multi-State): | 4,400 (40%)  |

### Collections (Dollars and Percentage):

|           |                     |
|-----------|---------------------|
| Domestic: | \$ 67 Million (32%) |
| Foreign:  | \$142 Million (68%) |

## SC Corporate / Business Tax Rate and Rankings (cont.)

SC – Small Business "tax parity" with C corps

In 2006, the General Assembly leveled the playing field for small businesses (the majority of businesses in SC) in terms of state tax treatment by phasing in small business tax relief as follows:

|                      |      |
|----------------------|------|
| 2006=                | 6.5% |
| 2007=                | 6.0% |
| 2008=                | 5.5% |
| 2009 and thereafter= | 5.0% |

Today, small businesses may annually choose whichever tax structure most advantages their business (either the current marginal rate structure or the flat 5% rate, ala the Corporate Income Tax rate).

\*SC is one of the nation's friendliest states for small business (more on rankings later)

Note: Combined, corporate and business income taxes generate almost \$600 Million annually in General Fund revenue.

## SC's Business Climate – National Rankings *Chief Executive Magazine*

"Best and Worst States for Business – 2010"

651 CEOs

3 Primary Categories:

- 1) Taxation and Regulation (5 subsets)
- 2) Quality of Workforce (5 subsets)
- 3) Living Environment (6 subsets)

SC 10<sup>th</sup> best overall (GA 7<sup>th</sup>, NC 2<sup>nd</sup>)

|                          | SC | GA | NC |
|--------------------------|----|----|----|
| Taxation* and Regulation | B+ | B  | B+ |
| Quality of Workforce     | B  | B+ | B+ |
| Living Environment       | A- | B+ | A- |

\*It's Not Taxes:

Overall business tax climate: SC 3 spots better than GA and 13 spots better than NC.

Corporate Taxes specifically: SC virtual tie with GA, 16 spots better than NC.

Property Taxes specifically: SC 10 spots better than GA, 11 spots better than NC.

Quality of Workforce –

- a) Work ethic
- b) General Education level of workforce\*
- c) Competitiveness of wage rates
- d) Employee relations with management
- e) Specialized labor

|                                  | SC | GA | NC |
|----------------------------------|----|----|----|
| *Higher Ed Score (overall)       | 26 | 24 | 29 |
| Degree Completion (1,000 adults) | 41 | 29 | 27 |

## SC's Business Climate – National Rankings *CNBC – 2010 Top States for Business*

Cost of Doing Business

- a) Tax burden
- b) Utility
- c) Cost of wages
- d) Workers comp
- e) Rental costs for office/industrial

SC 6<sup>th</sup> best nationally

|  | SC | GA | NC |
|--|----|----|----|
|  | 6  | 20 | 15 |

Quality of Workforce

|  | SC | GA | NC |
|--|----|----|----|
|  | 5  | 3  | 3  |

## SC's Business Climate – National Rankings *CNBC – 2010 Top States for Business (cont.)*

Overall

SC Ranks 31<sup>st</sup> nationally (6<sup>th</sup> best on "Cost of Doing Business")

|  | SC  | GA | NC |
|--|-----|----|----|
|  | 31* | 10 | 4  |

\*Not taxes– What is it?

|           | SC | GA | NC |
|-----------|----|----|----|
| Education | 43 | 28 | 26 |

"Education and Business go hand in hand. Not only do companies want to draw from an educated pot of workers, they want to offer their employees a great place to raise a family. Higher education institutions offer companies a source to recruit new talent, as well as a partner in research and development. We looked at traditional measures of K-12 education including test scores, class size and spending. We also considered the number of higher education institutions in each state."

|                 | SC | GA | NC |
|-----------------|----|----|----|
| Quality of Life | 45 | 35 | 32 |

"The best place to do business are also the best places to live. We scored the states on several factors, including local attractions, the crime rate and healthcare."

|                       | SC | GA | NC |
|-----------------------|----|----|----|
| Business Friendliness | 30 | 17 | 13 |

"...We grade the states on perceived "friendliness" of their legal and regulatory framework to business."



### SC's Business Climate – National Rankings Area Development – Top 10 States for Business

"Consultants to Industry"  
8 main "site selection" criteria:  
1) Lowest business costs  
2) Most business friendly  
3) Corporate tax environment  
4) Overall labor  
5) Workforce development  
6) Fast track permitting  
7) Rail and highway accessibility  
8) Shovel ready sites

Overall  
SC Ranks the 3<sup>rd</sup> best state for business

|   | SC | GA   | NC   |
|---|----|------|------|
|   | 3  | 5    | 8    |
| Lowest Business Costs<br>SC Ranks the BEST state for business                     | 1  | N/A* | N/A* |
| Business Friendliness<br>SC Ranks the 3 <sup>rd</sup> best state for business     | 3  | N/A* | 4    |
| Corporate Tax Environment<br>SC Ranks the 3 <sup>rd</sup> best state for business | 3  | N/A* | N/A* |
| Workforce Development<br>SC Ranks the 3 <sup>rd</sup> best state for business     | 3  | 1    | 4    |

\*Ranked outside the top 10 nationally on this measure

### SC's Business Climate – National Rankings Pollina – Top 10 Pro-Business States for 2010

2 "stages" (Labor, Taxes and Other and Incentives and Econ.  
Development Agency Factors)

"Overall Ranking"

SC ranks 4<sup>th</sup> most pro-business state in nation (2<sup>nd</sup> in South)

| SC | GA | NC |
|----|----|----|
| 4  | 13 | 5  |

"Labor, Taxes and Other"

SC Ranks 12<sup>th</sup> most pro-business state in nation, ahead of both  
GA and NC

"Incentives and Econ. Development Agency Factors"

SC Ranks 3<sup>rd</sup> most pro-business state in nation, one spot  
behind NC (2<sup>nd</sup>) and 4 spots better than GA (7<sup>th</sup>).

### SC's Business Climate – National Rankings Pollina – Top 10 Pro-Business States for 2010 (cont.)

It's taxes and cost of doing business (that boost SC)...

"South Carolina's Low Corporate Taxes,...low workers compensation costs,...and low electricity costs are responsible for South Carolina's strong finish in this year's analysis. South Carolina's pro-business attitude combined with a relatively low cost of doing business...makes it a major player in the game of attracting corporate investment and jobs."

Helps offset the "...Labor and other factors" of Stage 1

|                        | SC | GA | NC |
|------------------------|----|----|----|
| High School Completion | 41 | 38 | 38 |
| College Completion     | 38 | 23 | 26 |
| Unemployment Insurance | 43 | 22 | 5  |
| Legal Environment      | 39 | 27 | 17 |

### SC's Business Climate – National Rankings Pollina – Top 10 Pro-Business States for 2010 (cont.)

North Carolina's high ranking is not attributable to corporate taxes and cost of doing business. Remember, SC's ranking attributable in part to "...low corporate taxes...and a relatively low cost of doing business."

Instead:

"North Carolina's high score can be attributed to their right-to-work status (SC), low unemployment insurance, worker's compensation rate's (SC), and a favorable litigation environment."

Likewise (Georgia):

"Michigan, Ohio, Georgia\*, and Louisiana ranked among the nation's best relative to Stage II, Incentives and State Economic Development Agency Factors, but did not rank high enough in terms of Stage I, Labor, Taxes and Other Factors, to make the Pollina Top 10 Pro-Business States list."

\*Georgia ranked 7<sup>th</sup> in Stage II (SC ranked 3<sup>rd</sup>, NC ranked 2<sup>nd</sup>)

SC's Business Climate – National Rankings  
Tax Foundation – 2010 State Business Tax  
Climate Index

Overall

| SC | GA | NC |
|----|----|----|
| 26 | 29 | 39 |

Corporate

|    |    |    |
|----|----|----|
| 9* | 8* | 30 |
|----|----|----|

Unemployment Insurance

|    |    |   |
|----|----|---|
| 43 | 22 | 5 |
|----|----|---|

Property Tax

|    |    |    |
|----|----|----|
| 26 | 36 | 37 |
|----|----|----|

SC's Business Climate – National Rankings  
Tax Foundation – 2010 State Business Tax  
Climate Index (cont.)

\*Corporate Note:

SC and GA in 'virtual tie' in corporate tax ranking at 9<sup>th</sup> and 8<sup>th</sup> respectively.

TF's "corporate tax index" is based on 2 equally weighted sub-indices:

a) Rate and b) Base

Of those, various factors are considered.

Under "Rate", SC clear advantage (5% vs. 6%). Only apparent GA advantage is "single apportionment", but SC is transitioning to that, and will be 100% sales (net income of business done in SC) next year (2011).

SC's Business Climate – National Rankings  
Tax Foundation – 2010 State Business Tax  
Climate Index (cont.)

Note: TF's only focus are taxes and they acknowledge:

"Clearly, there are many non-tax factors that affect a state's overall business climate: its proximity to raw materials or transportation centers, its regulatory or legal structures, the quality of its education system and the skill of its workforce, not to mention the intangible perception of a state's quality of life. The 2010 SBTIC does not measure the impact of these important features of a state's overall business climate."

SC's **SMALL** Business Climate – National  
Rankings

*Small Business Survival Index 2009*

Small Business Climate favorable in SC too...

Overall

SC 7<sup>th</sup> best small business climate in US

| SC | GA | NC |
|----|----|----|
| 7  | 20 | 39 |

Corporate

|       |       |    |
|-------|-------|----|
| 10(t) | 16(t) | 27 |
|-------|-------|----|

Individual

|        |       |      |
|--------|-------|------|
| 38(t)* | 27(t) | 43** |
|--------|-------|------|

\*Does not factor SC's small business tax relief previously discussed (5% vs. 7%). Only looks at "top marginal rates". If factored, SC's overall (and individual) ranking would most certainly improve. Currently, the Small Business Survival Index does not appear to account for this small business friendly tax relief for SC small businesses. This tax relief is/was important for small businesses in SC and should be looked favorably upon by the "Index", as it (the Index) itself acknowledges that "...more than 90% of businesses (in a given state) file taxes as individuals."

## SC's Business Climate – National Rankings Recap and Additional Rankings

### South Carolina

|  |                       |
|--|-----------------------|
| Corporate Tax Rate (Flat)                            | 1 <sup>st</sup> best  |
| Southwest  | 3 <sup>rd</sup> best  |
| U.S.   | 10 <sup>th</sup> best |
| Corporate Tax Rate (Overall)                         | 6 <sup>th</sup> best  |
| Corporate Collections (per capita)                   | 6 <sup>th</sup> best  |
| "Best and Worst States for Business – 2010"          |                       |
| Chief Executive Magazine 10 <sup>th</sup> best       |                       |
| *ENR 2010 Top States for Business                    |                       |
| Cost of Doing Business                               | 6 <sup>th</sup> best  |
| "Area Development: Top 10 States for Business"       |                       |
| Overall  | 3 <sup>rd</sup> best  |
| Lowest Business Cost                                 | 1 <sup>st</sup> best  |
| Business Friendliness                                | 3 <sup>rd</sup> best  |
| Corporate Tax Environment                            | 3 <sup>rd</sup> best  |
| "Palmer's Top 10 Pro-Business States for 2010"       |                       |
| Overall  | 4 <sup>th</sup> best  |
| Labor, Taxes and Other                               | 12 <sup>th</sup> best |
| Incentives and Econ. Develop. Agm.                   | 3 <sup>rd</sup> best  |
| Tax Foundation 2010 State Business Tax Climate Index |                       |
| Corporate Taxes                                      | 9 <sup>th</sup> best  |

### South Carolina (cont.)

|   |  |
|---|--|
| New Business Survival Index 2009  | 7 <sup>th</sup> best                             |
| Additional Rankings Connect   |  |
| Business Facilities Magazine 2010   |  |
| Economic Growth Potential   | 1 <sup>st</sup> best                             |
| Best Business Climate   | 40 <sup>th</sup> best                            |
| Life Sciences Magazine 2010   |  |
| Top Business Climate  | 6 <sup>th</sup> best                             |
| Development Connection International  |  |
| Best Business Climate   | 4 <sup>th</sup> best                             |
| Additional Rankings Industry Specific   |  |
| Business Facilities Magazine 2010   |  |
| Automotive Manufacturing Strength   | 1 <sup>st</sup> best                             |
| Wind Energy Manufacturing Strength  | 2 <sup>nd</sup> best                             |
| Alternative Energy Leaders  | 9 <sup>th</sup> best                             |
| ENR's Global Location Trends Analysis Report  | 4 <sup>th</sup> best                             |
| Specific Clusters   |  |
| Being was "One of the Top" in following   |  |
| Business Facilities Magazine  |  |
| South's Business and Development Magazine   |  |
| Tax Selection   |  |
| Trade and Industry Development Magazine's "Corporate Investment and Community Impact Award"   | 30 given; nationwide - 1 score in South Carolina |
| Ranking   |  |
| Cruise Company  |  |
| Pack Ventures   |  |
| South Carolina was one of only 13 states to receive "Area Development's" "2010 Silver Global Award" based on South Carolina's #1 number of high-value added jobs per capita, 14th best cost of investment, 11th best of new facilities, and 6th industry diversity. |  |

## SC's Business Climate – National Rankings Recap and Additional Rankings

### SC – Cities and Towns Rank Well Too...

|                        |   |
|------------------------|---|
| Columbia               | 5 <sup>th</sup> lowest cost location for regional HQs       |
|                        | The Royal Company   |
|                        | 12 <sup>th</sup> most "happier the best" cities in US       |
|                        | Forbes  |
|                        | One of 12 "100 best performing metro areas"                 |
|                        | Brookings Institution                                       |
|                        | 12 <sup>th</sup> best "Place to start a business"           |
|                        | Forbes  |
| Greenville             | 4 <sup>th</sup> best business tax structure                 |
|                        | Competition Alternatives 2010 (CFMA)                        |
|                        | 1 <sup>st</sup> in "Success story of the future"            |
|                        | ENR Magazine  |
|                        | 6 <sup>th</sup> in "Top 100 Most Economic Growth Potential" |
|                        | Business Facilities 2010                                    |
|                        | 5 <sup>th</sup> in "Automotive Energy Industry Leader"      |
|                        | Business Facilities 2010                                    |
|                        | 16 <sup>th</sup> best "Place to start a business"           |
|                        | Forbes  |
| Greenville Spartanburg | 2 <sup>nd</sup> lowest business cost in Southeast           |
|                        | Competition Alternatives 2010 (CFMA)                        |
|                        | 1 <sup>st</sup> in "Emerging Logistics/Distribution"        |
|                        | Business Facilities 2010                                    |
|                        | 2 <sup>nd</sup> in "Low Cost Manufacturing Center"          |
|                        | Business Facilities 2010                                    |

### SC – Cities and Towns Rank Well Too...

|                                       |   |
|---------------------------------------|---|
| Charleston                            | "Top Ten Mid-Market of the Decade"  |
|                                       | Southern Business and Development   |
|                                       | 4 <sup>th</sup> best "Place to start a business"                                      |
|                                       | Forbes  |
|                                       | 6 <sup>th</sup> "Smartest city" in the World  |
|                                       | Forbes  |
|                                       | 2 <sup>nd</sup> best "Next City" with populations b/w 100K-200K                       |
|                                       | Next Generation Consulting  |
| Hilton Head                           | 4 <sup>th</sup> best for "Economic Strength" among US MSA's                           |
|                                       | Policom Corp  |
| Aiken                                 | "Top Ten Small Markets of the Decade"   |
|                                       | Southern Business and Development   |
| Florence                              | 5 <sup>th</sup> best metropolitan area for "New and expanding facilities in US" (ENR) |
|                                       | Site Selection Magazine   |
| Orangeburg, Union, Gaffney, Lancaster | All on Site Selection's 2009 "Top Metropolitan List"                                  |

**Notes/Sources Page for:**

**“South Carolina’s Corporate and Business Tax Climate - Rates and Rankings”**

**Presented by Craig H. Parks, MPA**

**October 22, 2010**

**Slide 1:**

Title page.

**Slide 2:**

- SC’s Corporate tax rate for C Corps of 5% - SC Code of Laws 12-6-530.
- 40<sup>th</sup> Highest/10<sup>th</sup> best nationally - The Tax Foundation “The Facts on South Carolina’s Tax Climate” <http://www.taxfoundation.org/research/topic/57.html>
- Lowest in the Southeast\* - The Tax Foundation [http://www.taxfoundation.org/files/state\\_corp\\_income\\_rates-20100325.pdf](http://www.taxfoundation.org/files/state_corp_income_rates-20100325.pdf)
- \*Note: SC is tied with Mississippi for the lowest top rate of 5%. However, Mississippi (and several other states) has a marginal rate structure with lower rates. SE states/rates are as follows: SC=Flat 5%, FL=Flat 5.5%, WV=Flat 8.5%, NC=Flat 6.9% (does not factor increase due to temporary “surtax”), KY=Marginal Rates of 4%, 5% and 6%, with top rate kicking in at \$50K+, AR=Marginal Rates from 1% to 6.5% with top rate kicking in at \$100K+, TN=Flat 6.5%, AL=Flat 6.5%, GA=Flat 6%, LA=Marginal Rates from 4% to 8% with top rate kicking in at \$200K+, VA=Flat 6%, MS=Marginal Rates from 3% to 5%, with top rate kicking in at \$10K+.
- SC’s Corporate Tax Collections: FY10 from Comptroller General’s Year End report for FY10, dated August 20, 2010. Other Years indicated taken from the SC Budget and Control Board’s “Historical Analysis” report dated October 31, 2009.
- Reference to “3<sup>rd</sup> largest source” refers to the Corporate Income Tax collections being the 3<sup>rd</sup> largest source of state general fund revenue, behind Sales and Use Tax and Individual Income Tax; take from the SC Budget and Control Board’s “Historical Analysis” report dated October 31, 2009.
- 44<sup>th</sup> Highest / 6<sup>th</sup> best nationally refers to SC’s corporate tax burden ranking on a “per capita” collections basis - The Tax Foundation “The Facts on South Carolina’s Tax Climate” <http://www.taxfoundation.org/research/topic/57.html>

**Slide 3:**

- Comparative data for SC to both NC and Georgia is from The Tax Foundation. Specifically:
- Georgia=<http://www.taxfoundation.org/research/topic/22.html>
- North Carolina=<http://www.taxfoundation.org/research/topic/47.html>
- Reference to Corporate surtax is from NC’s Department of Revenue <http://www.dornc.com/aboutus/education/lawchanges2009.html>
- Specifically, from NC DOR’s website regarding the Corporate Surtax: “Corporations subject to corporate income tax must pay an income tax surcharge of 3 percent on its North Carolina income tax due before deducting any tax credits or payments. S corporations filing composite income tax returns on behalf of shareholders who live outside North Carolina must calculate the amount of North Carolina income tax due

separately for each nonresident shareholder. That calculation must include the amount of individual income surtax based on the Surtax Percentage Table for individuals with a filing status of single. Note: there is no penalty (interest) for underpayment of estimated tax if the underpayment is because of the surtax.”

**Slide 4:**

- Information regarding corporate tax liability in SC from data provided by the SC Department of Revenue for Tax Year 2008.
- Liability is after credits.
- Domestic corporation, per DOR is a corporation that is chartered/incorporated in SC.
- Foreign corporation, per DOR is a corporation that is chartered/incorporated outside of SC.

**Slide 5:**

- Small businesses now have parity with “biggs” (C Corps). See SC Code Section 12-6-545.
- Applies to “active trade or business income”.
- Reference to corporate / business income tax collections totaling roughly \$600 Million annually is unofficial (non-BEA) staff estimate based on: 1) average corporate tax (C corps) tax collections in non-recession years of \$244 Million annually and 2) extrapolation of BEA’s revenue impact when small business rate was cut from 7% to 5% of \$129M assuming each 1% yields approximately \$65 Million. These estimates are unofficial and for general frame of reference purposes only.

**Slide 6:**

- “Best and Worst States for Business - 2010” - Chief Executive Magazine  
<http://chiefexecutive.net/ME2/Audiences/dirmod.asp?sid=&nm=&type=Publishing&mod=Publications::Article&mid=8F3A7027421841978F18BE895F87F791&tier=4&id=59FD13C5177B40B0B2D3EBA9E4384572&AudID=72F5923167534E2FA8CAC760727D0426>
- Link to subcomponents of “3 Primary Categories” -  
<http://www.chiefexecutive.net/ME2/dirmod.asp?sid=0CC7FBE04E534C16922586F98AF9AEB3&nm=Articles&type=Publishing&mod=Publications%3A%3AArticle&mid=8F3A7027421841978F18BE895F87F791&tier=4&id=D89686F3721B4211AB39E53C70A39748>
- Link to Sources used by Chief Executive - <http://www.chiefexecutive.net/states2010/map.asp>

**Slides 7 and 8:**

- “CNBC - 2010 Top States for Business” - <http://www.cnbc.com/id/37554006/>
- “Cost of Doing Business” definition used by CNBC: “Cost is a major consideration when a company chooses a state. We looked at the tax burden, including individual income and property taxes, business taxes, even the gasoline tax. Utility costs can add up to a huge expense for business, and they vary widely by state. We also looked at the cost of wages and state workers’ compensation insurance, as well as rental costs for office and industrial space.”  
<http://www.cnbc.com/id/37516039/>
- “Quality of Workforce” definition used by CNBC: “Many states point with great pride to the quality and availability of their workers, as well as government-sponsored programs to train them. We rated states based on the education level of their workforce, as well as the numbers of available workers. We also considered union membership. While organized labor contends that a union workforce is a quality workforce, that argument, more often than not, doesn’t resonate with

business. We also looked at the relative success of each state's worker training programs in placing their participants in jobs." <http://www.cnbc.com/id/37516047>

**Slide 9:**

"Area Development Magazine - 2010 Top States for Business" -

<http://www.areadevelopment.com/siteSelection/sept2010/top-states-doing-business39016.shtml>

**Slide 10:**

- "Pollina Top 10 Pro-Business States for 2010 - The Great American Job Purge" by Brent A. Pollina and Ronald R. Pollina, PhD.
- Note: Pollina produces three rankings; an overall, and then one in each of the following two categories, or what Pollina refers to as "phases" of their study; a) "Labor, Taxes and Other Factors" (Phase 1), and b) Incentives and State Economic Development Agency Factors" (Phase 2). Phase 1 is comprised of 16 factors and comprise 64% of a state's score. Phase 2 is comprised of 15 factors, comprising the balance of the score (36%).
- See page 13 of the report for a detailed description of the two phases and figures 12-28 beginning on page 46 for state rankings on a series of the sub-components described above.

**Slide 11:**

- Pollina continued.
- Pollina quote regarding SC's tax and cost of doing business climate, see page 35 of the report.
- SC High School Completion, see Figure 12, page 46
- SC College Completion, see Figure 13, page 47
- SC Unemployment Insurance, see Figure 17, page 51
- SC Legal Environment, see Figure 23, page 5

**Slide 12:**

- Pollina continued.
- Reference(s) to North Carolina from page 35 of the report. In terms of Phase 1 ("Labor, Taxes and Other Factors", NC ranked 18<sup>th</sup> in 2010, with Pollina noting that "...North Carolina has lost some ground" in the category.
- Reference(s) to Georgia from pages 28 and 29 of the report.

**Slide 13:**

- Tax Foundation's "2010 State Business Tax Climate Index" - <http://www.taxfoundation.org/files/bp59.pdf>
- Overall Ranking= Table 1, page 3
- Corporate Ranking=Table 3, page 12
- Unemployment Insurance Ranking=Table 7, page 31
- Property Tax=Table 6, page 24

**Slide 14:**

- Tax Foundation continued.

- Discussion of corporate income tax portion of report including explanation of “rate” and “base” sub-indices pages 9-14 of the report. <http://www.taxfoundation.org/files/bp59.pdf>

**Slide 15:**

- Tax Foundation continued.
- Quote from pages 3 and 4 of report. <http://www.taxfoundation.org/files/bp59.pdf>

**Slide 16:**

- The Small Business and Entrepreneurial Council’s “Small Business Survival Index 2009” - <http://www.sbecouncil.org/uploads/SBSI2009.pdf>

**Slide 17:**

- “Additional Rankings” beginning in 2<sup>nd</sup> column of slide from the SC Department of Commerce’s “Recent Economic Development Recognitions” publication - [http://scommerce.com/sites/default/files/all/scommerce/Documents/Resources/Recent\\_Economic\\_Development\\_Recognitions\\_for\\_South\\_Carolina\\_August\\_2010.pdf](http://scommerce.com/sites/default/files/all/scommerce/Documents/Resources/Recent_Economic_Development_Recognitions_for_South_Carolina_August_2010.pdf)

**Slide 18:**

- City and town rankings from the SC Department of Commerce’s “Recent Economic Development Recognitions” publication - [http://scommerce.com/sites/default/files/all/scommerce/Documents/Resources/Recent\\_Economic\\_Development\\_Recognitions\\_for\\_South\\_Carolina\\_August\\_2010.pdf](http://scommerce.com/sites/default/files/all/scommerce/Documents/Resources/Recent_Economic_Development_Recognitions_for_South_Carolina_August_2010.pdf)



# CORPORATE INCOME TAX

STATEWIDE ECONOMIC GROWTH AND TAXATION  
ISSUES IN SOUTH CAROLINA

SC DEPARTMENT OF COMMERCE

## INTRODUCTION

South Carolina imposes corporate income tax at a rate of 5%. This tax created \$268.6 million in tax revenue in FY 2009-2010 and accounted for 2.1% of General Fund revenues. The state also levies a corporate license fee, generating \$73.4 million, or 1.4% of General Fund revenues, in FY 2009-2010.

Businesses organized as C Corporations pay a state corporate income tax on income allocated to operations in South Carolina, including interest, dividends, royalties, rents, property sale gains and losses, and personal services income. To determine the percentage of income from the state, an income apportionment formula is applied. South Carolina is currently transitioning from a multi-factor income apportionment method to a single-factor method. When fully in effect in 2011, firms will apply the 5% corporate income tax rate to the percentage of total firm sales made within South Carolina.

Corporate income tax revenues are credited to state general funds. The starting point of corporation income tax calculation is determined by the firm's federal

taxable income. South Carolina allows a 15-year net carry-forward for losses.

All corporations also pay a state corporate license fee (or franchise fee) equivalent to \$15 plus 0.001 of the corporation's capital stock and paid-in surplus. The minimum license fee is \$25. The fee paid by multi-state firms is determined by apportionment in the same manner as the corporate income tax. The corporation license fee is also applied to the state's general funds. Unless otherwise exempted, every corporation is required to file an annual report to pay the annual license fee.

South Carolina is one of 32 states, including the District of Columbia, that levies a flat rate of tax on corporate income in 2010. Five states have no corporate income taxes (Nevada, South Dakota, Texas, Washington and Wyoming). The remaining states impose progressive tax rates.

Seven of the nine southeastern states have a flat corporate income tax rate. South Carolina's rate is the lowest for 2010. Additionally, South Carolina had over 20 types of credits against corporate income tax in FY 2007-2008 (see Appendix Table A1).

## OVERVIEW OF ECONOMIC MODELS & ISSUES

The primary aim of taxation is to raise enough revenue to cover government services efficiently, such that the imposition of the tax does not distort the economic decisions of firms and individuals. Utility is improved by replacing distortionary taxes with non-distortionary ones, and lump-sum taxes are theoretically and empirically found to minimize these economic distortions.

The corporate income tax has been studied extensively in economic literature. Although large taxes can hinder investment, large tax breaks can encourage over-investment, leaving vacant and unused capital. Key features and issues of economic models are described as follows.

### Taxes, Incentives and Business Investment

The relationship between firm investment and tax structure is of particular interest due to the increasing use of state and local financial incentives to firms who invest in a geographic area.



While neither state corporate income taxes nor state financial incentives are commonly considered the primary factors for business location decisions (versus factors such as population, skilled workforce, access to transportation or markets, energy prices, etc.), governments increasingly utilize credits against corporate taxes or other mechanisms to recruit business investment.

Hines (AER 1999) empirically shows that foreign direct investment (FDI) is positively influenced by lower state corporate tax rates, yet achieving this result depends upon how repatriation laws of foreign countries are structured. For example, companies from countries with tax systems that allow credits for foreign taxes paid are less sensitive to US state corporate income tax variations.

Agostini (2007) confirms these findings by treating tax rates endogenously (states can strategically set their rates relative to other states) and including the option for investors to invest outside of the US. He finds that for a 1% increase in the corporate income tax rate, the state's share of FDI drops by 1%.

Although no major studies to date have directly compared the relative impact of corporate income tax versus state financial incentives on business investment, results would certainly be dependent upon how the incentives were structured.

### Multi-State Firms and Income Apportionment

Corporations that have a presence in a state (nexus) are subject to that state's corporate income tax.

The degree to which a firm is subject to that state's tax varies by state, however. In 1957, the Uniform Division of Income for Tax Purposes Act (UDITPA) prescribed three factors to be used in determining the percentage of a corporation's income to be taxed by each state:

1. % of corporation's property located in state
2. % of corporation's sales made in state
3. % of corporation's payroll paid to state residents

Over time, a number of states have begun more heavily weighting the sales factor, some even using only one factor—sales, commonly referred to as the Single Sales Factor (SSF). South Carolina is currently in the midst of a transition to SSF.

SSF generally favors large goods-producing companies (often manufacturers) with large amounts of in-state property and employees but with a high percentage of out-of-state sales. Firms (often smaller ones) who sell goods primarily within the state bear the highest tax liability.

SSF also provides a disincentive for companies with large in-state sales but no physical presence to locate within the state, as the firm will move from zero tax to a large tax on all in-state sales. Conversely, the SSF gives companies with a large in-state employee and

property base the incentive to move out of state to remove their nexus and eliminate their tax burden.

Because multi-state corporations face different tax laws in different states, they have the ability to minimize their state corporate tax liability through the use of one of several mechanisms:

1. Transfer pricing allows firms to shift profits from one state to another through the purchase of goods sold from one subsidiary to another.
2. Holding companies or passive investment companies can be established as a subsidiary in a state with no tax to shift profits from one state to another.

### Taxation and Investment Timing

The corporate income tax is commonly identified as a form of "double" taxation on income. The C-corporation is taxed as an entity itself on income. Distributions to shareholders are then taxed again as ordinary income from dividends. While considerable leeway is provided to companies to pay large salaries to shareholder employees as a means of avoiding taxation at the corporate level, this mechanism would not apply to all shareholders.

Finally, the corporate income tax can affect the timing of investment

*The Single Sales Factor favors large goods-producing companies (often manufacturers) with large amounts of in-state property and employees but with a high percentage of out-of-state sales. Firms (often smaller ones) who sell goods primarily within the state bear the highest tax liability.*

by a firm. Firms who chose to save for future period investment across a calendar year will face the corporate tax on those retained earnings.

## CORPORATE TAX HISTORY IN SOUTH CAROLINA

### A Timeline of Major Changes

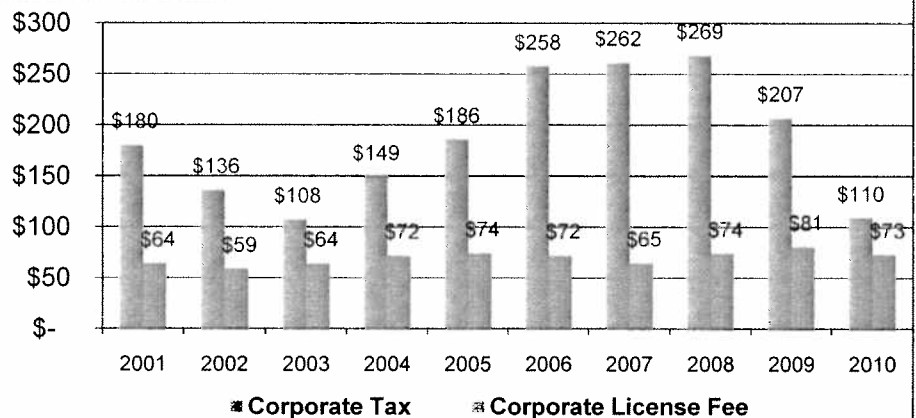
The corporate income tax was instituted in South Carolina in 1927. In 1989, the rate was reduced from 6% to the current rate of 5%.

In 2006, Senate Bill S1245 amended section 12-6-545 of the code of law to reduce the income tax rate of pass through entities (e.g.-sole proprietorships, partnerships, S-corporations or LLCs filing as one of the aforementioned entities) in increments of 0.5% per year to a rate of 5% by 2009. This change was intended to “level the playing field” between large C-corporations, who were taxed at 5%, and small businesses whose income is taxed as Schedule C income on individual income tax returns.

In 2007, Senate Bill S91 established a Single Sales Factor for use in determining income apportionment for multi-state firms operating in South Carolina. It prescribed a phased-in transition period with the SSF in full effect for tax year 2011. Prior to the change, South Carolina had used a double weighting of sales in a three-factor income apportionment method:

FIGURE 1

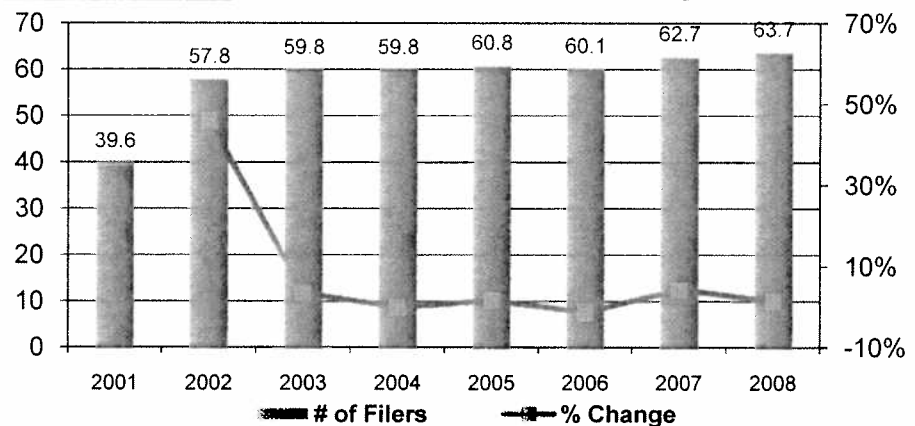
### Corporate Income Tax and License Fee (in millions)



Sources: Comptroller General's CAFR, FY01-03; Comptroller General's Year End Press Releases, FY 04+

FIGURE 2

### Corporate Income Tax Filers (in thousands) and % Change



Source: SC Department of Revenue.

- 25% SC property vs. all property,
- 25% SC payroll vs. all payrolls, and
- 50% SC sales vs. all sales.

2009, and 2010. Corporate license fees have remained relatively more stable throughout the period (see Figure 1). Revenue from the corporate license fee ranged from \$59 million in 2002 to \$81 million in 2009.

## STATE CORPORATE TAX REVENUES

### Historical Trends

In the past decade, corporate income tax revenue in South Carolina has varied from year to year, decreasing in 2002, 2003,

### Corporate Tax Filers

The number of filers has increased every year except 2006 between 2001 and 2008. In 2002, when corporate income tax revenue declined sharply, the number of filers increased by 46% over the previous year. Since 2002, the

changes in the number of filers have been incrementally small each year. The number of filers and corporate tax revenues appear to move independently of each other. In 2008, although the corporate income tax revenue fell, the total number of corporate income tax filers increased.

Corporate filers represented 96 different industry sectors (at the NAICS 3-digit level). In 2008, 47 out of these 96 industries added new corporate filers. 39 experienced a reduction in the number of filers. Others remained the same. Among the industries with expanding numbers of filers, professional services, religious and similar organizations, ambulatory health care service and specialty trade contractors increased by more than 100 filers. On the other hand, the number of filers in miscellaneous store retailers, merchant wholesalers and construction of buildings decreased more than in other industries.

In 2008, the number of corporate income tax filers ranged from a low of 57 in Allendale County to a high of 8,415 in Greenville County. Greenville, Charleston, Horry, Richland and Beaufort are the five counties with most corporate income tax filers. Allendale, McCormick, Saluda, Lee and Bamberg are the five counties with least number of tax filers. Such distribution has not changed since 2001.

### Corporate Income Tax Credits

South Carolina had over 20 different types of credits against corporate income tax in FY 2007-2008. During that year, \$708.9

million in credits were claimed by only 454 filers. South Carolina allows credits to be carried forward up to 15 years. In 2008, \$645.7 million in credits were carried forward by 279 filers.

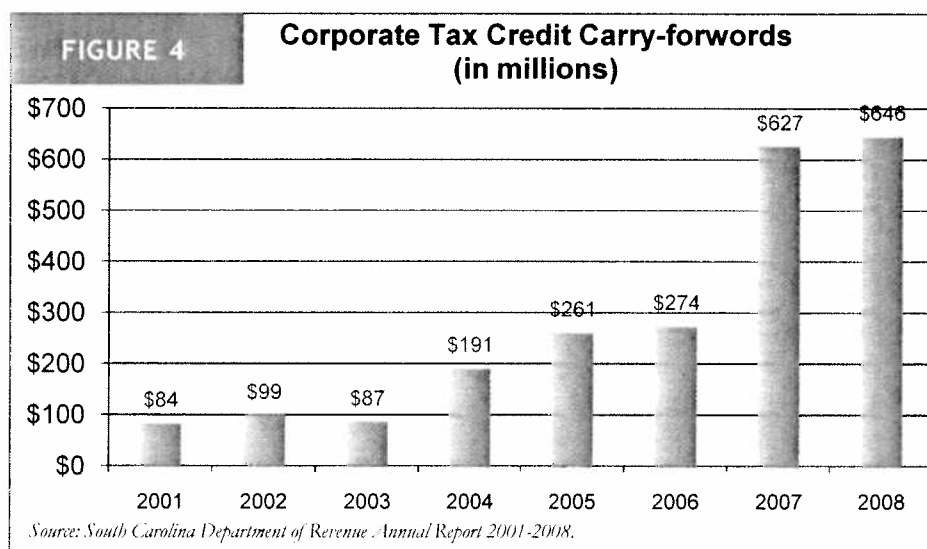
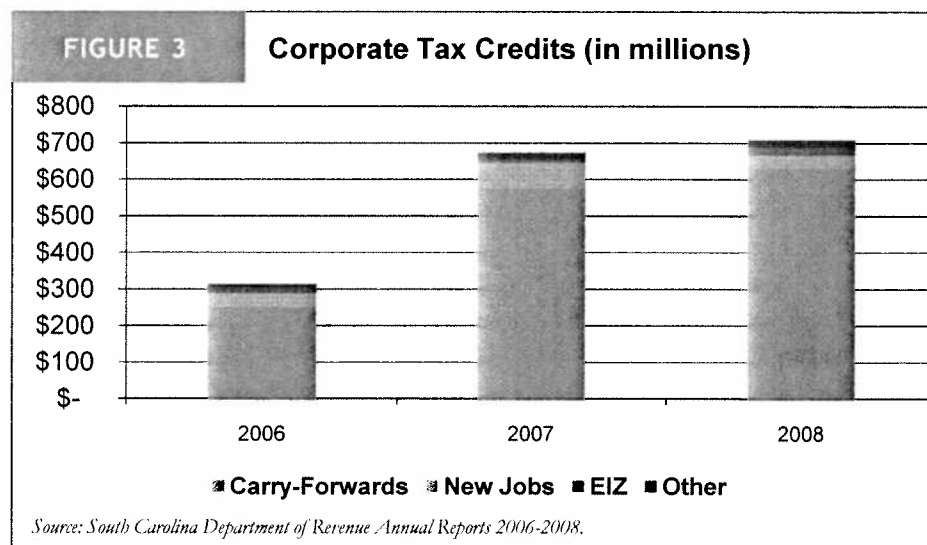
Apart from carry-forwards from previous years, the New Jobs tax credit and the Economic Impact Zone (EIZ) credit are the largest credits (see Figure 3). In 2008, credits carried over from previous years accounted for 89% of total credits, New Jobs credits account for 5%, and EIZ credits accounted

for 3%.

Credits for various types of corporate investment effectively favor new capital over existing capital, stimulating investment by the new (often larger) companies locating in the state, but lowering the value of existing capital of the state's smaller and/or established in-state companies.

### Carryover Credits

Corporate income tax credits carried forward to the future have been increasing since 2003, as shown in Figure 4. The amount of



• • •

Credits... for corporate investment effectively favor new capital over existing capital, stimulating investment by the new (often larger) companies locating in the state, but lowering the value of existing capital of the smaller or established in-state companies

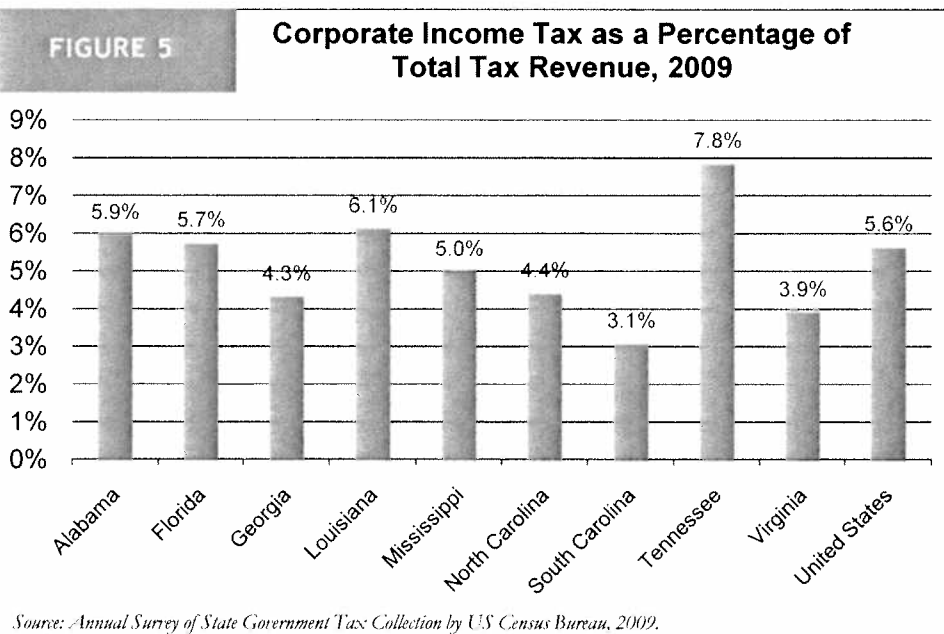
• • •

carryover credits from previous years increased dramatically in 2007, rising \$353 million or 129% over 2006. The level remained high in 2008. This increasing use of tax credits and carry-forwards over time not only reduces state corporate revenues, but also increases year-over-year variability.

## SOUTH CAROLINA VERSUS OTHER STATES

### Corporate Tax Rate

In terms of corporate income tax rate, South Carolina's rate is the lowest among the seven southeastern states that impose flat rates. Louisiana and Mississippi both have progressive tax brackets as shown in Table 1. Of all states nationwide that impose a flat tax



rate, South Carolina's is tied with Utah for the fourth lowest.

**Table 1: Southeastern State Corporate Tax Rates, 2010**

| State | Corporate Tax Rate              |
|-------|---------------------------------|
| NC    | 6.9%                            |
| AL    | 6.5%                            |
| TN    | 6.5%                            |
| GA    | 6%                              |
| VA    | 6%                              |
| FL    | 5.5%                            |
| SC    | 5%                              |
| LA    | 4% (\$25,000) to 8% (\$200,000) |
| MS    | 3% (\$5,000) to 5% (\$10,000)   |

Source: Tax Foundation ([http://www.taxadmin.org/fta/rate/corp\\_i nc.pdf](http://www.taxadmin.org/fta/rate/corp_i nc.pdf)); Louisiana has 5 brackets; Mississippi has 3 brackets.

Five states impose no corporate income tax (Nevada, South Dakota, Texas, Washington and Wyoming). Some states impose other taxes on businesses however. For instance, a number of states, including South Carolina, impose a franchise fee. Texas, who lowered its corporate

rate to zero, levies a margin tax of 1% on entities with more than \$1,000,000 in total revenues, or 0.5% on retail or wholesale trade entities on the lesser of 70% of total revenues or 100% of gross receipts (after deduction for cost of goods sold). Michigan, who has a flat 4.95% rate, also levies a modified gross receipts tax at rate of 0.8% on receipts of \$350,000 or more. In addition, it imposes a 21.99% surcharge, capped at \$6 million per year.

### Corporate Tax Revenue

The nine southeastern states share similar trends of changes in corporate income tax revenue. In the past decade, they all experienced a decrease in 2002 or 2003, followed by a second in 2008 and a third in 2009.

In terms of the percentage of corporate income tax revenue as total tax revenue, for the year 2009, Tennessee ranks highest (7.85%). Tennessee, Louisiana (6.13%), Alabama (5.95%) and Florida (5.74%) are above the US

average (5.64%). South Carolina ranks the lowest among the eight southwestern states (3.1%). See Figure 5.

## Tax Reporting Mechanisms

In 2008, 21 states applied combined reporting methods to corporate income tax. Combined reporting requires that companies combine profits from all related subsidiaries, including captive real-estate investment trusts (REITs) and passive investment companies (PICs), before determining what portion of their profits are taxable in that state.<sup>1</sup>

For the four states that did not levy corporate income tax in 2008, this issue was irrelevant. (Texas has since instituted a 0% corporate tax rate.)

Besides D.C., South Carolina is one of the remaining 25 states that still uses a separate reporting method. Separate reporting methods can facilitate a company's ability to shelter corporate income from taxes, typically through PICs and REITs.

No other southeastern states apply combined reporting mechanisms, however. Commissions in Kentucky, Pennsylvania, and North Carolina have also recommended the adoption of combined reporting.

## The "Throwback Rule"

The "throwback rule" is used to rectify the loss of corporate income tax revenue caused by the

conflict between state apportionment formulas and Public Law 86-272.

When a corporation produces and/or sells goods in more than one state, each state requires the business to pay tax on just a portion of its nationwide profit. That taxable share is calculated by an apportionment formula in each state's corporate income tax law. The most commonly used formula assigns some of the profit to the state(s) in which the corporation produces goods, some to state(s) in which employees are based, and some to the state(s) in which the corporation makes sales.

However, Public Law 86-272, establishes a threshold level of presence or "nexus" a corporation must have in a state before it can be subjected to a corporate income tax on profit earned in that state. Public Law 86-272 frequently blocks states in which a corporation merely makes sales from imposing an income tax on the states' respective shares of the corporation's profit (as calculated by the formula).

The throwback rule effectively allows a state in which a corporation produces goods or services to tax the profit on any sales made by the corporation into states in which the corporation has insufficient presence to be subjected to a tax on its profit from those sales. Including D.C., 31 states in the nation issue the "throwback rule" to avoid such loss of corporate income tax. Alabama and Mississippi are the only two southeastern states that apply the "throwback rule".

## KEY ISSUES & RECOMMENDATIONS

### Evaluate Benefits of Corporate Income Tax

Public discussion has recently focused on the elimination of the state corporate income tax for several reasons. The tax inserts a number of distortionary factors into the economy, affecting firm location, investment, and hiring decisions. State corporate tax revenues accounted for only 2.1% of total general fund revenues in South Carolina in FY 2009-2010 and have been widely variable over the past decade. While an estimated 89% of filers have no corporate tax liability, a small percentage qualify for very large tax credits that are increasingly being built up and carried over from year to year, reducing future corporate revenues.

At the same time, South Carolina's corporate tax burden is currently one of the lowest in the nation. Its business climate is consistently ranked as one of the highest in the nation, and industry recruitment leads other southeastern states for 2008 and 2009.<sup>2</sup> While benefits will certainly accrue to the economy due to the elimination of the corporate income tax, the magnitude of these benefits would need to be estimated using detailed data to establish how substantial the effect would be.

Finally, although the time and cost for firms to prepare tax filings and for the state to administer the corporate tax system and its network of tax credits is unknown, investigation of this amount may

<sup>1</sup> These states are: Alaska, Arizona, California, Colorado, Hawaii, Idaho, Illinois, Kansas, Maine, Michigan, Minnesota, Montana, Nebraska, New Hampshire, New York, North Dakota, Oregon, Texas, Utah, Vermont, and West Virginia.

<sup>2</sup> Source: SC Department of Commerce

be worthwhile, particularly given the small revenues attributed to it.

### Taxed Versus Pass-Through Entities

In 2006, the income tax rate of pass through entities was reduced in increments of 0.5% per year to a rate of 5% by 2009. This change was intended to provide tax parity between large C-corporations, who were taxed as an entity at 5% before profit distribution, and small businesses whose profits are taxed as Schedule C income on individual income tax returns. As a result of this change, individual filers of income reported on Schedule C of form SC-1040 pay income tax at a lower rate (5%) than filers who report income from W-2 wages or dividends (7% for taxable income over \$13,350). Furthermore, pass-through entities, by definition, are not taxed, whereas C-corporations are. Thus, shareholders in C-corporations must pay the 5% corporate tax on profits of the entity, followed by individual income tax on dividend distributions (7% for taxable income over \$13,350). Even if the shareholder is an employee and can take most of the earnings in the form of W-2 wages, those are still taxed at the higher 7% rate.

### Facilitate Combined Reporting of State Corporate Income Taxes

If the corporate income tax is to remain a factor in state revenues going forward, combined reporting can facilitate higher compliance and revenues. Multi-state corporations face different tax laws in different states. As a result, more states are requiring

combined reporting of state corporate income, in which all income of a company, regardless of in which state it was earned, is reported on a single combined form.

Combined reporting prevents the use of transfer pricing to shift profits from one state to another by altering the prices of goods sold from one subsidiary to another. Additionally, it prevents use of holding companies, PICs, or REITs that may be established as a subsidiary in a state with no tax to shift profits from one state to another. Currently, 21 states require combined reporting.

Because the single sales factor (SSF) generally favors one type of company over another (in this case, goods-producing companies with large amounts of in-state property and employees but with a high percentage of out-of-state sales), a more balanced mechanism for apportionment may provide more equity among firms and efficiency for the state economy. Also, the disincentives presented by the SSF for firm location decisions (e.g.- discourages companies with large in-state sales but no physical presence to locate in the state) would encourage a multi-factor formula.

### Targeted Credits

While South Carolina's current network of multiple, targeted corporate tax credits encourages new investment by typically larger companies recruited to the state, it also sets up a competitive advantage for these firms over firms not receiving the credits (e.g.-smaller and/or established in-state companies). Alternatively, lowering taxes broadly stimulates

investment and increases the value of all capital (not just new capital).

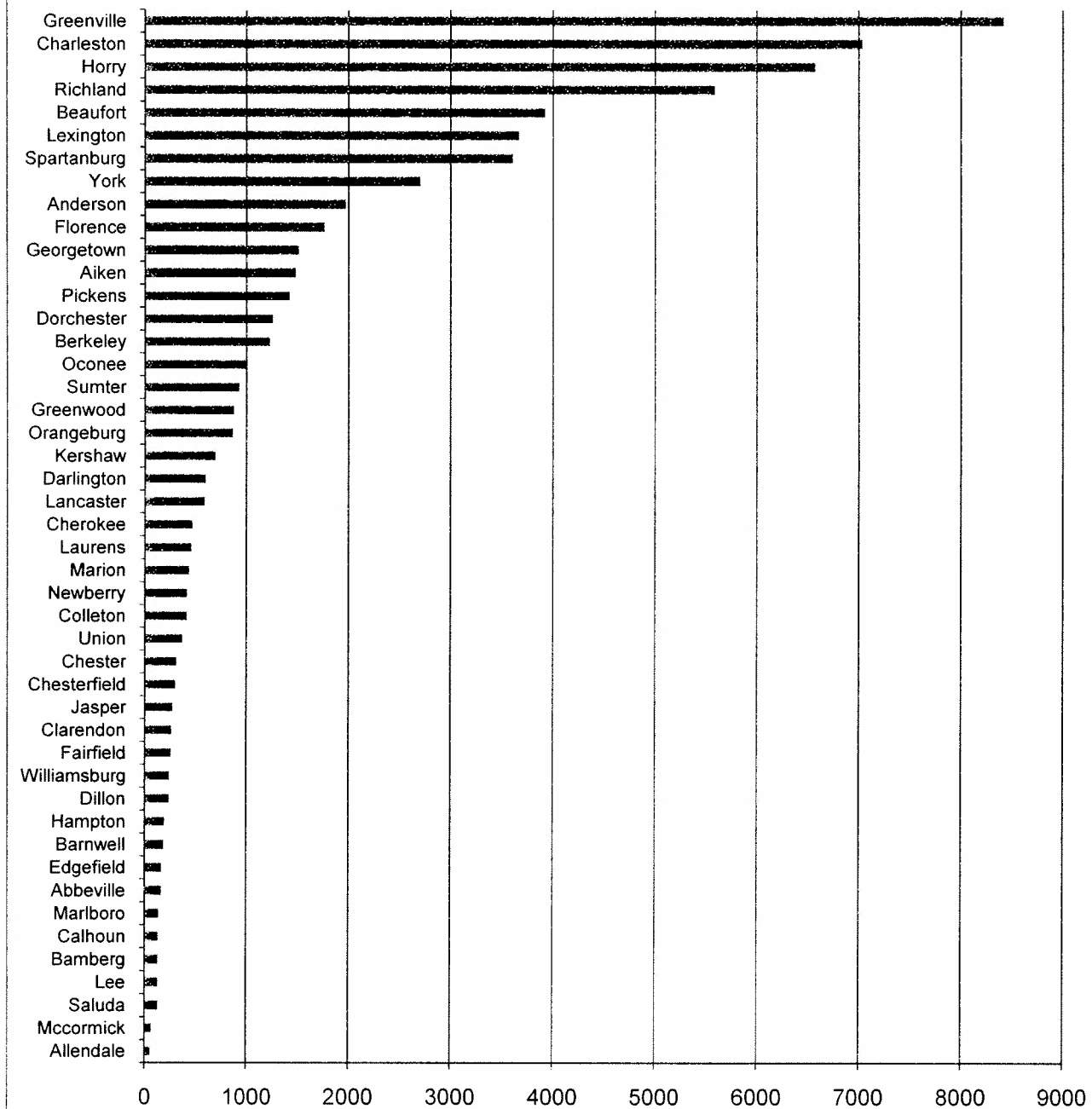
## CONCLUSIONS

Overall, while the corporate income tax possesses distortionary features which affect the behavior of firms, South Carolina's corporate income tax rate is relatively low among all states, and is generally considered to maintain a competitive environment for business investment. The low level of annual corporate revenues, the variability of these revenues year-over-year, the small percentage of filers who have any liability, combined with the extensive number of targeted tax credits that are being rapidly built and carried forward, will continue to put downward pressure on the revenues attributed to the corporate tax system in South Carolina. In order to maintain a viable corporate tax going forward, an effort to close loopholes and reduce favored status through combined reporting and multi-factor apportionment should assist in promoting stability for the corporate income tax system.

## APPENDIX

FIGURE A1

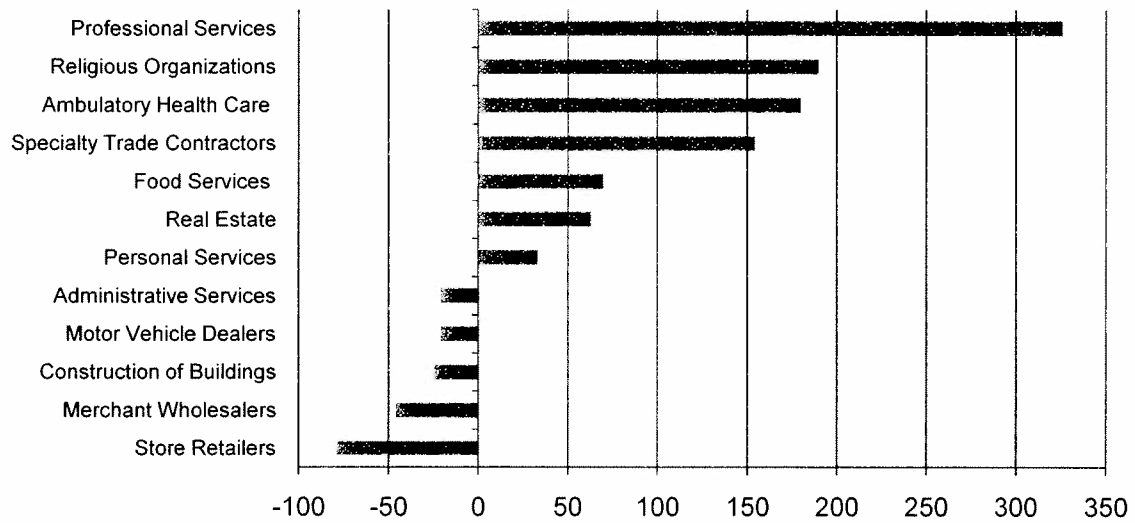
Number of Corporate Income Tax Filers by County, 2008



Source: South Carolina Department of Revenue.

FIGURE A2

## Change in Number of Filers by Industry, 2007 to 2008



Source: South Carolina Department of Revenue.



TABLE A1

## State Corporate Tax Credits, FY 2007-2008

| Type of Credit Claimed                           | Returns    | Amount               |
|--|------------|----------------------|
| TC-Column A- Carry Over From Previous Year       | 175        | \$631,714,509        |
| TC-1-Drip/Trickle Irrigation Systems             | 3          | 1,295,285            |
| TC-2-Socio/Economic Disadvantaged Small Business | 3          | 56,742               |
| TC-3-Water Resources                             | 1          | 82,500               |
| TC-4SB-New Jobs Credit                           | 102        | 36,581,029           |
| TC-5-Scenic River                                | 0          | 0                    |
| TC-6-Infrastructure                              | 8          | 1,519,781            |
| TC-7-Palmetto Seed Capital                       | 0          | 0                    |
| TC-8-Corporate Headquarter                       | 1          | 434,736              |
| TC-9-Employer Child Care                         | 0          | 0                    |
| TC-10-Base Closure                               | 1          | 482                  |
| TC-11-Economic Impact Zone                       | 84         | 20,772,039           |
| TC-12-Family Independence Payments               | 12         | 71,739               |
| TC 12A-Add. AFDC                                 | 6          | 17,262               |
| TC-17-Recycling Property Tax                     | 1          | 7,026,056            |
| TC-18-Research Expenses                          | 47         | 7,425,132            |
| TC-19-Qualified Conservation Contribution        | 1          | 469                  |
| TC-21-Certified Historic Structure               | 1          | 77,477               |
| TC-28-SC Quality Forum ***                       | 3          | 1,158,981            |
| TC-30-Port Cargo ***                             | 2          | 53,144               |
| TC-36-Industry Partnership Fund                  | 1          | 500,000              |
| TC-37-Toxicity Testing Credit ***                | 2          | 142,200              |
| <b>Total</b>                                     | <b>454</b> | <b>\$708,929,563</b> |

# South Carolina Taxation Realignment Commission

An Appendix to:

## Property Tax Report

### Contents

TRAC Property Tax Exemptions - Draft Legislation

“Property Tax: A Review of Issues in South Carolina” prepared by Bert Shuler, SC Department of Commerce, October 28, 2010.

## **TRAC Property Tax Exemptions - Draft Legislation**

**SECTION 12-11-30.** Income tax to be instead of other taxes; exceptions.

The income tax provided for in this chapter is instead of all other taxes on banks, except the use tax, the deed recording fee, and taxes on real and personal property. The real and personal property of a bank is taxed in the place where it is located.

**SECTION 12-13-50.** Tax shall be in lieu of other taxes; exceptions.

The income tax provided in this chapter shall be in lieu of any and all other taxes on such associations, except use taxes, deed recording fees, and taxes on real and personal property. The real and personal property of any such association shall be taxed in the place where it may be located, the same as the real property of individuals.

### **CHAPTER 37.**

#### **ASSESSMENT OF PROPERTY TAXES**

##### **ARTICLE 1.**

##### **GENERAL PROVISIONS**

##### **ARTICLE 3.**

##### **PROPERTY TAX; EXEMPTIONS**

**SECTION 12-37-210.** Property which is taxable.

All real and personal property in this State, personal property of residents of this State which may be kept or used temporarily out of the State, with the intention of bringing it into the State, or which has been sent out of the State for sale and not yet sold, and all moneys, credits and investments in bonds, stocks, joint-stock companies or otherwise of persons resident in this State shall be subject to taxation.

**SECTION 12-37-220.** General exemption from taxes.

(A) Pursuant to the provisions of Section 3 of Article X of the State Constitution and subject to the provisions of Section 12-4-720, there is exempt from ad valorem taxation:

(1) all property of the State, counties, municipalities, school districts, Water and Sewer Authorities and other political subdivisions, if the property is used exclusively for public purposes, and it shall be the duty of the Department of Revenue and county assessor to determine whether such property is used exclusively for public purposes;

(2) all property of all schools, colleges, and other institutions of learning and all charitable institutions in the nature of hospitals and institutions caring for the infirmed, the handicapped, the aged, children and indigent persons, except where the profits of such institutions are applied to private use except this exemption for hospitals does not extend beyond the buildings and institutions actually used for hospital purposes;

(3) all property of all public libraries, churches, parsonages, and burying grounds, but this exemption for real property does not extend beyond the buildings and premises actually occupied by the owners of the real property;

(4) all property of all charitable trusts and foundations which are recognized as exempt under Section 501(c)(3) of the IRC used exclusively for charitable and public purposes, but this exemption for real property does not extend beyond the buildings and premises actually occupied by the owners of the real property and used exclusively for charitable and public purposes;

(5) all household goods and furniture used in the home of the owner of such goods and furniture, such to include built-in equipment such as ranges, dishwashers and disposals, but this exemption shall not apply to household goods used in hotels, time shares, rooming houses, apartments, or other places of business;

(6) all inventories of manufacturers, except manufactured articles which have been offered for sale at retail or which have been available for sale at retail. Fuel, including but not limited to uranium, special nuclear material, nuclear fuel, fossil fuel, coal, cellulose, wood or solid, liquid or gaseous hydrocarbons, held by a public utility, an affiliated interest of such public utility as defined in Section 58-27-2090 or a subsidiary of such public utility, or held by a corporation, entity or trust for the use and benefit of such public utility under orders or regulations of the Public Service Commission, shall be deemed to be inventories of manufacturers;

(7) forty percent of all new manufacturing establishments located in any of the counties of this State after July 1, 1977, for five years from the time of establishment and all additions to the existing manufacturing establishments located in any of the counties of this State for five years from the time each such addition is made if the cost of such addition is fifty thousand dollars or more. Such additions shall include additional machinery and equipment installed in the plant. ~~Provided, however, that the exemptions authorized in this item for manufacturing establishments, and additions thereto, shall not include exemptions from school taxes or municipal taxes but shall include only county taxes. Provided, further, that all manufacturing establishments and all additions to existing manufacturing establishments exempt under statutes in effect February 28, 1978, shall be allowed their exemptions provided for by statute until such exemptions expire;~~

(8) all facilities or equipment of industrial plants which are designed for the elimination, mitigation, prevention, treatment, abatement, or control of water, air, or noise pollution, both internal and external, required by the state or federal government and used in the conduct of their business. At the request of the Department of Revenue, the Department of Health and Environmental Control shall investigate the property of any manufacturer or company, eligible for the exemption to determine the portion of the property that qualifies as pollution control property. Upon investigation of the property, the Department of Health and Environmental Control shall furnish the Department of Revenue with a detailed listing of the property that qualifies as pollution control property. For equipment that serves a dual purpose of production and pollution control, the value eligible for the ad valorem exemption is the difference in cost between this equipment and equipment of similar production capacity or capability without the ability to control pollution. For the purposes of this item, twenty percent of the cost of any piece of machinery and equipment placed in service in a greige mill qualifies as internal air and noise pollution control property and is exempt from property taxes. "Greige mill" means all textile processes from opening through fabric formation before dyeing and finishing;

(9) a homestead exemption for persons sixty-five years of age and older, for persons permanently and totally disabled and for blind persons in an amount to be determined by the General Assembly of the fair market value of the homestead under conditions prescribed by the General Assembly by general law;

(10) intangible personal property.

(11) all property of public benefit corporations established by a county or municipality used exclusively for economic development purposes which serve a governmental purpose as defined in Section 115 of the U.S. Internal Revenue Code.

(B) In addition to the exemptions provided in subsection (A), the following classes of property are exempt from ad valorem taxation subject to the provisions of Section 12-4-720:

(1)(a) The house owned by an eligible owner in fee or jointly with a spouse.

(b) The house owned by a qualified surviving spouse acquired from the deceased spouse and a house subsequently acquired by an eligible surviving spouse. The qualified surviving spouse shall inform the Department of Revenue of the address of a subsequent house.

(c) When a trustee holds legal title to a dwelling for a beneficiary and the beneficiary is a person who qualifies otherwise for the exemptions provided in subitems (a) and (b) and the beneficiary uses the dwelling as the beneficiary's domicile, the dwelling is exempt from property taxation in the same amount and manner as dwellings are exempt pursuant to subitems (a) and (b).

(d) The Department of Revenue may require documentation it determines necessary to determine eligibility for the exemption allowed by this item.

(e) As used in this item:

(i) "eligible owner" means:

(A) a veteran of the armed forces of the United States who is permanently and totally disabled as a result of a service-connected disability and who files with the Department of Revenue a certificate signed by the county service officer certifying this disability;

(B) a former law enforcement officer as further defined in Section 23-23-10, who is permanently and totally disabled as a result of a law enforcement service-connected disability;

(C) a former firefighter, including a volunteer firefighter as further defined in Chapter 80 of Title 40, who is permanently and totally disabled as a result of a firefighting service-connected disability;

(ii) "permanently and totally disabled" means the inability to perform substantial gainful employment by reason of a medically determinable impairment, either physical or mental, that has lasted or is expected to last for a continuous period of twelve months or more or result in death;

(iii) "qualified surviving spouse" means the surviving spouse of an individual described in subsubitem (i) while remaining unmarried, who resides in the house, and who owns the house in fee or for life. Qualified surviving spouse also means the surviving spouse of a member of the armed forces of the United States who was killed in action, or the surviving spouse of a law enforcement officer or firefighter who died in the line of duty as a law enforcement officer or firefighter, as these terms are further defined in Section 23-23-10 and Chapter 80 of Title 40 who at the time of death owned the house in fee or jointly with the now surviving spouse, if the surviving spouse remains unmarried, resides in the house, and has acquired ownership of the house in fee or for life;

(iv) "house" means a dwelling and the lot on which it is situated classified in the hands of the current owner for property tax purposes pursuant to Section 12-43-220(c).

(2)(a) The dwelling house in which he resides and a lot not to exceed one acre of land owned in fee or for life, or jointly with a spouse, by a paraplegic or hemiplegic person, is exempt from all property taxation provided the person furnishes satisfactory proof of his disability to the Department of Revenue. The exemption is allowed to the surviving spouse of the person so long as the spouse does not remarry, resides in the dwelling, and obtains the fee or a life estate in the dwelling. To qualify for the exemption, the dwelling house must be the domicile of the person who qualifies for the exemption. For purposes of this item, a hemiplegic person is a person who has paralysis of one lateral half of the body resulting from injury to the motor centers of the brain. For the purposes of this exemption, "paraplegic" or "hemiplegic" includes a person with Parkinson's Disease, Multiple Sclerosis, or Amyotrophic Lateral Sclerosis, which has caused the same ambulatory difficulties as a person with paraparesis or hemiparesis. A doctor's statement is required stating that the person's disease has caused these same ambulatory difficulties. A surviving spouse of a person receiving the exemption under this subsection is not allowed the exemption.

(b) When a trustee holds legal title to a dwelling for a beneficiary and the beneficiary is a person who qualifies otherwise for the exemption provided in subitem (a) and the beneficiary uses the dwelling as his domicile, the dwelling is exempt from property taxation in the amount and manner as dwellings are exempt pursuant to subitem (a).

(3) Two private passenger vehicles owned or leased by any disabled veteran designated by the veteran for which special license tags have been issued by the Department of Motor Vehicles under the provisions of Sections 56-3-1110 to 56-3-1130 or, in lieu of the license, if the veteran has a certificate signed by the

county service officer or the Veterans Administration of the total and permanent disability which must be filed with the Department of Motor Vehicles.

(4) All property of any kind of a nonprofit corporation created for the purpose of providing water supply or sewage disposal, or a combination of such services, organized pursuant to Chapter 36 of Title 33.

(5) All property of the American Legion, the Veterans of Foreign Wars, the Disabled American Veterans, Fleet Reserve Association, and the Marine Corps League or any similar Veterans Organization chartered by the Congress of the United States, whether belonging to the department or to any of the posts in this State when used exclusively for the purpose of such organization and not used for any purpose other than club rooms, offices, meeting places, or other activities directly in keeping with the policy stated in the National Constitution of such organization, and such property is devoted entirely to its own uses and not held for "pecuniary profit". For the purposes of this item "pecuniary profit" refers to income received from the sale of alcoholic beverages to persons other than bona fide members and their bona fide guests, or any income, any part of which inures to the benefit of any private individual. Where any structure or parcel of land is used partly for the purposes of such organization and partly for such pecuniary profits, the area for pecuniary profits shall be assessed separately and that portion shall be taxed.

(6) All property owned and used or occupied by any Young Women's Christian Association, Young Men's Christian Association or the Salvation Army in this State and used for the purpose of or in support of such organizations but the exemption herein provided shall not apply to such portions of any such property rented for purposes not related to the functions of the organization.

(7) All property owned and used or occupied by The Boy Scouts of America or The Girl Scouts of America and used exclusively for the purposes of these organizations. The exemption allowed by this item also extends to property not owned by these organizations but which is used exclusively by them for scouting purposes.

(8) Properties of whatever nature or kind owned within the State and used or occupied by the South Carolina Association of Future Farmers of America so long as such properties are used exclusively to promote vocational education or agriculture, better business methods and more effective organization for farming or to encourage thrift or provide recreation for persons studying agriculture or home economics in the public schools.

(9) All wearing apparel of the person required to make a return and of the family of such person.

~~(10) Notwithstanding any other provisions of law, the property of telephone companies and rural telephone cooperatives operating in this State used in providing rural telephone service, which was exempt from property taxation as of December 31, 1973, shall be exempt from such property taxation; provided, however, that the amount of property subject to ad valorem taxation of any such company or cooperative in any tax district shall not be less than the net amount to which the tax millage was applied for the year ending December 31, 1973. Any property in any tax district added after December 31, 1973, shall likewise be exempt from property taxation in the proportion that the exempt property of such company or cooperative as of December 31, 1973, in that tax district was to the total property of such company or cooperative as of December 31, 1973, in that tax district.~~

(11)(a) All property of nonprofit housing corporations devoted exclusively to providing below-cost housing for the aged or for handicapped persons or for both aged and handicapped persons as authorized by Section 202 of the Housing Act of 1959 and regulated in part by 24 CFR Part 885.

(b) All property of nonprofit housing corporations devoted exclusively to providing below-cost supportive housing for elderly persons or households as authorized by Section 202 of the Housing Act of 1959 as amended under Section 801 of the National Affordable Housing Act of 1990 and regulated in part by 24 CFR Part 889.

(c) All property of nonprofit housing corporations devoted exclusively to providing below-cost supportive housing for persons with disabilities as authorized by Section 811 of the National Affordable Housing Act of 1990 and regulated in part by 24 CFR Part 890.

(d) all property of nonprofit housing corporations devoted exclusively to providing rental or cooperative housing and related facilities for elderly or handicapped persons or families of low or moderate income as authorized by Section 515 of Title V of the Housing Act of 1949.

(e) All property of nonprofit housing corporations or solely-owned instrumentalities of these corporations which is devoted to providing housing to low or very low income residents. A nonprofit housing corporation must satisfy the safe harbor provisions of Revenue Procedure 96-32 issued by the Internal Revenue Service to qualify for this exemption.

(12) The property of any fraternal society, corporation or association, when the property is used primarily for the holding of its meetings and the conduct of its business and no profit or benefit therefrom shall inure to the benefit of any private stockholders or individuals.

(13) All agricultural products owned by the producer in this State.

(14) All farm machinery and equipment including self-propelled farm machinery and equipment used for commercial farming except for motor vehicles licensed for use on the highways. For the purpose of this section "self-propelled farm machinery and equipment" means farm machinery or equipment which contains within itself the means for its own locomotion. For purposes of this item, farm equipment includes greenhouses.

(15) All livestock and live poultry.

(16)(a) The property of any religious, charitable, eleemosynary, educational, or literary society, corporation, or other association, which are recognized as exempt under Section 501(c)(3) of the IRC, when the property is used by it primarily for the holding of its meetings and the conduct of the business of the society, corporation, or association and no profit or benefit therefrom inures to the benefit of any private stockholder or individual.

(b) The property of any religious, charitable, or eleemosynary society, corporation, or other association when the property is acquired for the purpose of building or renovating residential structures on it for not-for-profit sale to economically disadvantaged persons. The total properties for which the religious, charitable, or eleemosynary society, corporation, or other association may claim this exemption in accordance with this paragraph may not exceed fifty acres per county within the State.

(c) The exemption allowed pursuant to subitem (a) of this item extends to real property owned by an organization described in subitem (a) and which qualifies as a tax exempt organization pursuant to Internal Revenue Code Section 501(c)(3), when the real property is held for a future use by the organization that would qualify for the exemption allowed pursuant to subitem (a) of this item or held for investment by the organization in sole pursuit of the organization's exempt purposes and while held this real property is not rented or leased for a purpose unrelated to the exempt purposes of the organization and the use of the real property does not inure to the benefit of any private stockholder or individual. Real property donated to the organization which receives the exemption allowed pursuant to this subitem is allowed the exemption for no more than three consecutive property tax years. If real property acquired by the organization by purchase receives the exemption allowed pursuant to this subitem and is subsequently sold without ever having been put to the exempt use, the exemption allowed pursuant to this subitem is deemed terminated as of December thirty-first preceding the year of sale and the property is subject to property tax for the year of sale to which must be added a recapture amount equal to the property tax that would have been due on the real property for not more than the four preceding years in which the real property received the exemption allowed pursuant to this subitem. The recapture amount is deemed property tax for all purposes for payment and collection.

(17) Personal property in transit with "no situs" status as defined in Article 7 of Chapter 37 of Title 12 and subject to the record keeping requirements and penalties prescribed in that article shall not be subject to ad valorem taxation.

(18) Real property leased on a nonprofit basis, to a state agency, county, municipality or other political subdivision so long as it is used for a general public purpose; provided, however, this exemption shall not apply to property used for office space or warehousing.

(19) All property owned by volunteer fire departments and rescue squads used exclusively for the purposes of these departments and squads. Property leased to a department or squad by an entity itself exempt from property tax is exempt in the same manner that property owned by these departments and squads is exempt.

(20) All property of nonprofit museums which is used exclusively for such purpose.

(21) All property leased to and operated by the South Carolina Public Service Authority for the generation or transmission of electric power shall be deemed for all tax purposes to be property of the Authority and exempt from ad valorem taxes.

(22) All community owned recreation facilities opened to the general public and operated on a nonprofit basis.

(23) Notwithstanding any other provision of law, property heretofore exempt from ad valorem taxation by reason of the imposition upon such property or the owner of such property of a tax other than an ad valorem tax pursuant to the provisions of Section 12-11-30, Section 12-13-50 or Section 12-21-1080 shall continue to be entitled to such exemption.

(24) All property of nonprofit or eleemosynary community theater companies, symphony orchestras, county and community arts councils and commissions and other such companies, which is used exclusively for the promotion of the arts.

(25) All personal property loaned or leased on a nonprofit basis to a state agency, county, municipality, or other political subdivision, or to an organization exempt from federal income tax under Internal Revenue Code Section 501 through 514 as defined in item (11) of Section 12-6-40(A), for at least thirty days during the tax year, so long as such personal property is used solely for the purpose of public display and not for the use of such state agency, county, municipality, or other political subdivision, or exempt organization.

(26) Two private passenger vehicles owned or leased by recipients of the Medal of Honor.

(27) Two personal motor vehicles, owned or leased either solely or jointly by persons required to use wheelchairs, who qualify for special license tags under the provisions of Section 56-3-1910.

(28) All carnival equipment owned, leased, or used by a foreign corporation or other nonresident of this State, not physically present within State for an aggregate of more than six months of the tax year, and having paid an ad valorem or like tax in at least one other state.

(29) Two private passenger vehicles or trucks, not exceeding three-quarter ton, owned or leased by and licensed and registered in the name of any member or former member of the armed forces who was a prisoner of war (POW) in World War I, World War II, the Korean Conflict, or the Vietnam Conflict and who is a legal resident of this State. This exemption also extends to the surviving spouse of a qualified former POW for the lifetime or until the remarriage of the surviving spouse.

(30) All inventories.

(31) All real property of churches which extends beyond the buildings and premises actually occupied by the churches which own the real property if no profit or benefit from any operation on the churches' real property inures to the benefit of any private stockholder or individual and no income producing ventures are located on the churches' real property. This exemption does not change any exemption provided for churches or other entities in item (3) of subsection A of this section and item (c), Section 3 of Article X of the Constitution of this State but is an additional exemption for churches as provided in this item.

(32) Forty percent of a~~All~~ new corporate headquarters, corporate office facilities, distribution facilities, and all additions to existing corporate headquarters, corporate office facilities, or distribution facilities located in South Carolina, established or constructed, or placed in service, after June 27, 1988, are exempt from ~~non-school county~~ ad valorem taxes for a period of five years from the time of establishment, construction, or being placed in service if the cost of the new construction or additions is fifty thousand dollars or more and seventy-five or more new jobs which are full-time or one hundred fifty or more substantially equivalent jobs are created in South Carolina. For the purpose of this exemption, the term:

(1) "new job" means any job created by an employer in South Carolina at the time a new facility or an expansion is initially staffed, but does not include a job created when an employee is shifted from an existing South Carolina location to work in a new or expanded facility;

(2)(a) "full-time" means a job requiring a minimum of thirty-five hours of an employee's time a week for the entire normal year of company operations or a job requiring a minimum of thirty-five hours of an employee's time for a week for a year in which the employee was initially hired for or transferred to the South Carolina corporate headquarters, corporate office facility, or distribution facility and worked at a



rented facility pending construction of a corporate headquarters, corporate office facility, or distribution facility;

(b) "substantially equivalent" means a job requiring a minimum of twenty hours of an employee's time a week for the entire normal year of company's operations or a job requiring a minimum of twenty hours of an employee's time for a week for a year in which the employee was initially hired for or transferred to the South Carolina corporate headquarters, corporate office facility, or distribution facility and worked at a rented facility pending construction of a corporate headquarters, corporate office facility, or distribution facility;

(3) "corporate headquarters" means the location where corporate staff members or employees are domiciled and employed, and where the majority of the company's financial, personnel, legal, planning, or other business functions are handled either on a regional or national basis and must be the sole such corporate headquarters within the region or nation;

(4) "staff employee" or "staff member" means executive, administrative, or professional worker. At least eighty percent of an executive employee's business functions must involve the management of the enterprise and directing the work of at least two employees. An executive employee has the authority to hire and fire or has the authority to make recommendations related to hiring, firing, advancement, and promotion decisions, and an executive employee must customarily exercise discretionary powers. An administrative employee is an employee who is not involved in manual work and whose work is directly related to management policies or general business operations. An administrative employee must customarily exercise discretion and independent judgment. A professional employee is an employee whose primary duty is work requiring knowledge of an advanced type in a field of science or learning. This knowledge is characterized by a prolonged course of specialized study. The work must be original and creative in nature, and the work cannot be standardized over a specific period of time. The work must require consistent exercise of discretion;

(5) "region" or "regional" means a geographic area comprised of either:

(a) at least five states, including South Carolina, or

(b) two or more states, including South Carolina, if the entire business operations of the corporation are performed within fewer than five states;

(6) "corporate office facility" means the location where corporate managerial, professional, technical, and administrative personnel are domiciled and employed, and where corporate financial, personnel, legal, technical, support services, and other business functions are handled. Support services include, but are not limited to, claims processing, data entry, word processing, sales order processing, and telemarketing;

(7) "distribution facility" has the meaning provided pursuant to Section 12-6-3360(M)(8).

Certification of the required investment and the number of new jobs which are full-time or substantially equivalent and which are created must be provided by the South Carolina Department of Revenue to the appropriate local tax officials.

(33) All personal property including aircraft of an air carrier which operates an air carrier hub terminal facility in this State for a period of ten consecutive years from the date of qualification, if its qualifications are maintained. An air carrier hub terminal facility is defined in Section 55-11-500.

(a) All personal property including aircraft of an air carrier which operates an air carrier hub terminal facility in this State for a period of ten consecutive years from the date of qualification, if its qualifications are maintained. An air carrier hub terminal facility is defined in Section 55-11-500.

(b) All aircraft, including associated personal property, owned by a company owning aircraft meeting the requirements of Section 55-11-500(a)(3)(i) without regard to the other requirements of Section 55-11-500. An aircraft qualifying for the exemption allowed by this subitem may not be used by the operator of the aircraft as the basis for an exemption pursuant to subitem (a) of this item.

(34) The facilities of all new enterprises engaged in research and development activities located in any of the counties of this State, and all additions valued at fifty thousand dollars or more to existing facilities of enterprises engaged in research and development are exempt from ad valorem taxation in the same manner and to the same extent as the exemption allowed pursuant to item (7) of subsection (A) of Section

12-37-220. These additions include machinery and equipment installed in an existing manufacturing or research and development facility. For purposes of this section, facilities of enterprises engaged in research and development activities are facilities devoted directly and primarily to research and development, in the experimental or laboratory sense, of new products, new uses for existing products, or improvement of existing products. To be eligible for the exemption allowed by this section, the facility or its addition must be devoted primarily to research and development as defined in this section. The exemption does not include facilities used in connection with efficiency surveys, management studies, consumer surveys, economic surveys, advertising, promotion, or research in connection with literary, historical, or similar projects.

~~(35) Property exempt under subsection A(5) of this section when located in a time share unit.~~

(36) After the easement is granted, land subject to a perpetual easement donated to this State under the South Carolina Scenic Rivers Act of Chapter 29 of Title 49.

(37) one personal motor vehicle owned or leased by a legal guardian of a minor who is blind or required to use a wheelchair when the vehicle is used to transport the minor.

(38)(a) Watercraft and motors which have an assessment of not more than fifty dollars.

(b) By ordinance, a governing body of a county may exempt from the property tax, forty-two and 75/100 percent of the fair market value of a watercraft and its motor. This exemption for a watercraft motor applies whether the motor is located in, attached to, or detached from the watercraft. This exemption does not apply to a boat or watercraft classified for property tax purposes as a primary or secondary residence pursuant to Section 12-37-224.

~~(39) the governing body of a municipality may by ordinance exempt from municipal ad valorem taxes for not more than five years property located in the municipality receiving the exemptions from county ad valorem taxes allowed pursuant to items (32) and (34) of this subsection.~~

(40) watercraft trailers.

(41) Economic development property during the exemption period as provided in Chapter 44 of Title 12.

(42) Property held in trust under the provisions of Chapter 18 of Title 51 and all real property of charitable trusts and foundations held for historic preservation of forts and battlegrounds which extends beyond the buildings and premises actually occupied by the charitable trusts and foundations which own the real property if no profit or benefit from any operation on the charitable trusts' and foundations' real property inures to the benefit of any private stockholder or individual and no income producing ventures are located on the charitable trusts' and foundations' real property. This exemption does not change any exemption provided for charitable trusts and foundations in item (4) of subsection (A) of this section and item (d), Section 3, Article X of the Constitution of this State but is an additional exemption for charitable trusts and foundations for historic preservation, as provided in this item.

(43) The dwelling home and a lot not to exceed one acre of land owned in fee or for life or jointly with a spouse by a resident of this State who is a recipient of the Medal of Honor or who was a prisoner of war in World War I, World War II, the Korean Conflict, ~~or the Vietnam Conflict, or the Iraq or Afghanistan conflict.~~ The exemption is allowed to the surviving spouse under the same terms and conditions governing the exemption for surviving spouses pursuant to item (1) of this subsection. A person applying for this exemption must provide the evidence of eligibility the department requires.

(44) Subject to the approval by resolution of the county governing body, property and improvements subject to a nonresponsible party voluntary cleanup contract for which a certificate of completion has been issued by the Department of Health and Environmental Control pursuant to Article 7, Chapter 56 of Title 44, the Brownfields Voluntary Cleanup Program, is exempt from ad valorem taxation in the same manner and to the same extent as the exemption allowed pursuant to subsection (A)(7) of this section. This exemption applies beginning with the taxable year in which the certificate of completion is issued.

~~(45) a private passenger motor vehicle leased by a member of the armed forces of the United States stationed in this State when that service member's home of record is in another state and the leased vehicle is registered in South Carolina.~~

(46) a private passenger motor vehicle leased to a governmental entity that would be exempt pursuant to subsection (A)(1) of this section if the governmental entity owned the vehicle.

(47)(a) Effective for property tax years beginning after 2006 and to the extent not already exempt pursuant to Section 12-37-250, one hundred percent of the fair market value of owner-occupied residential property eligible for and receiving the special assessment ratio allowed owner-occupied residential property pursuant to Section 12-43-220(c) is exempt from all property taxes imposed for school operating purposes but not including millage imposed for the repayment of general obligation debt.

(b) Notwithstanding any other provision of law, property exempted from property tax in the manner provided in this item is considered taxable property for purposes of bonded indebtedness pursuant to Section 15 of Article X of the Constitution of this State.

(c) The exemptions allowed by this item may not be deleted or reduced except by a legislative enactment receiving a recorded rollcall vote of at least a two-thirds majority of the membership of each house of the General Assembly.

(48) a motor vehicle licensed and registered as an antique motor vehicle pursuant to Article 23, Chapter 3 of Title 56.

(49) Real property not subject to property tax, leased by a state agency, county, municipality, other political subdivision, or other state entity to an entity that would not be subject to property tax if the entity owned the property.

(50) All fire sprinkler system equipment and the value attached thereto that is installed on a commercial or residential structure when the installation is not required by law, regulation, or code until there is an assessable transfer of interest as determined by Section 12-37-3150.

(51) one hundred percent of the value of an improvement to real property consisting of a newly constructed detached single family home offered for sale by a residential builder or developer through the earlier of:

(a) the property tax year in which the home is sold or otherwise occupied; or

(b) the property tax year ending the sixth December thirty-first after the home is completed and a certificate of occupancy, if required, is issued thereon.

In lieu of other exemption application requirements, the owner of property eligible for the exemption allowed by this item shall obtain the exemption by notifying the county assessor and county auditor by written affidavit no later than thirty days after the certificate of occupancy is issued and no later than January thirty-first in subsequent exemption eligibility years that the property is of the type eligible for the exemption and unoccupied and if found in order, the exemption is allowed for the applicable property tax year. If the unsold residence is occupied at any time before eligibility for the exemption ends, the owner shall so notify the auditor and assessor and the exemption ends as provided in subitem (a) of this item.

(C) Upon approval by the governing body of the county, the five-year partial exemption allowed pursuant to subsections (A)(7), (B)(32), and (B)(34) is extended to an unrelated purchaser who acquires the facilities in an arms-length transaction and who preserves the existing facilities and existing number of jobs. The partial exemption applies for the purchaser for five years if the purchaser otherwise meets the exemption requirements.

(D) If a church acquires ownership of real property which will be exempt under this section when owned by the church, the transferor's liability for property taxes on the property ceases on the church acquiring the property, and any exemptions provided in this section then apply, subject to the requirements of Section 12-4-720. The property taxes accruing up to the date of the acquisition by the church, if any, must be paid to the county where the property is located within thirty days of the acquisition date. If the millage has not yet been set for the year when the acquisition occurs, the county auditor shall apply the previous year's millage in determining any taxes owed. If the millage has been determined, the auditor shall apply the current year's millage in determining any taxes owed. All taxes, assessments, penalties, and interest on the property acquired by a church are a first lien on the property taxed, the lien attaching December thirty-first of the year immediately preceding the calendar year during which the tax is levied.

(E) If an entity owns property a portion of which qualifies for an exemption under subsections (A)(4) or (B)(16)(a) of this section and a portion of which is leased to one or more separate entities and that

property would be exempt under subsections (A)(4) or (B)(16) of this section if the entity leasing the property owned the property, then any portion of the property that is leased to such entity is exempt from property taxes.

**SECTION 12-37-230.** Payments of services rendered in lieu of taxes by nonprofit housing corporations exempt under Section 12-37-220.

When any nonprofit housing corporation owns property within a county or municipality which is exempted from ad valorem taxes under Section 12-37-220, the county or the municipality or both are authorized to ~~contract with~~ charge such corporation for reasonable fees for payments of services rendered by the county or municipality.

**SECTION 12-37-235.** Fees for fire protection for property exempt under Section 12-37-220.

Each county and municipality in this State may charge the owners of all real property exempt from ad valorem taxation under the provisions of items (2), except property of the State, counties, municipalities, school districts and other political subdivisions where such property is used exclusively for public purposes, ~~(3), except public libraries, and (4) of Section 12-37-220 of the 1976 Code,~~ which is located within their respective boundaries, reasonable fees for fire protection; provided, that no fees may be charged by a county for protection or service provided to such owners by a municipality.

All such fees shall be based on the protection and services provided and which are maintained in whole or in part by funds from ad valorem taxes. No fees shall exceed the amount of taxes that would be levied on any of the subject property for any one service if the subject property were subject to ad valorem taxation.

**SECTION 12-37-240.** Payments in lieu of taxes by nonprofit housing corporations exempt under act of General Assembly.

When any nonprofit housing corporation owns property within a county or municipality which is exempted from ad valorem taxes under an act of the General Assembly, the county or municipality or both are authorized to ~~contract with~~ charge such corporation reasonable fees for payments in lieu of taxes for services rendered by the county or municipality.

## ARTICLE 5.

### LIABILITY FOR TAXES; RETURNS

**SECTION 12-37-610.** Persons liable for taxes and assessments on real property.

Each person is liable to pay taxes and assessments on the real property that, as of December thirty-first of the year preceding the tax year, he owns in fee, for life, or as trustee, as recorded in the public records for deeds of the county in which the property is located, or on the real property that, as of December thirty-first of the year preceding the tax year, he has care of as guardian, executor, or committee or may have the care of as guardian, executor, trustee, or committee.

**SECTION 12-37-670.** Listing new structures for taxation; due date of additional property taxes.

(A) No new structure must be listed or assessed for property tax until it is substantially completed and fit for the use for which it is intended.

(B)(1) A county governing body by ordinance may provide that previously untaxed improvements to real property must be listed for taxation with the county assessor of the county in which it is located by the first day of the next calendar quarter after a certificate of occupancy is issued for the structure. A new

structure must not be listed or assessed until it is substantially completed and fit for the use for which it is intended, as evidenced by the issuance of the certificate of occupancy or the structure actually is occupied if no certificate is issued.

(2) When an ordinance allowed pursuant to this subsection is enacted, additional property tax attributable to improvements listed with the county assessor accrues beginning on the listing date and is due and payable when taxes are due on the property for that property tax year. This additional tax is due and payable without regard to any tax receipt issued for that parcel for the tax year that does not reflect the value of the improvements.

(3) If a county governing body elects by ordinance to impose the provisions of this subsection, this election also is binding on all municipalities within the county imposing ad valorem property taxes.

**SECTION 12-37-712.** Access to marina and airport records and premises.

A marina or airport must provide immediate access to its business records and premises to city, county, and state tax authority employees for the purpose of making a property tax assessment. For the purposes of this section, "marina" or "airport" means a facility that provides mooring or dry storage for watercraft or private passenger aircraft on a leased or rental basis, and "business records" means only the name and billing address of the person leasing or renting space for a boat or aircraft in a marina or airport, as well as the make, model, and year, if available, together with a copy of any leases and fuel sales records.

**SECTION 12-37-714.** Boats and airplanes with situs in State; boat or motor under contract for repairs.

In addition to any other provisions of law subjecting boats, ~~and~~ boat motors and private passenger aircraft not subject to taxation under Article 19 to property tax in this State:

(1) A boat, including its motor if separately taxed and private passenger aircraft, used in interstate commerce having a tax situs in this State and at least one other state is subject to property tax in this State. The value of such a boat or aircraft must be determined based on the fair market value of the boat or aircraft multiplied by a fraction representing the number of days present in this State. The fraction is determined by dividing the number of days the boat or aircraft was present in this State by three hundred sixty-five days. A boat or aircraft used in interstate commerce must be physically present in this State for thirty days in the aggregate in a property tax year to become subject to ad valorem taxation.

(2) A boat or aircraft, including its motor if the motor is separately taxed, which is not currently taxed in this State and is not used exclusively in interstate commerce, is subject to property tax in this State if it is present within this State for sixty consecutive days or for ninety days in the aggregate in a property tax year. Upon an ordinance passed by the local governing body, a county may subject a boat, including its motor if the motor is separately taxed, or aircraft to property tax if it is within this State for ninety days in the aggregate, regardless of the number of consecutive days. Also, upon an ordinance passed by the local governing body, a county may increase the number of days in the aggregate a boat, including its motor if the motor is taxed separately or aircraft, must be in this State to be subject to property tax to one hundred eighty days in a property tax year, regardless of the number of consecutive days. Upon written request by a tax official, the owner must provide documentation or logs relating to the whereabouts of the boat or aircraft in question. Failure to produce requested documents creates a rebuttable presumption that the boat in question is taxable within this State."

Boats and watercraft, classification as primary or secondary residence for property tax

(3) When a boat, or motor if separately taxed, is subject to a written contract for repairs and located in a marine repair facility in this State, the time periods provided pursuant to items (1) and (2) of this section are tolled.

**SECTION 12-37-930.** Valuation of property; depreciation allowances for manufacturer's machinery and equipment; department may permit adjustment in allowance.

All property must be valued for taxation at its true value in money which in all cases is the price which the property would bring following reasonable exposure to the market, where both the seller and the buyer are willing, are not acting under compulsion, and are reasonably well informed of the uses and purposes for which it is adapted and for which it is capable of being used. The fair market value for vehicles, watercraft, and aircraft must be based on values derived from a nationally recognized publication of vehicle valuations, ~~except that the value may not exceed ninety five percent of the prior year's value.~~ However, acreage allotments or marketing quota allotments for a commodity established under a program of the United States Department of Agriculture is classified as incorporeal hereditaments and the market value of real property to which they are attached may not include the value, if any, of the acreage allotment or marketing quota. Fair market value of manufacturer's machinery and equipment used in the conduct of the manufacturing business, excluding vehicles, watercraft, and aircraft required to be registered or licensed by a state or federal agency, must be determined by reducing the original cost by an annual allowance for depreciation as stated in the following schedule.

**SECTION 12-37-950.** Valuation of certain leasehold estates as real estate.

Preamble. This Section was enacted to equalize the annual tax burden carried by private businesses using exempt property with that of similar businesses using nonexempt property. See 10 USCA §2667, *United States v. City of Detroit*, 355 U.S. 466 (1958).

When any leasehold, license to use, or similar estate is conveyed for a definite term by any grantor whose property is exempt from taxation to a grantee whose property is not exempt, the leasehold estate shall be valued for property tax purposes as real estate, and the grantee shall be required to file a property tax return under the provisions of this Chapter.

## ARTICLE 19.

### AIRCRAFT

**SECTION 12-37-2410.** Definitions.

As used in this article:

- (a) "Aircraft" means any contrivance, used or designed for navigation or flight through the air.
- (b) "Airline company" means any person who undertakes, directly or indirectly, to engage in the regularly scheduled transportation by aircraft of persons or property for hire in interstate, intrastate or international transportation.
- (c) "Operated" or "operation" means landings or takeoffs of aircraft by any airline company as defined herein.
- (d) "Department" means the South Carolina Department of Revenue.
- (e) "Person" means any individual, corporation, firm, partnership, company or association, and includes a guardian, trustee, executor, administrator, receiver, conservator or any person acting in a fiduciary capacity therefor.
- (f) "Plane hours" means and includes for each type of model of aircraft all hours in flight and all hours on the ground.

**SECTION 12-37-2420.** Required tax returns.

All airline companies operating in the State shall make an annual property tax return on or before the 15th day of April in each year for the preceding calendar or fiscal year of their flight equipment to the department. Each type and model of flight equipment shall be separately returned, valued and apportioned as herein provided.

Provided, However, That the first report of airline companies shall be filed on or before October 15, 1976 and any tax due shall be paid by December 31, 1976.

**SECTION 12-37-2430.** Valuation of aircraft.

The department shall annually assess, adjust, equalize, and apportion the valuation of all aircraft of each airline company of a type or model operated in this State by such airline company by such type or model. Such aircraft shall be valued by the department at fair market value.

**SECTION 12-37-2440.** Ratios for valuation of aircraft.

The valuation of such aircraft apportioned to this State shall be determined by the department to be the proportion of the total valuation of such aircraft determined on the basis of the arithmetical average of the following two ratios:

(a) The ratio which the total time scheduled on the ground within this State of such aircraft during the preceding calendar or fiscal year bears to the total time scheduled on the ground within and without this State of such aircraft during the preceding calendar or fiscal year.

(b) The ratio which the total mileage scheduled within this State of such aircraft operated in this State during the preceding calendar or fiscal year bears to the total mileage scheduled within and without this State of such aircraft during the preceding calendar or fiscal year.

**SECTION 12-37-2450.** Tax levy.

The department shall annually make a tax levy against the value so assessed and determined to exist in the State at a rate which will equal the average rates of levy for all purposes in the several taxing districts of the State for the current year, and such tax levy shall be due and payable to the department before December 31st of each year.

**SECTION 12-37-2460.** Disposition of tax proceeds.

The proceeds collected under this article shall be paid into the general fund of the State.

**SECTION 12-37-2470.** Penalty for failure to file return or to pay tax.

If any person fails to file a return or to pay a tax, if one is due, on or before the time required by or under the provisions of this article, the tax shall be increased by ten percent, and, in addition thereto, interest at the rate of one-half of one percent per month shall be added to the tax.

**SECTION 12-37-2490.** Effect of other ad valorem taxes upon aircraft of airline companies.

The ad valorem taxation authorized by this article shall be in lieu of all other ad valorem taxes upon the aircraft of airline companies.

ARTICLE 21.

MOTOR VEHICLES

**SECTION 12-37-2610.** Tax year for motor vehicles.

The tax year for licensed motor vehicles begins with the last day of the month in which a license required by Section 56-3-110 is issued and ends on the last day of the month in which the license expires or is due to expire, unless the license is for a period of two years. In that case the tax year for motor vehicles for the first year of the two-year licensing period begins with the last day of the month in which a license required by law is issued and ends on the last day of the month on the next anniversary of the issue date of the license. For the second year of the two-year licensing period the tax year for motor vehicles begins with the last day of the month on the anniversary of the issue date of the license and ends on that last day of the month in which the license expires or is due to expire. No license may be issued for motor vehicles until the ad valorem tax is paid for the year for which the license is to be issued. Motor vehicles registered under the International Registration Plan may pay ad valorem property taxes on a semiannual basis. The provisions of this section do not apply to sales of motor vehicles by a licensed motor vehicle dealer that do not involve the transfer of a license plate. Notice of the sales must be furnished to the department along with other documents necessary for the registration and licensing of the vehicle concerned. The notice must be received by the department as a prerequisite to the registration and licensing of the vehicle and must include the name and address of the purchaser, the vehicle identification number, and the year and model of the vehicle. The notice must be an original and one copy, and the copy must be provided by the department to the auditor of the county in which the vehicle is taxable. All ad valorem taxes on a vehicle are due and payable one hundred twenty days from the date of purchase. The notice and the time in which to pay the tax applies to motor vehicles that are serviced and delivered by a licensed motor vehicle dealer for the benefit of an out-of-state dealer.

**SECTION 12-37-2680.** Determination of assessed value of vehicle.

The assessed value of the vehicle must be determined as of the first day of the month preceding the beginning of the tax year for the vehicles. The assessed values must be published in guides or manuals by the South Carolina Department of Revenue and provided to the auditor of each county as often as may be necessary to provide for current values. When the value of any vehicle is not set forth in the guide or manual the auditor shall determine the value from other available information.

**~~SECTION 12-37-2720.~~** ~~Exception as to motor vehicles held for sale by dealers.~~

~~The provisions of this article shall not apply to motor vehicles which are a part of the inventory held for sale by licensed motor vehicle dealers and which are operated on the highways under a dealer tag.~~

**SECTION 12-37-2721.** Exemptions from motor vehicle tax.

The provisions of this article do not apply to motor vehicles owned and licensed by motor vehicle dealers and operated on the highway with education license plates pursuant to Section 56-3-2320.

**CHAPTER 43.**

**COUNTY EQUALIZATION AND REASSESSMENT**

**ARTICLE 3.**

**PROGRAMS; UNIFORM ASSESSMENT RATIOS**



**SECTION 12-43-210.** Uniform and equitable assessments; rules and regulations.

(A) All property must be assessed uniformly and equitably throughout the State. The South Carolina Department of Revenue may promulgate regulations to ensure equalization which must be adhered to by all assessing officials in the State.

(B) No reassessment program may be implemented in a county unless all real property in the county, including real property classified as manufacturing property, is reassessed in the same year.

**SECTION 12-43-220.** Classifications shall be equal and uniform; particular classifications and assessment ratios; procedures for claiming certain classifications; roll-back taxes.

Except as otherwise provided, the ratio of assessment to value of property in each class shall be equal and uniform throughout the State. All property presently subject to ad valorem taxation shall be classified and assessed as follows:

(a)(1) All real and personal property owned by or leased to manufacturers and utilities and used by the manufacturer or utility in the conduct of the business must be taxed on an assessment equal to ten and one-half percent of the fair market value of the property.

(2) Real property owned by or leased to a manufacturer and used primarily for research and development is not considered used by a manufacturer in the conduct of the business of the manufacturer for purposes of classification of property pursuant to this item (a). The term "research and development" means basic and applied research in the sciences and engineering and the design and development of prototypes and processes.

(3) Real property owned by or leased to a manufacturer and used primarily as an office building is not considered used by a manufacturer in the conduct of the business of the manufacturer for purposes of classification of property pursuant to this item (a) if the office building is not located on the premises of or contiguous to the plant site of the manufacturer.

(4) Real property owned by or leased to a manufacturer and used exclusively for warehousing and wholesale distribution is not considered used by a manufacturer in the conduct of the business of the manufacturer for purposes of classification of property pursuant to this item (a).

(b) All inventories of business establishments shall be taxed on an assessment equal to six percent of the fair market value of such property and all power driven farm machinery and equipment except motor vehicles registered with the Department of Motor Vehicles owned by farmers and used on agricultural lands as defined in this article shall be taxed on an assessment equal to five percent of the fair market value of such property; provided, that all other farm machinery and equipment and all livestock and poultry shall be exempt from ad valorem taxes.

(c)(1) The legal residence and not more than five acres contiguous thereto, when owned totally or in part in fee or by life estate and occupied by the owner of the interest, and additional dwellings located on the same property and occupied by immediate family members of the owner of the interest, are taxed on an assessment equal to four percent of the fair market value of the property. For residential real property deeded in part in fee or by life estate after January 1, 2006, and occupied by an owner or owners of interest the assessment ration allowed by this item applies to the interest in the real property deeded to the owner-occupant. The fair market value to which the 4 percent assessment ratio applies shall be measured by the fraction of ownership interest of the owner-occupant. If residential real property is held in trust and the income beneficiary of the trust occupies the property as a residence, then the assessment ratio allowed by this item applies if the trustee certifies to the assessor that the property is occupied as a residence by the income beneficiary of the trust. When the legal residence is located on leased or rented property and the residence is owned and occupied by the owner of a residence on leased property, even though at the end of the lease period the lessor becomes the owner of the residence, the assessment for the residence is at the same ratio as provided in this item. If the lessee of property upon which he has located his legal residence is liable for taxes on the leased property, then the property upon which he is liable for taxes, not to exceed five acres contiguous to his legal residence, must be assessed at the same ratio

provided in this item. If this property has located on it any rented mobile homes or residences which are rented or any business for profit, this four percent value does not apply to those businesses or rental properties. For purposes of the assessment ratio allowed pursuant to this item, a residence does not qualify as a legal residence unless the residence is determined to be the domicile of the owner-applicant.

(2)(i) To qualify for the special property tax assessment ratio allowed by this item, the owner-occupant must have actually owned and occupied the residence as his legal residence and been domiciled at that address for some period during the applicable tax year. A residence which has been qualified as a legal residence for any part of the year is entitled to the four percent assessment ratio provided in this item for the entire year, for the exemption from property taxes levied for school operations pursuant to Section 12-37-251 for the entire year, and for the homestead exemption under Section 12-37-250, if otherwise eligible, for the entire year.

(ii) This item does not apply unless the owner of the property or the owner's agent applies for the four percent assessment ratio before the first penalty date for the payment of taxes for the tax year for which the owner first claims eligibility for this assessment ratio. In the application the owner or his agent must certify to the following statement:

"Under penalty of perjury I certify that:

(A) the residence which is the subject of this application is my legal residence and where I am domiciled at the time of this application and that I do not claim to be a legal resident of a jurisdiction other than South Carolina for any purpose; and

(B) that neither I nor any other member of my household is residing in or occupying any other residence which I or any member of my immediate family has qualified for the special assessment ratio allowed by this section."

(iii) For purposes of subitem (ii)(B) of this item, "a member of my household" means:

(A) the owner-occupant's spouse, except when that spouse is legally separated from the owner-occupant; and

(B) any child under the age of eighteen years of the owner-occupant claimed or eligible to be claimed as a dependent on the owner-occupant's federal income tax return.

(iv) In addition to the certification, the burden of proof for eligibility for the four percent assessment ratio is on the owner-occupant and the applicant must provide proof the assessor requires including, but not limited to:

(A) a copy of the owner-occupant's most recently filed South Carolina individual income tax return;

(B) copies of South Carolina motor vehicle registrations for all motor vehicles registered in the name of the owner-occupant;

(C) other proof required by the assessor necessary to determine eligibility for the assessment ratio allowed by this item.

If the assessor determines the owner-occupant ineligible, the six percent property tax assessment ratio applies and the owner-occupant may appeal the classification as provided in Chapter 60 of this title.

(v) A member of the armed forces of the United States on active duty who is a legal resident of and domiciled in another state is nevertheless deemed a legal resident and domiciled in this State for purposes of this item if the member's permanent duty station is in this State. A copy of the member's orders filed with the assessor is considered proof sufficient of the member's permanent duty station.

(vi) No further applications are necessary from the current owner while the property for which the initial application was made continues to meet the eligibility requirements. If a change in ownership or use occurs, the owner who had qualified for the special assessment ratio allowed by this section shall notify the assessor of the change in classification within six months of the change. Another application is required by the new owner to qualify the residence for future years for the four percent assessment ratio allowed by this section.

(vii) If a person signs the certification, obtains the four percent assessment ratio, and is thereafter found not eligible, or thereafter loses eligibility and fails to notify the assessor within six months, a penalty is imposed equal to one hundred percent of the tax paid, plus interest on that amount at the rate of one-half of one percent a month, but in no case less than thirty dollars nor more than the current year's taxes. This

penalty and any interest are considered ad valorem taxes due on the property for purposes of collection and enforcement.

(viii) Failure to file within the prescribed time constitutes abandonment of the owner's right for this classification for the current tax year, but the local taxing authority may extend the time for filing upon a showing satisfactory to it that the person had reasonable cause for not filing before the first penalty date.

(3) Notwithstanding any other provision of law, a taxpayer may apply for a refund of property taxes overpaid because the property was eligible for the legal residence assessment ratio. The application must be made in accordance with Section 12-60-2560. The taxpayer must establish that the property in question was in fact his legal residence and where he was domiciled. A county council, by ordinance, may allow refunds for the county government portion of property taxes for such additional past years as it determines advisable.

(4) A legal residence qualifying for the four percent assessment ratio provided by this item must have an assessed value of not less than one hundred dollars.

(5) To qualify for the four percent assessment ratio, the owner-occupant of a legal residence that is being purchased under a contract for sale or a bond for title must record the contract for sale or the bond for title in the office of the register of mesne conveyances or the clerk of court in those counties where the office of the register of mesne conveyances has been abolished.

For purposes of this subsection, a contract for sale or a bond for title is the sale of real property by a seller, who finances the sale and retains title to the property solely as security for the debt.

(6) Notwithstanding any other provision of law, a purchaser who purchases a residential property intending that the property shall become the purchaser's primary residence, but subject to vacation rentals as provided for in Title 27, Chapter 50, Article 2 for no longer than ninety days, may apply for the four percent assessment ratio when the purchaser actually occupies the property. If the owner actually occupies the residence within ninety days of acquiring ownership, the four percent assessment ratio, if the owner is otherwise qualified, applies retroactively to the date ownership was acquired.

(7) Notwithstanding any other provision of law, the owner-occupant of a legal residence is not disqualified from receiving the four percent assessment ratio allowed by this item if the taxpayer's residence meets the requirements of Internal Revenue Code Section 280A(g) as defined in Section 12-6-40(A) and the taxpayer otherwise is eligible to receive the four percent assessment ratio.

(d)(1) Agricultural real property which is actually used for such agricultural purposes shall be taxed on an assessment equal to:

(A) Four percent of its fair market value for such agricultural purposes for owners or lessees who are individuals or partnerships and certain corporations which do not:

(i) Have more than ten shareholders.

(ii) Have as a shareholder a person (other than an estate) who is not an individual.

(iii) Have a nonresident alien as a shareholder.

(iv) Have more than one class of stock.

(B) Six percent of its fair market value for such agricultural purposes for owners or lessees who are corporations, except for certain corporations specified in (A) above.

(2)(A) "Fair market value for agricultural purposes", when applicable to land used for the growth of timber, is defined as the productive earning power based on soil capability to be determined by capitalization of typical cash rents of the lands for timber growth or by capitalization of typical net income of similar soil in the region or a reasonable area of the region from the sale of timber, not including the timber growing thereon, and when applicable to land used for the growth of other agricultural products the term is defined as the productive earning power based on soil capability to be determined by capitalization of typical cash rents or by capitalization of typical net annual income of similar soil in the region or a reasonable area of the region, not including the agricultural products thereon. Soil capability when applicable to lands used for the growth of timber products means the capability of the soil to produce such timber products of the region considering any natural deterrents to the potential capability of the soil as of the current assessment date. The term, when applicable to lands used for the growth of other agricultural products, means the capability of the soil to produce typical

agricultural products of the region considering any natural deterrents to the potential capability of the soil as of the current assessment date. The term "region" means that geographical part of the State as determined by the department to be reasonably similar for the production of the agricultural products. After average net annual earnings have been established for agricultural lands, they must be capitalized to determine use-value of the property based on a capitalization rate which includes:

1. an interest component;
2. a local property tax differential component;
3. a risk component;
4. an illiquidity component.

Each of these components of the capitalization rate must be based on identifiable factors related to agricultural use of the property. The interest rate component is the average coupon (interest) rate applicable on all bonds which the Federal Land Bank of Columbia, which serves South Carolina farmers, has outstanding on July first of the crop-years being used to estimate net earnings and agricultural use-value. Implementation of the provisions contained in this section is the responsibility of the department.

(B)(i) For tax year 1988 and subsequent tax years, fair market value for agricultural purposes must be determined by adjusting the applicable base year value by an amount equal to the product of multiplying the applicable base year value by a percentage factor obtained through the formula provided in this item. For tax year 1988, the applicable base year is 1981. The fair market value for agricultural purposes determined for the 1991 tax year is effective for all subsequent years.

(ii) The percentage factor provided in this item is derived from the most recent edition of the United States Department of Agriculture publication "AGRICULTURAL LAND VALUES AND MARKETS", specifically, from "Table 1--Farm Real Estate Values: Indexes of the average value per acre of land and buildings.. ." as listed for this State. The formula to determine the applicable percentage factor is the index of the year of change less the index of the base year with the resulting amount being divided by the index of the base year and rounded to the nearest whole number. For purposes of the formula, the base year is the last year in which values were adjusted under this item.

(3) Agricultural real property does not come within the provisions of this section unless the owners of the real property or their agents make a written application therefor on or before the first penalty date for taxes due for the first tax year in which the special assessment is claimed. The application for the special assessment must be made to the assessor of the county in which the agricultural real property is located, on forms provided by the county and approved by the department and a failure to apply constitutes a waiver of the special assessment for that year. The governing body may extend the time for filing upon a showing satisfactory to it that the person had reasonable cause for not filing on or before the first penalty date. No additional annual filing is required while the use of the property remains bona fide agricultural and the ownership remains the same. The owner shall notify the assessor within six months of a change in use. For failure to notify the assessor of a change in use, in addition to any other penalties provided by law, a penalty of ten percent and interest at the rate of one-half of one percent a month must be paid on the difference between the amount that was paid and the amount that should have been paid, but not less than thirty dollars nor more than the current year's taxes. For property in which the agricultural use value is 10 percent or less of the fair market value, the assessor shall verify every five years that the property is being used for agricultural purposes.

(4) When real property which is in agricultural use and is being valued, assessed, and taxed under the provisions of this article, is applied to a use other than agricultural, it is subject to additional taxes, hereinafter referred to as roll-back taxes, in an amount equal to the difference, if any, between the taxes paid or payable on the basis of the valuation and the assessment authorized hereunder and the taxes that would have been paid or payable had the real property been valued, assessed, and taxed as other real property in the taxing district, in the current tax year (the year of change in use) and each of the five tax years immediately preceding in which the real property was valued, assessed, and taxed as herein provided. If in the tax year in which a change in use of the real property occurs the real property was not valued, assessed, and taxed under this article, then the real property is subject to roll-back taxes for each

of the five tax years immediately preceding in which the real property was valued, assessed, and taxed hereunder. In determining the amounts of the roll-back taxes chargeable on real property which has undergone a change in use, the assessor shall for each of the roll-back tax years involved ascertain:

(A) the fair market value without consideration of the standing timber of such real property under the valuation standard applicable to other real property in the same classification;

(B) the amount of the real property assessment for the particular tax year by multiplying such fair market value by the appropriate assessment ratio provided in this article;

(C) the amount of the additional assessment on the real property for the particular tax year by deducting the amount of the actual assessment on the real property for that year from the amount of the real property assessment determined under (B) of this section;

(D) the amount of the rollback for that tax year by multiplying the amount of the additional assessment determined under (C) of this section by the property tax rate of the taxing district applicable for that tax year.

(E) The Department shall provide by regulation for a more detailed definition of when real property is put to use other than agricultural to be used by county assessors in determining when roll back taxes are due. Such regulation shall be designed to provide uniform guidelines for assessors to use to determine when agricultural property has been put to a use other than agricultural and shall consider such factors as the filing of plats, or advertising for sale, of residential, commercial or industrial lots, and the construction of, or filing for, permits for roads, water, sewer or other amenities not associated with agricultural use.

(5) Any other provision of law to the contrary notwithstanding, a dockside facility whose primary use is the landing and processing of seafood is considered agricultural real property.

~~(6) Any property which becomes exempt from property taxes under Section 12-37-220(A)(1) or any economic development property which becomes exempt under Section 12-37-220(B) is not subject to rollback taxes.~~

(e) All other real property not herein provided for shall be taxed on an assessment equal to six percent of the fair market value of such property.

(f) Except as specifically provided by law, all other personal property must be taxed on an assessment of ten and one-half percent of fair market value of the property, except that commercial fishing boats, and commercial tugboats and pilot boats must be taxed on an assessment of five percent of fair market value. As used in this item "commercial fishing boats" means boats used exclusively for commercial fishing, shrimping, or crabbing and (1) licensed by the Department of Natural Resources, or (2) on or from which is used commercial fishing equipment licensed by the Department of Natural Resources. As used in this item, "commercial tugboats" shall mean boats used exclusively for harbor and ocean towing, documented with the U.S. Coast Guard, constructed of steel, and being at least seventy-nine feet in length and having a gross tonnage of at least ninety-nine tons. As used in this item, "pilot boats" shall mean boats used exclusively for pilotage and operated exclusively by state pilots who are licensed by the Commissioners of Pilotage pursuant to Chapter 15 of Title 54 and Chapter 136 of the regulations issued pursuant thereto.

(g) All real and personal property owned by or leased to companies primarily engaged in the transportation for hire of persons or property and used by such companies in the conduct of such business and required by law to be assessed by the department shall be taxed on an assessment equal to nine and one-half percent of the fair market value of such property.

The department shall apply an equalization factor to real and personal property owned by or leased to transportation companies for hire as mandated by federal legislation.

Notwithstanding any other provision of this article, on June 3, 1975, if it is found that there is a variation between the ratios being used and those stated in this section, the county may provide for a gradual transition to the ratios as herein provided for over a period not to exceed seven years; provided, however, that all property within a particular classification shall be assessed at the same ratio, provided, further, however, that all property enumerated in subsection (a) shall be assessed at the ratio provided in such subsection and the property enumerated in subsections (b), (c), (d), (e), (f), and (g) shall be increased or decreased to the ratios set forth in this article by a change in the ratio of not less than one-half of one percent per year nor more than one percent per year. Provided, however, that notwithstanding the

provisions of this section, a county may, at its discretion, immediately implement the assessment ratios contained in subsections (b), (c), (d), (e), and (f). Provided, however, that livestock shall not be subject to ad valorem taxation unless such livestock is physically located within the State for a period in excess of nine months. Provided, that this section shall not apply to farm animals and farm equipment in use on a farm in those counties which do not tax such property as of June 3, 1975.

Provided, however, all agricultural or forest land within easements granted to public bodies, agencies, railroads, or utilities for rights of way of thirty feet in width or greater shall be assessed at the same cropland value per acre as soil class 7 in schedule 1 of R 117-126 of the State Department of Revenue. In order to receive such assessment the landowner must apply to the tax assessor of the county where the easement is located, with documentation of the existence, location, and amount of acreage contained in the easement.

As used in this section, fair market value with reference to real property means fair market value determined in the manner provided pursuant to Article X of the Constitution of this State, Section 12-37-930 and Article 25, Chapter 37 of this title.

**SECTION 12-43-230.** Treatment of agricultural real property, mobile home and lessee improvements to real property; department shall prescribe regulations.

(a) For the purposes of this article, unless otherwise required by the context, the words “agricultural real property” shall mean any tract of real property which is used to raise, harvest or store crops, feed, breed or manage livestock, or to produce plants, trees, fowl or animals useful to man, including the preparation of the products raised thereon for man’s use and disposed of by marketing or other means. It includes but is not limited to such real property used for agriculture, grazing, horticulture, forestry, dairying and mariculture. In the event at least fifty percent of a real property tract shall qualify as “agricultural real property”, the entire tract shall be so classified, provided no other business for profit is being operated thereon. The term “agricultural real property” shall include real property used to provide free housing for farm laborers provided such housing is located on the tract of land that qualifies as agricultural real property.

The department shall provide by regulation for a more detailed definition of “agricultural real property” consistent with the general definition set forth in this section, to be used by county assessors in determining entitlement to special assessment under this article. Such regulations shall be designed to exclude from the special assessment that real property which is not bona fide agricultural real property for which the tax relief is intended.

(b) For the purposes of this article all mobile homes in this State and all improvements to leased real property made by the lessee shall be considered real property and shall be classified and assessed for ad valorem taxation in accordance with the provisions of Section 12-43-220. “Mobile homes” is defined as a portable unit designed and built to be towed on its own chassis, comprised of a frame and wheels, connected to utilities, and designed without a permanent foundation for year-round residential use. A mobile home may contain parts that may be folded or collapsed when being towed, and expanded on site to provide additional space. The term “mobile home” shall also include units in two or more separately towable components designed to be joined into one integral unit for use, and capable of being again separated into the components for repeated towing. It may also include two units which may be joined, on site, into a single residential unit.

(c) The department may further provide by regulation for definitions not inconsistent with general law for real property and personal property in order that such property must be assessed uniformly throughout the State.

(d) For purposes of this article, “homeowners’ association property” means real and personal property owned by a homeowners’ association if:

(1) property owned by the homeowners’ association is held for the use, benefit, and enjoyment of members of the homeowners’ association;

(2) each member of the homeowners' association has an irrevocable right to use and enjoy on an equal basis, property owned by the homeowners' association, subject to any restrictions imposed by the instruments conveying the right or the rules, regulations, or bylaws of the homeowners' association; and  
(3) each irrevocable right to use and enjoy property owned by the homeowners' association is appurtenant to taxable real property owned by a member of the homeowners' association.

Subject to making the appropriate application pursuant to this subsection, a homeowners' association may designate one or any number of its qualifying tracts or parcels as homeowners' association property for purposes of the special valuation contained in Section 12-43-227.

As used in this subsection, "homeowners' association" means an organization which is organized and operated to provide for the acquisition, construction, management, and maintenance of property.

Homeowners' association property does not come within the provisions of this subsection unless the owners of the real property or their agents make a written application for it on or before the first penalty date for taxes due for the first tax year in which the special valuation is claimed. The application may be with respect to one or any number of tracts or parcels owned by the homeowners' association. The application for the special valuation must be made to the assessor of the county in which the special valuation property is located, on forms provided by the county and approved by the department which includes the reporting of nonqualified gross receipts, and failure to apply constitutes a waiver of the special valuation for that year. No additional annual filing is required while the property remains homeowners' association property and the ownership remains the same, unless the nonqualified gross receipts within the meaning of Section 12-43-227 for the most recent completed tax year either (i) exceed the amount of nonqualified gross receipts with respect to the property reported on the most recently filed application by ten percent or more or (ii) are less than ninety percent of the amount of nonqualified gross receipts with respect to the property reported on the most recently filed application. In that case, the owners of the real property or their agents must make additional written application with respect to the property and report the change in nonqualified gross receipts.

#### **SECTION 12-43-232. Requirements for agricultural use.**

In addition to all other requirements for real property to be classified as agricultural real property, the property must meet the following requirements:

(1)(a) If the tract is used to grow timber, the tract must be five ten acres or more. ~~Tracts of timberland of less than five acres which are contiguous to or are under the same management system as a tract of timberland which meets the minimum acreage requirement are treated as part of the qualifying tract.~~ Tracts of timberland of less than ten acres which are not contiguous to, but are under the same management system and directly support the timber operations of the qualifying tract also qualify. A tract of land which houses tractors or other farm equipment, fertilizers, herbicides or other supplies used at the qualifying timber tract would directly support the timber operations. A tract of land which contains a personal residence, does not meet the direct support test. Tracts of timberland of less than ~~five~~ ten acres are eligible to be agricultural real property when they are owned in combination with other tracts of nontimberland agricultural real property that qualify as agricultural real property. For the purposes of this item, tracts of timberland must be devoted actively to growing trees for commercial use. The assessor may consider whether deed or other restrictions, including local land use ordinances, prevent the commercial harvesting of timber.

(b) A tract which meets the acreage requirement of subitem (a) of this item devoted to growing Christmas trees is considered timberland. A Christmas tree tract not meeting the acreage requirement qualifies as agricultural property if the landowner reports gross income from Christmas trees that meets the income test provided in item (3) of this section, mutatis mutandis.

(2) For tracts not used to grow timber as provided in item (1) of this section, the tract must be ten acres or more. Nontimberland tracts of less than ten acres which are contiguous to other such tracts which, when added together, meet the minimum acreage requirement, are treated as a qualifying tract. For purposes of

this item (2) only, contiguous tracts include tracts with identical owners of record separated by a dedicated highway, street, or road or separated by any other public way.

(3)(a) Nontimberland tracts not meeting the acreage requirement of item (2) qualify as agricultural real property if the person making the application required pursuant to Section 12-43-220(d)(3) earned at least ~~one~~ two thousand five hundred dollars of gross farm income for at least three of the five taxable years preceding the year of the application. The assessor may require the applicant (i) to give written authorization consistent with privacy laws allowing the assessor to verify farm income from the Department of Revenue or the Internal Revenue Service and (ii) to provide the Farm Service Agency farm identification number of the tract and allow verification with the Farm Service Agency office.

(b) An owner making an initial application required pursuant to Section 12-43-220(d)(3) for a nontimberland tract of less than ten acres may claim the property as agricultural real property for each year for the first five years of operation if he earned at least ~~one~~ two thousand five hundred dollars of gross farm income in at least three of the first five years. The assessor may require the new owner (i) to give written authorization consistent with privacy laws allowing the assessor to verify farm income from the Department of Revenue or the Internal Revenue Service and (ii) to provide ~~Agriculture Stabilization and conservation service (ASCS)~~ the Farm Service Agency farm identification number of the tract and allow verification with the ~~ASCS~~ Farm Service Agency office. If the new owner fails to meet the income requirements in the five-year period, the tract is not considered agricultural real property and is subject to the rollback tax.

(c) Real property idle under a federal or state land retirement program or property idle pursuant to accepted agricultural practices is agricultural real property if the property otherwise would have qualified as agricultural real property subject to satisfactory proof to the assessor.

(d) Unimproved real property subject to a perpetual conservation easement as provided in Chapter 8 of Title 27 is agricultural real property if the property otherwise would have qualified as agricultural real property subject to satisfactory proof to the assessor.

(e) A nontimberland tract that does not meet the acreage or income requirements of this section to be classified as agricultural real property must nevertheless be classified as agricultural real property if the current owner or an immediate family member of the current owner has owned the property for at least the ten years ending January 1, 1994, and the property is classified as agricultural real property for property tax year 1994.

The property must continue to be classified as agricultural real property until the property is applied to some other use or until the property is transferred to other than an immediate family member, whichever occurs first. For purposes of this subitem, "immediate family" is a person related to the current owner within the third degree of consanguinity or affinity and a trust all of whose noncontingent beneficiaries are related to the grantor of the trust within the third degree of consanguinity or affinity.

(4) In the case of rented or leased agricultural real property, either the lessor or the lessee shall meet the requirements of this section.

(5)(a) On the application required pursuant to Section 12-43-220(d)(3), the owner or his agent shall certify substantially as follows: Subject to the penalty provided in Section 12-43-340, either:

(i) "I certify that the property which is the subject of this application meets the requirements to qualify as agricultural real property as of January first of the current tax year"; or

(ii) "I certify that the property which is the subject of this application meets the requirements to qualify as agricultural real property and for the special assessment ratio for certain agricultural real property as of January first of the current tax year".

(b) If it is determined that the property for which the certification was made did not meet the requirements to qualify for agricultural use classification at the time the certification was made, the property which is the subject of the certification is denied agricultural use value for the property tax year or years in question and in lieu of the rollback tax, the tax on the property for each tax year in question must be recalculated using fair market value, the appropriate assessment ratio, and the appropriate millage. There must be deducted from the recalculated tax liability any taxes paid for the year and the penalties provided pursuant to Section 12-45-180 must be added to the balance due. Interest at the rate of one percent a



month must be added to the unpaid taxes calculated from the last penalty date. Additional property tax revenues derived from the operation of this section changing agricultural use property to some other use must be used only for the purpose of rolling back property tax millage.

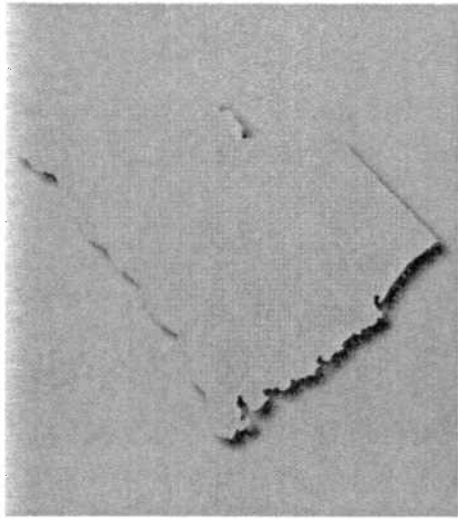
**SECTION 12-43-233.** Agritourism uses.

(A) In addition to and incidental to the uses required for real property to be classified as agricultural real property pursuant to Sections 12-43-220(d), 12-43-230(a), and 12-43-232, and subject to the restrictions contained in Section 12-43-220, and applicable regulations, uses of tracts of agricultural real property for “agritourism” purposes is deemed an agricultural use of the property to the extent agritourism is not the primary reason any tract is classified as agricultural real property but is supplemental and incidental to the primary purposes of the tract’s use for agriculture, grazing, horticulture, forestry, dairying, and mariculture. These supplemental and incidental agritourism uses are not an “other business for profit” for purposes of Section 12-43-230(a). For purposes of this section, agritourism uses include, but are not limited to: wineries, educational tours, education barns, on-farm historical reenactments, farm schools, farm stores, living history farms, on-farm heirloom plants and animals, roadside stands, agricultural processing demonstrations, on-farm collections of old farm machinery, agricultural festivals, on-farm theme playgrounds for children, on-farm fee fishing and hunting, pick your own, farm vacations, on-farm pumpkin patches, farm tours, horseback riding, horseback sporting events and training for horseback sporting events, cross-country trails, on-farm food sales, agricultural regional themes, hayrides, mazes, crop art, harvest theme productions, native ecology preservations, on-farm picnic grounds, dude ranches, trail rides, Indian mounds, earthworks art, farm animal exhibits, bird-watching, stargazing, nature-based attractions, and ecological-based attractions.

(B) The Department of Revenue by regulation may further define those uses qualifying as agritourism and appropriate definitions for “supplemental and incidental” as used in this section.

**SECTION 12-43-340.** Agricultural use application; false statement.

It is unlawful for a person knowingly and wilfully to make a false statement on the application required pursuant to Section 12-43-220(d)(3) to a county assessor for the classification of property as agricultural real property or for the special assessment ratio for certain agricultural real property. A person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than ~~two hundred~~ one thousand dollars.



# PROPERTY TAX

A REVIEW OF ISSUES IN SOUTH CAROLINA

SC DEPARTMENT OF COMMERCE

Bert Shuler

## INTRODUCTION

The property tax is the primary source of revenue for local government entities in the state of South Carolina. For instance, in 2008, the property tax represented 53% of all tax collections in South Carolina at the local government level. South Carolina is one of seventeen states that maintains a classified property tax system, in which property is assessed at different percentages of fair market value based on its classification. For example, owner occupied residential property is assessed at 4% of fair market value; whereas, motor vehicles are assessed at 6% of fair market value. In general, the fair market value of property is estimated from an appraisal and then multiplied by an assessment rate to determine assessed value. Finally, a millage rate is applied to the assessed value to calculate the tax liability. In 2008, the average millage rate in South Carolina was 297.6 mills.

Like other states, the state of South Carolina has been under considerable pressure in recent years to provide property tax relief to certain categories of taxpayers. In 1994, South Carolina exempted the first \$100,000 of the fair market value of owner occupied

property from the property tax imposed for school operating purposes, and in 2006, this exemption was increased to 100% of the fair market value of such property. South Carolina has also provided various optional sales and use taxes at the local level that are intended to reduce the property tax burden.

### Brief Overview of Economic Models

As a form of taxation, the property tax is appealing for many reasons. First, the property tax is a tax on wealth in the form of real and personal property, and these types of property are highly visible and relatively immobile. In short, it may be difficult or, in the case of real property, impossible to avoid the property tax by relocating to another jurisdiction. Wealth in the form of financial assets, precious metals, and art objects is not subject to the property tax in South Carolina. Second, local government services, including fire and police protection, emergency medical services, waste collection, parking, and sidewalk and road maintenance, directly benefit real and personal property owners. Finally, the property tax base is generally more stable than the income tax or sales tax base.

### Inefficiencies and Issues of the Property Tax

Whether at the federal, state, or local level, principles of efficiency and equity apply to all revenue systems. Furthermore, since the property tax is a major component of the local government revenue system, the principles of efficiency and equity should be preserved by the property tax system for that system to be effective. Efficiency refers to the effect a given tax or policy might have on the decisions of individuals. For instance, if a tax that has been implemented leads to unintended changes in individual decisions, the tax in question may be deemed to be inefficient. Equity refers to the fairness of a given tax or policy and may be viewed on interjurisdictional, horizontal, or vertical levels. The first refers to the treatment of individuals across municipalities and counties, and the second refers to the treatment of individuals with similar economic profiles. Finally, vertical equity refers to the treatment of individuals with different economic profiles or who consume different levels of public services. However, on the most basic level, if the property tax system promotes inefficiency or inequity, then the local revenue system will fail to fully benefit those it is intended to serve.

## PROPERTY TAX STRUCTURE IN SOUTH CAROLINA

Real property, business personal property, and other types of personal property are subject to ad valorem taxes in the state of South Carolina. Generally, property taxes are assessed by local governments; however, certain categories of property are assessed at the state level. For instance, taxes for real and personal property are valued and collected at the county level; whereas, taxes for motor carriers as well as manufacturing and utility property are valued and collected by the South Carolina Department of Revenue (SCDOR). SCDOR also values business personal property; however, SCDOR does not collect property taxes for this category. SCDOR certifies the assessment of business personal property to county auditors, and the auditors, in turn, compute and distribute the tax amount for billing. Property taxes collected by SCDOR are returned to the counties annually. Calculation of property taxes involves three factors: valuation, assessment, and millage.

### Valuation

Excepting agricultural real property and property subject to fee-in-lieu of tax agreements, real property is appraised to reflect fair market value. Reappraisal of real property for tax purposes is prompted by certain transfers of interest, the completion of improvements or additions, and periods of general reassessment. For a definition of qualifying transfers of interest in real property and improvements and additions to real property, see

South Carolina Code §12-37-3130(1) and 3150.

General reassessments of real property are performed every five years under county reassessment programs; although, a county may delay implementation of reassessed values for up to one year by ordinance. Assessors in each county maintain information related to the size, condition, and location of each parcel in their jurisdiction and conduct appraisals on the basis of comparable sales, income, and cost methods. For tax years after 2006, increases in the fair market value of real property as the result of a reassessment program are limited to 15% within a five year period. This restriction does not apply to adjustments to the fair market value of real property as the result of transfers of interest or the completion of improvements in the year those values are first subject to tax. See South Carolina Code §12-37-3140(B).

Time share units operating under a vacation time sharing plan are valued as if the unit was owned by a single owner. Vacation time sharing plans generally include plans in which the purchaser receives an ownership interest as well as the right of use of the property. However, time share units operating under a vacation time sharing lease plan, in which the purchaser generally receives the right of use without ownership, may be valued as other income producing property is valued.

In contrast to other types of real property, agricultural real property is valued according to use value methods. Use value is intended to reflect the ability of agricultural real property to produce farm income and is often much lower

than the fair market value of such property. For example, consider an agricultural parcel that might be worth more than its use value if it was subdivided for residential development. According to SCDOR, average use values of agricultural property range from \$100 to \$200 per acre. When the use of real agricultural property changes, the property is subject rollback taxes to capture the difference between the taxes assessed on the basis of the value for agricultural purposes and the taxes that would have been assessed if the property had been valued according to the new use for the current tax year and the immediately preceding five tax years. Manufacturing and business personal property is valued at historical cost less straight line depreciation allowances, provided the adjusted basis is greater than 10% of historical cost. See South Carolina Code §12-37-930.

Property of regulated utilities is valued according to unit valuation methods. Although not defined by statute, the unit valuation method is generally based on cost, income, and stock and debt methods. Motor vehicles are valued by nationally recognized valuation publications, provided the value in any given year does not exceed 95% of the value from the previous year. There is no state or local property tax on inventories or intangible personal property.

### Assessment

Assessment ratios are established in the South Carolina Constitution for each class of property and presented in the following table. See South Carolina Constitution Article X §1. The fair market value of property is multiplied by the

appropriate assessment ratio to calculate the assessed value of the property. Property taxes are then levied on the assessed value. The assessment rate for agricultural real property depends on the form of ownership. Corporate owners with more than ten shareholders; a shareholder, other than an estate, that is not an individual; a nonresident alien as a shareholder; or more than one class of stock are assessed at the rate of 6%. Other owners, including individuals, are assessed at the 4% rate. See South Carolina Constitution Article §1(4).

#### Assessment Ratios by Property Type

|  |              |
|--|--------------|
| <b>Primary Residence</b>               | <b>4.0%</b>  |
| <b>Agricultural (Private)</b>          | <b>4.0%</b>  |
| <b>Agricultural (Corporate)</b>        | <b>6.0%</b>  |
| <b>Other Real Property<sup>1</sup></b> | <b>6.0%</b>  |
| <b>Motor Vehicles</b>                  | <b>6.0%</b>  |
| <b>Other Personal</b>                  | <b>10.5%</b> |
| <b>Manufacturing</b>                   | <b>10.5%</b> |
| <b>Utility</b>                         | <b>10.5%</b> |
| <b>Business Personal</b>               | <b>10.5%</b> |
| <b>Motor Carrier</b>                   | <b>9.5%</b>  |

New and expanding businesses meeting certain capital investment requirements may substantially decrease the assessment rate applied to certain property categories by entering into a fee-in-lieu of property taxes (FILOT) agreement with the county in which their business operations are located. For example, a business investing at least \$2.5 million may reduce the assessment ratio for manufacturing or business personal

<sup>1</sup> The other real property category encompasses all real property other than owner occupied primary residential real property, including secondary residences and commercial and rental real property.

property from 10.5% to 6% over a period of twenty years under a FILOT agreement. During the period in which a FILOT agreement is in effect, the value of personal property is depreciated; whereas, the value of real property remains constant and, therefore, is not subject to inflationary increases. Furthermore, the minimum capital investment requirement is reduced to \$1 million for businesses investing in counties in which the average annual unemployment rate for the preceding twenty four months is at least twice the state average over the same period, and businesses committing at least \$45 million may qualify for a 4% assessment ratio for thirty years without inflationary increases.

#### Millage

Each county determines its tax rate annually by dividing the cost of its budget by the total assessed value of property in the county. The resulting figure is a fraction expressed in thousandths that is commonly referred to as the millage rate. Generally, a county may increase the millage rate year over year only to reflect changes in the resident population of the county or in the Consumer Price Index (CPI) for the preceding twelve months. However, a county may levy an additional millage for certain purposes identified in South Carolina law. See South Carolina Code §6-1-320(B). In 2008, the average millage rate in South Carolina was 297.6 mills.

In years of general reassessment, a special millage rate, referred to as the rollback millage rate, is used in place of the rate from the previous year. The rollback millage rate is calculated by dividing the property

tax revenues from the previous year by the total assessed value of property in the county for the current year, adjusted to reflect the new values from the general reassessment program as well as assessments for improvements or real property not previously subject to tax. This rate is generally lower than the millage rate from the previous year and prevents property tax revenues from increasing dramatically when a general reassessment program is conducted.

## PROPERTY TAX HISTORY IN SOUTH CAROLINA

Since its inception in 1915, the property tax has been an important source of general revenue for local governments in the state of South Carolina. The basic principles of the property tax system in South Carolina remain unchanged from those in place when the tax was first enacted. However, many of the more detailed property tax provisions have been amended in recent years.

#### A Timeline of Changes

In 1975, the South Carolina General Assembly passed Act 208, which required all real property to be valued at fair market value for tax purposes. Although arbitrary in the absence of a transaction, fair market value is intended to approximate the price at which a given piece of property would sell following reasonable exposure to the sales market. Generally, real property in South Carolina is appraised to determine fair market value. Act 208 also required the

classification of real property for assessment purposes.

The General Assembly exempted business inventories from property taxation in 1984 with the phase-in of the merchant's inventory tax exemption. See South Carolina Code §12-37-450. This provision exempted 17% of inventories in 1985, 50% in 1986, and 100% in 1987 and subsequent years. The merchant's inventory exemption also required reimbursement from the state of South Carolina to the counties annually in the amount of the general revenue not collected as a result of the exemption. In 2008, the South Carolina Board of Economic Advisors estimated the annual fiscal impact of the merchant's inventory exemption to be approximately \$40.6 million.

In 1990, the General Assembly passed Act 317, which established the local option sales tax in South Carolina.<sup>2</sup> See South Carolina Code §4-10-10 (A317, R329, H3739). The local option sales tax is an optional

1% general sales and use tax on nearly all taxable retail sales in a given county imposed to reduce the property tax burden on property owners in that county. A direct vote was held in all forty-six counties in November of 1990, and six counties adopted the local option sales tax immediately. As of 2009, thirty counties in South Carolina have implemented the local option sales tax.

*"Act 388 exempted 100% of the value of owner occupied property from the property tax imposed for school operating purposes."*

For participating counties, the General Assembly required at least 67% of the proceeds from the local option sales tax to be used to offset property tax revenues in 1990, and this requirement was scheduled to increase by 1% a year to 71% in 1994 and subsequent years. However, many counties that have implemented the local option sales tax have also elected to apply more than 71% of the proceeds to property tax relief. For example, in 2009, thirteen of the thirty counties imposing the local option sales tax applied 100% of receipts to offset property tax collections. In 2008, the local options sales tax accounted for approximately \$238.9 million of local government revenue across all counties in South Carolina. See table 9 on page 27 for a list of revenue raised in 2008 by the local option sales tax, the local accommodations tax, the local hospitality tax, and the capital

projects and transport taxes for each county.

Proceeds from the local option sales tax are collected by the South Carolina Department of Revenue and returned to participating counties less certain charges. These charges generally include an administrative charge and, for counties generating \$5 million or more from the local option sales tax, a contribution equal to 5% of gross receipts to a fund for the benefit of smaller, rural counties. The property tax relief provided by the local option sales tax is distributed to property owners in proportion to the market value of their property. Therefore, it is important to note that primary residential owners receive more relief proportionally than owners of other property types, since this category of property receives the lowest possible assessment rate.

In 1994, the General Assembly established the school property tax relief fund. See South Carolina Code §11-11-330. This provision exempted the first \$100,000 of all owner occupied property from the portion of the total millage applied for school operating purposes.<sup>3</sup> The General Assembly also altered the allowances for the depreciation of manufacturing personal property for property tax purposes in 1996. See South Carolina Code §12-37-935. Under the amended provision, the maximum allowed depreciation percentage for this category was increased from 80% in years prior to 1997 to 83.3% in 1997, 86.6% in 1998, and 90% in 1999 and subsequent years. Similar to the merchant's inventory exemption,

<sup>2</sup> In addition to the local option sales tax, other local taxes have been enacted to diversify local government revenues: the local accommodations tax, the local hospitality tax, and the capital projects and transport taxes. The local accommodations tax is a 2% sales and use tax, in addition to the 5% general sales and use tax and the 1% local option sales tax, on transient accommodations. The local hospitality tax is an optional 2% sales and use tax on prepared food, and the capital projects and transport taxes are additional sales and use taxes imposed to pay the debt service for certain capital projects. Restrictions apply to the use of funds collected from these taxes. For example, the state of South Carolina mandates that counties commit revenues from the local accommodations tax in excess of \$25,000 to tourism related projects. However, the imposition of these taxes serves to further diversify local government revenues and, in effect, reduce the total property tax burden.

<sup>3</sup> After the passage of Act 388 in 2006, the \$100,000 residential homeowners exemption is referred to as tier 1 property tax relief.

these changes created two special purpose funds, the state property tax relief and the depreciation property tax reimbursement funds, to reimburse the counties for lost revenue as a result of the amended legislation. In 2008, South Carolina counties received reimbursements of approximately \$255 million for the \$100,000 residential homeowners exemption and \$40.1 million for the manufacturers' depreciation allowance.<sup>4</sup> See table 8 on page 26 for a list of state reimbursements received in 2008 for each county.

**Property Taxes with the  
Homestead Exemption Credit**

|                          |                  |
|--------------------------|------------------|
| <b>Fair Market Value</b> | <b>\$100,000</b> |
| <b>Homestead Credit</b>  | <b>- 50,000</b>  |
| <b>Taxable Value</b>     | <b>50,000</b>    |
| <b>Assessment Ratio</b>  | <b>x .0400</b>   |
| <b>Assessed Value</b>    | <b>2,000</b>     |
| <b>Millage Rate</b>      | <b>x .2976</b>   |
| <b>Property Tax</b>      | <b>\$595</b>     |

The Homestead Exemption Act, originally passed by the General Assembly in 1972, was amended in 2001. The Act historically provided property tax relief in the form of a \$20,000 exemption against the current fair market value of the primary residence of a South Carolina citizen who is age sixty-five or older, legally blind, or permanently disabled. The 2001 amendment increased the credit from \$20,000 to \$50,000 per eligible individual. The preceding table illustrates the calculation of

property taxes with the homestead exemption credit.

Counties are also reimbursed from the state of South Carolina for tax revenue not collected as a result of the homestead exemption credit. Since 1998, reimbursements for the homestead exemption, the school property tax relief program, the manufacturer's depreciation tax exemption, and the merchant's inventory tax exemption have been funded through the South Carolina trust fund for tax relief, a special purpose fund that is funded by general appropriations, rather than through general fund expenditures. In 2008, South Carolina counties received approximately \$155.7 million in reimbursement for the homestead exemption.

In 2000, the General Assembly amended certain provisions of the South Carolina Constitution to reduce the assessment rate for personal motor vehicles from 10.5% to 6.0% over a seven year period. See South Carolina Constitution Article X §5(B)(1). As a result, the assessment rate for personal motor vehicles decreased by 0.75% per year from 10.5% in 2001 to 9.75% in 2002, 9.0% in 2003, 8.25% in 2004, 7.5% in 2005, 6.75% in 2006, and 6.0% in 2007 and subsequent years.

### Act 388

In 2006, the South Carolina General Assembly ratified Act 388. See South Carolina Code §6-1-320; §11-11-110, 150, and 156; §12-36-11 and 910; §12-37-25, 220, 223(A), 251, and 270; and §12-43-220 (A388, R417, H4449). Act 388 was perhaps the most comprehensive and controversial shift in property tax policy in South Carolina history. Furthermore, in addition to the immediate effects to the property

tax system, the provisions of Act 388 will have important long-term implications for education funding in the state of South Carolina.

A number of major policy changes were enacted by Act 388. First, Act 388 increased the general sales and use tax by 1% and reduced the sales and use tax on unprepared food items from 5% to 3%. The sales and use tax on unprepared food has since been further reduced from 3% to 0%. See South Carolina Code §12-36-910 and 2120. In addition, the act required general fund transfers from the education improvement act fund to offset lost revenues as a result of the reduced sales and use tax on unprepared food. Act 388 also created the homestead exemption fund and provided for the transfer to the fund of the additional revenue received from the 1% sales and use tax increase.

*"...other real property  
accounted for 34.7% of all  
property in 2008 while  
paying 41.1% of all  
property taxes."*

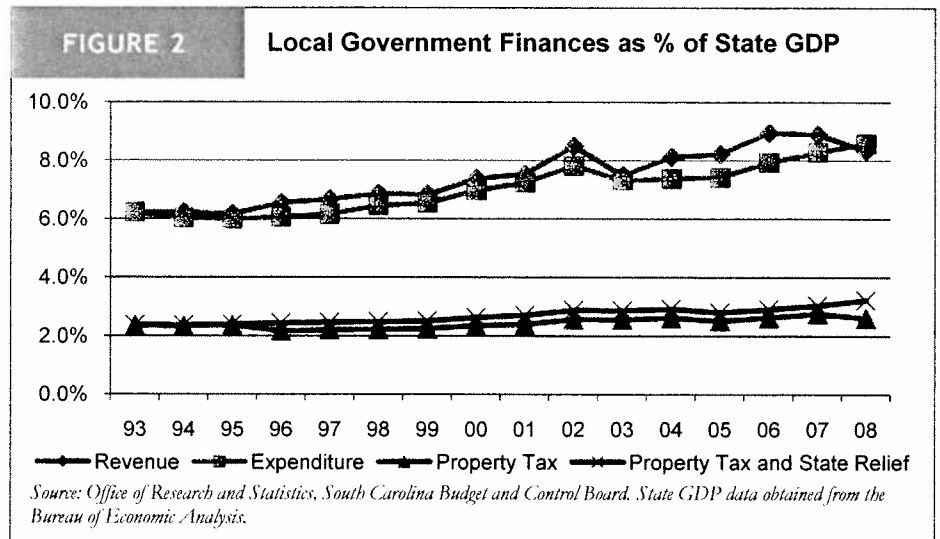
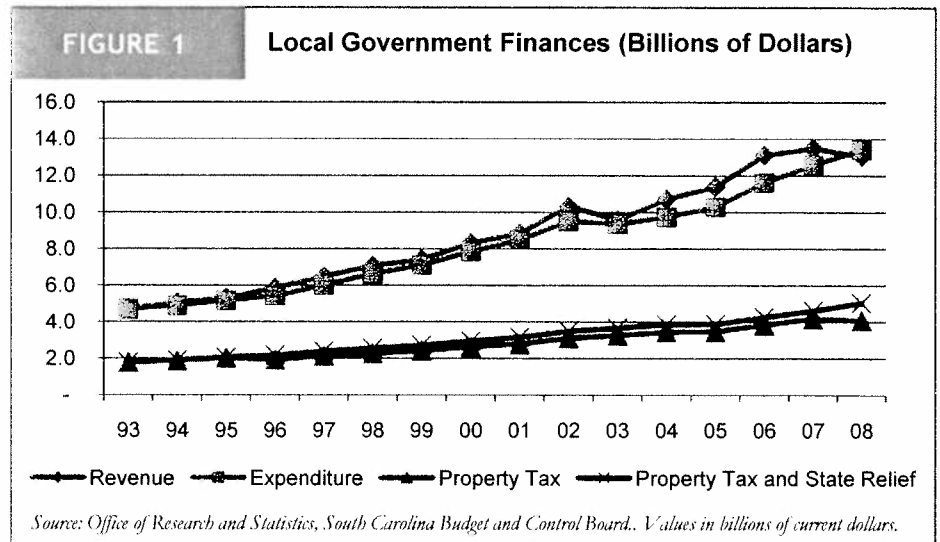
Second, Act 388 exempted 100% of the fair market value of owner occupied property from the property tax imposed for school operating purposes, excepting the property tax imposed for payment of general obligation debt. The act also established a two thirds vote requirement to further amend the 100% exemption. Furthermore, Act 388 limited the amount by which the fair market value of real property could increase as a result of a general reassessment program to 15% over a five year period.

<sup>4</sup> Unless otherwise noted, data was obtained from the *Local Government Finance Report* released annually by the South Carolina Budget and Control Board and the *Government Finance Statistics* released annually by the U.S. Census Bureau.

However, the limits imposed by the act do not apply to increases in value as a result of an assessable transfer of interest. See South Carolina Code §12-37-3140(B).

Finally, Act 388 established a tiered structure for state level reimbursements from the trust fund for tax relief to counties for certain property tax exemption categories. Tier 1 items include reimbursements for property tax relief related to the \$100,000 residential homeowners exemption established in 1994. Tier 2 items include reimbursements for the homestead exemption, and tier 3 items generally include additional reimbursements for the elimination of the property taxes assessed for school operating purposes under Act 388. Tier 3 items also include a \$2.5 million minimum state level disbursement to each county annually. See table 8 on page 26.

In combination with Act 388, the General Assembly passed the South Carolina Real Property Valuation Reform Act of 2006. This act requires real property to be appraised after an assessable transfer of interest, which includes conveyance by deed, by land contract, to a trust, by distribution from a trust or under a will, and by lease as well as a change of use of agricultural property subject to rollback taxes. As a result of an appraisal that is triggered by an assessable transfer of interest, real property sold between years of general reassessment is appraised for property tax purposes at fair market value at the time of sale. Property owners and local governments are strongly divided over the assessable transfer of interest provisions, and at the present, the South Carolina House



of Representatives is considering legislation to amend the point of sale provisions of Act 388 to postpone the implementation for property tax purposes of the new values as a result of an assessable transfer of interest until the next general reassessment program. See H3272 introduced in the South Carolina House of Representatives on January 14, 2009.

### Other Exemptions

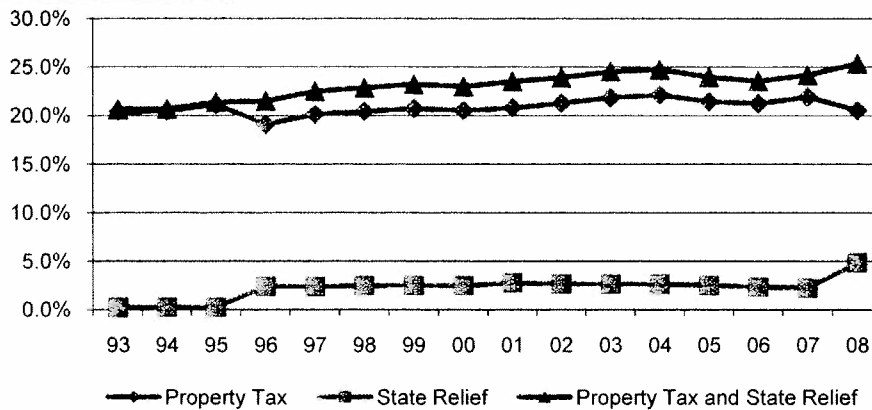
A number of exemptions are also available for certain categories of property owners. For example, a

newly constructed detached single family home offered for sale by a residential builder is exempt from property taxes until the earlier of the tax year in which the home is completed and a certificate of occupancy is issued or the tax year in which the home is sold. Further, a discount is available for lots that are in the process of being sold from subdivided acreage, provided the subdivision contains at least ten building lots. See South Carolina Code §12-43-224 and 225. Homeowners' associations may elect to have their property valued at the greater of \$500 per acre or



FIGURE 3

## Revenue as % of Assessed Value

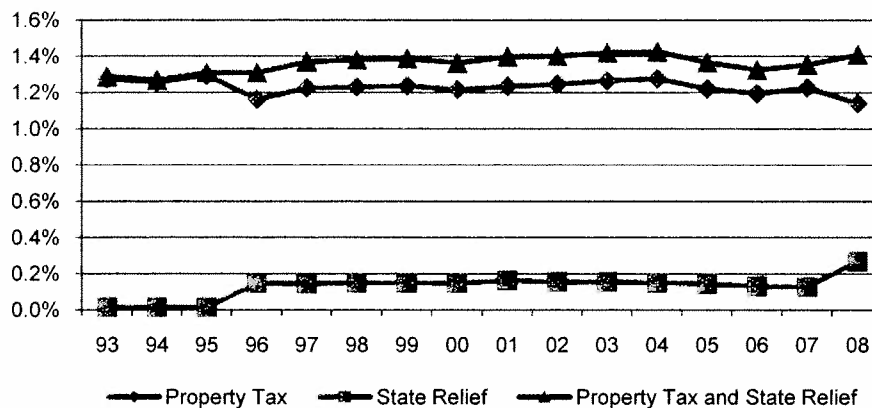


Source: Office of Research and Statistics, South Carolina Budget and Control Board.

apply, the subject property must be five acres or more in size and devoted to the active growth of timber for commercial use. If a given piece of property is used to grow timber but does not meet the five acre minimum, that property will qualify for the agricultural real property classification if it is under the same management as or is contiguous to other pieces of property that are not used to grow timber but otherwise qualify for classification as agricultural real property. See South Carolina Code §12-43-232.

FIGURE 4

## Revenue as % of Fair Market Value



Source: Office of Research and Statistics, South Carolina Budget and Control Board.

## STATE PROPERTY TAX REVENUES

Local government revenues in the state of South Carolina are mainly composed of property tax revenue, various local option taxes, licenses and fees, and aid from state and federal governments. State and federal aid includes both formula appropriations and special grants. Licenses and fees generally include business licenses, law enforcement fines, and fees for special services, including waste collection, parking, and emergency medical services. Other local taxes, including the local option sales tax, the local accommodations tax, and the local hospitality tax, are a small but growing source of revenue for local governments. Revenue from these local option taxes has increased from \$41.4 million in 1993 to \$644.9 million in 2008 or 20.1% compounded annually. However, these sources only represented 4.9% of total local government revenue in 2008. The property tax is the largest single source of local government revenue, representing over half of all revenue from local

an amount equal to the receipts of the association, not including dues from the members, divided by a capitalization rate of 20%. See South Carolina Code §12-43-227 and 230(d).

Licensed automobile dealers may be eligible to receive a certain number of dealer plates, provided the dealer sold at least twenty vehicles in the previous twelve months. For the first twenty vehicles sold, a given dealer is eligible to purchase two dealer plates at the price of \$20 per plate. For each additional fifteen

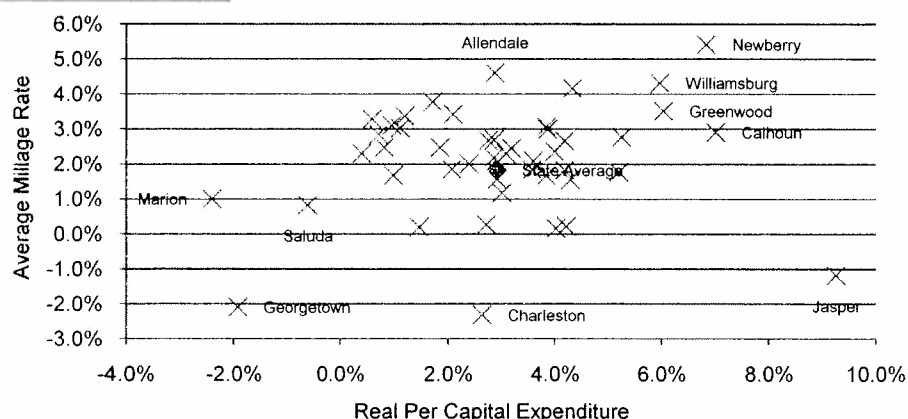
vehicles sold, the dealer is eligible to purchase one additional dealer plate. Each dealer plate is valid for the period of one year, and local property taxes are not assessed on vehicles bearing dealer plates. Furthermore, trailers used by motor carriers are subject to an \$87 fee in lieu of all property taxes upon initial registration. See South Carolina Code §12-37-2860 and 2880.

Finally, real property that is used to grow timber may eligible for classification as agricultural real property. For this classification to



FIGURE 5

Average Annual Growth Rates (2000 to 2008)



Source and notes: Office of Research and Statistics, South Carolina Budget and Control Board.

sources, not including state and federal aid, in recent years. In 2008, approximately 62.6% of the total revenue received by local governments in the state of South Carolina went to school districts, 20% to municipalities, and 13.4% to county governments.<sup>5</sup>

### Historical Trends

Total local government revenue, expenditure, and current property tax revenue for all South Carolina counties, on an absolute basis and as a percentage of gross state product, are shown in Figures 1 and 2. Since 1993, local revenue items have increased from approximately \$6.8 billion to \$17.8 billion or 6.6% compounded annually; whereas, property tax revenue has increased from approximately \$1.8 billion in 1993 to \$4.3 billion in 2008 or 6% compounded annually. Property tax revenue, including reimbursements

for property tax relief, has increased from approximately \$1.8 billion to \$5 billion or 7% compounded annually. Items of local government expenditure have increased from approximately \$6.6 billion to \$17.9 billion or 6.9% compounded annually.<sup>6</sup>

Two important points emerge from the figures presented above. First, although the dollar value of property tax collections has been increasing, property tax collections as a percentage of total local government revenue have been decreasing. For example, the property tax represented 37.7% of total local government revenue in 1993 and 33.3% of total revenue in 2008. Much of the difference, however, has been made up in the form of state reimbursement for property tax relief. Property tax revenue, adjusted to include state reimbursement for property tax

relief programs, represented 38.1% of local revenue in 1993 and 38.7% in 2008. Revenue collected at the local level for the property tax, however, has remained relatively constant when viewed in terms of both the value of taxable property in South Carolina and the level of state gross domestic product (GDP). Property tax revenue as a percentage of state GDP and as a percentage of the total assessed value and fair market value of taxable property is shown in Figures 2, 3, and 4 respectively.

Second, the level of expenditure by local governments has increased dramatically over the past sixteen years. As shown in Figure 2, total local government expenditure as a percentage of state GDP has increased from approximately 6.2% in 1993 to 8.6% in 2008, and annual percentage increases in the level of expenditure have far out-paced increases in the general price level and the population of the state. In contrast, property tax revenue as a percentage of state GDP and the total value of taxable property has remained fairly constant, varying from 2.2% to 2.8% and 19.1% and 22.1%, respectively.<sup>7</sup> Although one might expect the various property tax relief efforts to have reduced the total property tax burden, in terms of state output and property values, this does not appear to be the case.

<sup>5</sup> South Carolina Budget and Control Board, *2009 Local Government Finance Report*. The distribution of local government revenue across school districts, municipalities, and county governments has remained stable over time. In 1999, for example, the percentage distributions were 65.2% to school districts, 22.5% to municipalities, and 12.3% to county governments. Furthermore, over the past fifteen years, the average percentage distributions were 66.3%, 21.6%, and 12.1%, respectively.

<sup>6</sup> Adjusted for inflation, local revenue items have increased from \$8.7 billion in 1993 to \$16.4 billion in 2008 or 4.3% compounded annually, and property tax revenue has increased from \$2.3 billion to \$4.0 billion or 3.7% compounded annually. Property tax revenue, including reimbursements for property tax relief, has increased from \$2.4 billion to \$5.0 billion or 4.9% compounded annually. Local government expenditure has increased from \$8.4 billion to \$16.5 billion or 4.6% compounded annually.

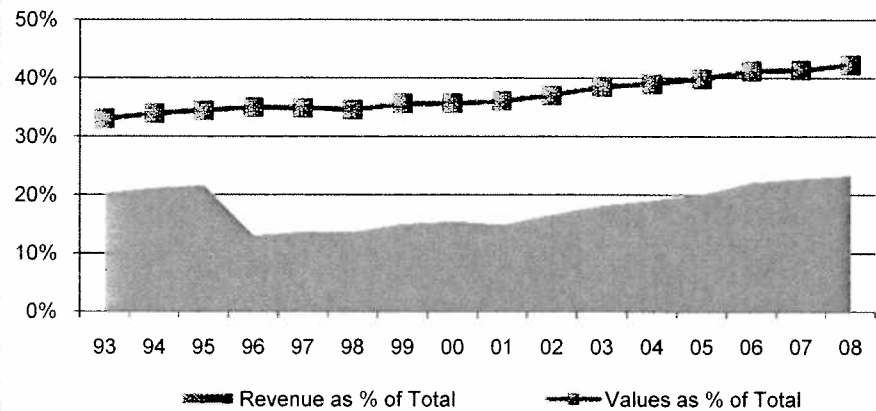
<sup>7</sup> Assessed value data was obtained from the South Carolina Budget and Control Board, and taxable value was approximated by dividing the total assessed value of each property category by the assessment rate and adjusting the resulting figure for exemptions applied to the taxable value. Taxable value or fair market for tax purposes may differ from actual fair market value for many reasons, including the 15% assessment cap and point of sale provisions implemented under Act 388 in 2006.

Real, per capita expenditure and average millage rates at the local government level, however, have not remained constant. Across all counties, per capita expenditure in chained 2005 dollars has increased from \$1,649 in 1993 to \$2,762 in 2008, an increase of 67.5% or 3.5% compounded annually. From 2000 to 2008, Georgetown, Marion, Oconee, and Saluda were the only South Carolina counties in which real expenditure per capita did not increase. Furthermore, the average state-wide millage rate increased from 245.7 mills in 1993 to 297.6 in 2008 or 1.3% percent compounded annually. Over this period, only Beaufort, Charleston, Georgetown, and Jasper counties reduced their average annual millage rate. Figure 5 shows the average annual compounded growth of millage rates and per capita expenditure for all forty six South Carolina counties from 2000 to 2008.

It is important to note that the local government revenue system in the state of South Carolina is largely expenditure driven. Local governments set millage rates on the basis of the anticipated level of expenditure for the next fiscal year, provided the millage rate does not increase year over year by more than the sum of the increase in the consumer price index and the increase in the population in the county. However, if state-level reimbursements for property tax relief and other revenue sources are also increasing, the level of local government expenditure can increase more quickly. Therefore, any efforts to reform the property tax system in South Carolina must first address issues related to local expenditure. Ideally, given the increasing diversification of local revenue sources, local government

FIGURE 6

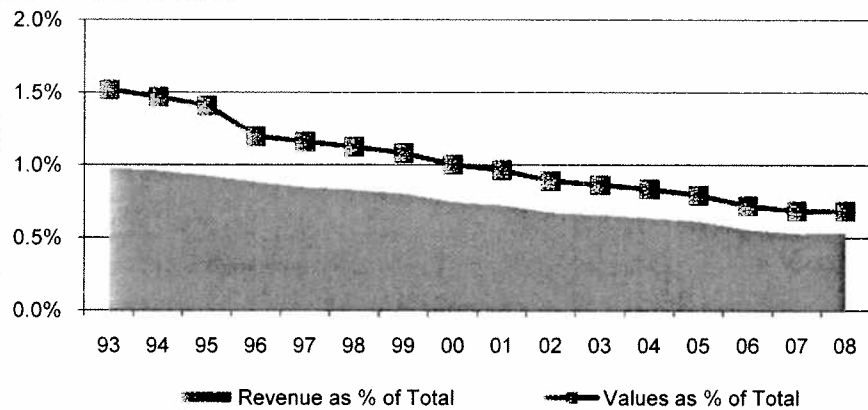
## Primary Residence Tax Revenue and Values



Source and notes: Office of Research and Statistics, South Carolina Budget and Control Board.

FIGURE 7

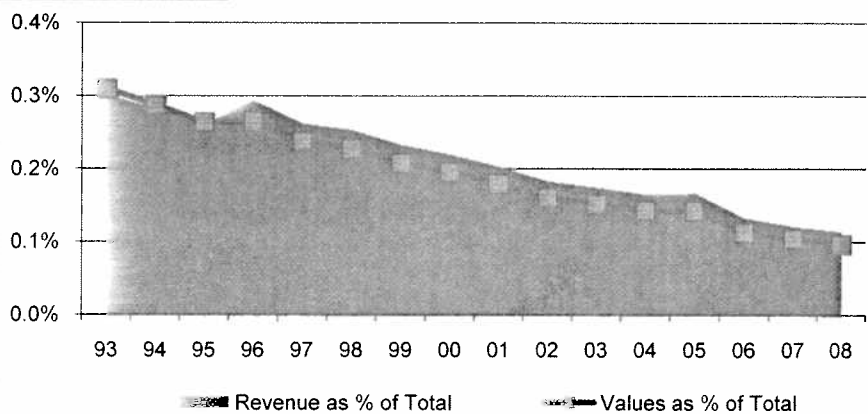
## Agricultural (Private) Tax Revenue and Values



Source and notes: Office of Research and Statistics, South Carolina Budget and Control Board.

FIGURE 8

## Agricultural (Corp.) Tax Revenue and Values



Source and notes: Office of Research and Statistics, South Carolina Budget and Control Board.

expenditures should be constrained in relation to the total local tax base, including reimbursement for property tax relief programs from the state, rather than the property tax base alone.

### A Detailed View of Property Tax Collections

Total property tax revenue and fair market values for each property category as a percentage of total revenue and values, respectively, are shown in figures 6 through 13.<sup>8</sup> As illustrated in these figures, the composition of revenue from the property tax changed significantly between 1993 and 2008. In 1993, approximately 20.4% of property tax revenue was collected from primary residences; 1.3% from private and corporate owned agricultural property; 28.6% from second residences and other real property; 14.6% from motor vehicles; and 35.1% from business and other categories of personal property, including fee in lieu of taxes agreements.<sup>9</sup> However, by 2008, approximately 23.4% of property tax revenue was collected from primary residences; 0.7% from private and corporate agricultural property; 41.1% from second residences and other real property; 10.5% from motor vehicles; and 24.3% from business and other personal property.

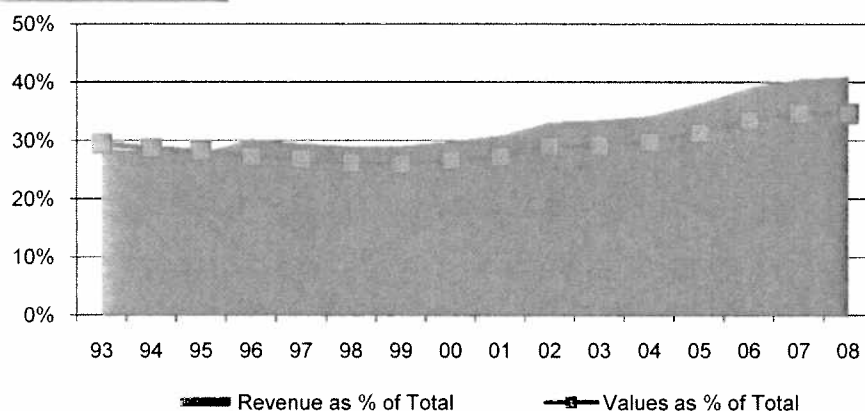
Furthermore, the distribution of taxable values across property tax categories changed between 1993 and 2008. However, changes in the

<sup>8</sup> Taxable values presented in figures 6 through 13 are approximated using data obtained from the South Carolina Budget and Control Board. See footnote 7.

<sup>9</sup> Since property tax revenue from agricultural property has historically been small, the private and corporate agricultural real property categories are combined in figures 12 and 13.

FIGURE 9

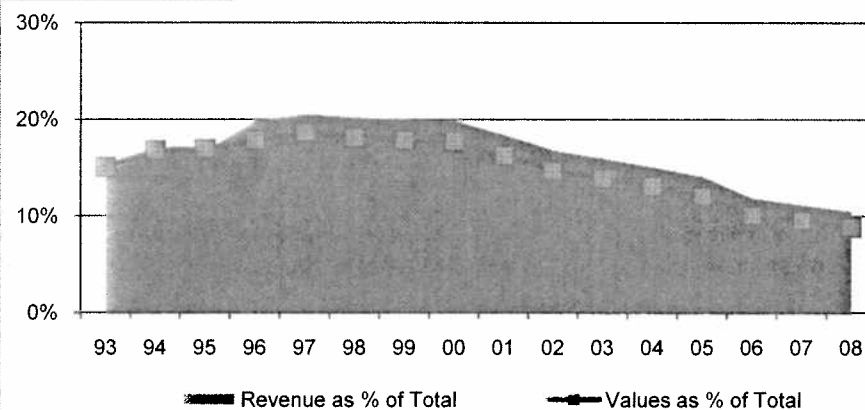
Other Real Property Tax Revenue and Values



Source and notes: Office of Research and Statistics, South Carolina Budget and Control Board.

FIGURE 10

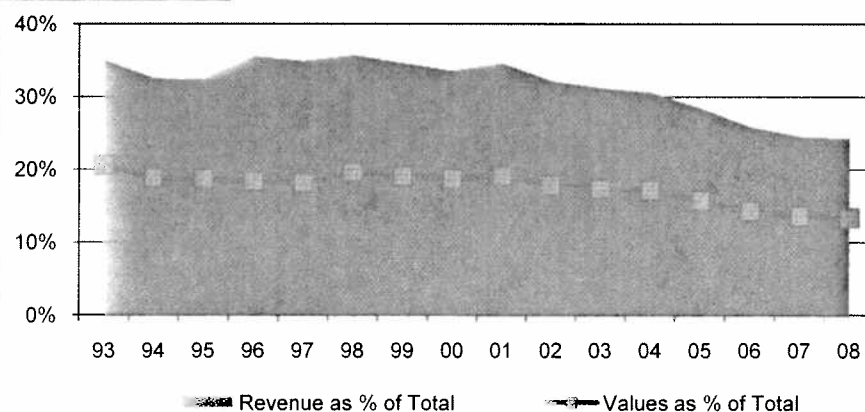
Motor Vehicles Tax Revenue and Values



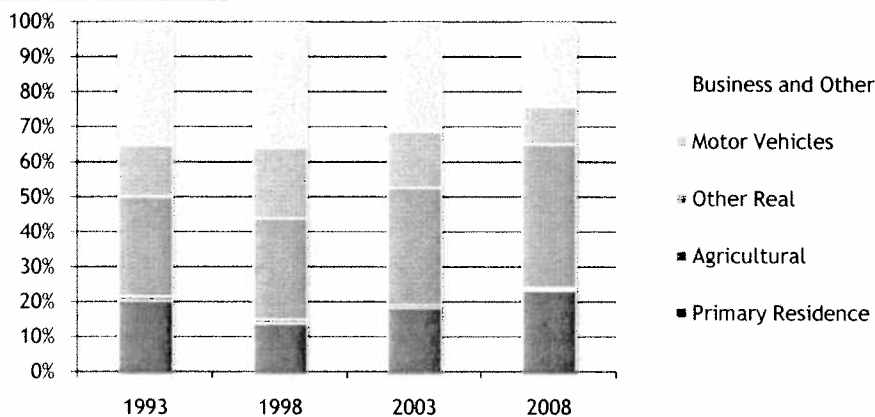
Source and notes: Office of Research and Statistics, South Carolina Budget and Control Board.

FIGURE 11

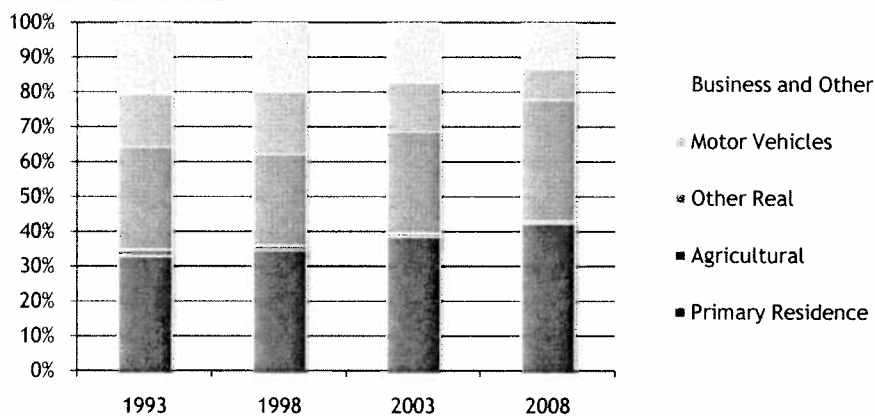
Business and Other Tax Revenue and Values



Source and notes: Office of Research and Statistics, South Carolina Budget and Control Board.

**FIGURE 12** Distribution of Property Tax Revenues by Category

Source and notes: Office of Research and Statistics, South Carolina Budget and Control Board.

**FIGURE 13** Distribution of Property Values by Category

Source and notes: Office of Research and Statistics, South Carolina Budget and Control Board.

distribution of revenues and values did not always occur together or even in the same direction. For example, owner occupied primary residences represented 33% of all taxable property in 1993 and 42.3% in 2008. However, this property category only paid 20.4% and 23.4% of all property taxes in 1993 and 2008, respectively. In contrast, the other real property category, which include secondary residences and commercial and rental real property, accounted for 29.5% and 34.7% of all taxable property in 1993 and 2008 but paid 28.6% and 41.1% of all property taxes in these

years. Business and other personal property accounted for 20.6% and 13.4% of all taxable property in 1993 and 2008 but paid 35.2% and 24.3% of all property taxes. The share of property taxes and values for motor vehicles has been roughly in proportion, and in terms of both measures, agricultural property as a percentage of the total has been in decline. Historical differences between the tax revenues and fair market values across property tax categories raise important issues of equity in the property tax system in South Carolina.

## South Carolina Versus Other States

The basic principles of the property tax system do not vary from state to state. For instance, property is generally appraised to determine fair market value and multiplied by an assessment rate to determine assessed value. Finally, a millage rate is applied to the assessed value to calculate the tax liability. However, detailed provisions of the property tax systems in place across states differ significantly. For example, the property tax system in South Carolina differs from the property tax systems in neighboring regional states in many respects. First, although seventeen states nationwide have a classified assessment system, South Carolina has the most individual categories. Second, South Carolina is one of the only states in the southeast that applies a different assessment rate to primary residential real property and other real property types. A brief overview of the property tax systems in effect in neighboring southeastern states is provided in the following sections.

### Alabama

Alabama has four primary property classifications for the purpose of tax assessments. Utility property is assessed at a rate of 30% of fair market value. Owner occupied residential, agricultural, and forest property is assessed at a rate of 10%. Private motor vehicles are assessed at a rate of 15%, and all other property is assessed at a rate of 20%. Local governments are the main beneficiaries of the property tax; however, a portion of property tax revenue is collected by the state for other uses. The average county millage rate was 25.1 mills

in 2008, and the average state millage rate was 6.5 mills. Alabama offers a homestead exemption as well with two tiers. The first tier exempts all homeowners from the first \$4,000 in state property taxes and the first \$2,000 in local taxes. The second tier exempts citizens who are sixty-five or older and have less than \$12,000 of adjusted gross income from an additional \$5,000 in state and local property taxes. The tier two exemption also applies to veterans and those who are disabled. All real property in Alabama is appraised annually for property tax purposes.

#### Florida

Florida assesses all property at a rate of 100% of fair market value; however, the average county level millage rate was only 21 mills in 2008. Florida offers a homestead exemption of \$50,000, but unlike other states, the exemption applies to all homeowners. An additional exemption of \$50,000 is available for Florida property owners who are age sixty-five or older, subject to certain income limitations. All household personal property and business inventories are exempt from tax. Other items of personal property, including motor vehicles, boats, and airplanes, are not taxable under Florida law. Like South Carolina, Florida has also limited the amount by which the appraised value of real property can increase annually as a result of general reassessment to the lesser of 3% or the annual change in the CPI. Real property in Florida is assessed once each year.

#### Georgia

Property in Georgia is assessed at the flat rate of 40% of fair market value unless a special assessment

rate has been otherwise specified by law. Several property categories qualify for special treatment for assessment purposes. First, historic property is assessed at a discounted assessment rate based on historical classification. Second, agricultural property is assessed at a rate of 30%. Third, residential transition, conservation, and environmentally sensitive property are assessed on the basis of use value rather than fair market value. Finally, timber is assessed at 100% of fair market value but only at the time of sale. Once the assessed value has been determined, a local millage rate and a state millage rate are applied. In 2008, the average county and municipal millage rate was 30 mills, and the average state millage rate was 0.3 mills. Georgia offers a homestead exemption and the freeport exemption. The first exempts \$2,000 of assessed value for all primary residential owners. The homestead exemption also exempts all property and up to ten adjoining acres of land from taxes for individuals age sixty-five and older and the first \$50,000 of assessed value for individuals who are disabled and veterans. The second exempts inventories from assessment for tax purposes. Real property in Georgia is reassessed every year.

#### Louisiana

In Louisiana, property is separated into six categories for assessment purposes. All land, both residential and commercial, is assessed at a rate of 10% of fair market value. Residential buildings are assessed at a rate of 10%, and commercial buildings are assessed at a rate of 15%. Personal property is assessed at 15%. All public service property is assessed at 25% of fair market

value; however, certain categories of public service property, which includes the property of airlines, railroads, and utilities, is only assessed at a rate of 15%. Property taxes with respect to all public service property are assessed and collected by the Department of Revenue in Louisiana. Agricultural real property is assessed at a rate of 10% of use value, and use values typically range from \$30 per acre for salt-water marsh land to \$400 per acre for quality timber land. In 2008, the average county millage rate in Louisiana was 101 mills.

*"...other real property accounted for 34.7% of all property in 2008 while paying 41.1% of all property taxes."*

All primary residential property owners in Louisiana are eligible to receive a homestead exemption of \$7,500 of the assessed value of the subject property for the duration of ownership. Furthermore, senior citizens, disabled individuals, and widows of certain veterans can apply to have the assessed value of their primary residence frozen for property tax purposes. Finally, a tax exemption is available for new manufacturers in Louisiana as well as for existing manufacturers who make capital additions to existing facilities for a five year period. These agreements are negotiated with the Department of Economic Development, and specific terms of vary based on a variety of factors. All real property in Louisiana is appraised for tax purposes every four years.

## Mississippi

Property in Mississippi is classified into five categories for property tax purposes. Single family primary residential property is assessed at a rate of 10% of fair market value. All other real property, except the property of utilities, is assessed at a rate of 15%. Personal property, except motor vehicles, is assessed at a rate of 15%, and property of public utilities is assessed at 30%. Motor vehicles are also assessed at a rate of 30%. In contrast to many neighboring states, Mississippi does impose a property tax on business

inventories, which are considered personal property under the rates outlined above; however, certain categories of goods that will be shipped out of state are exempt from assessment for tax purposes. In 2008, the average millage rate in Mississippi was 103.2 mills.

All home owners in Mississippi are eligible for a homestead exemption that varies in amount depending on the value of the home in question. Furthermore, home owners over the age of sixty-five are eligible for a homestead exemption of up to \$75,000 from the fair market value

of their property. Disabled citizens and veterans are also eligible for special treatment for tax purposes. Mississippi requires all counties to conduct reassessment programs for real property at least once every four years.

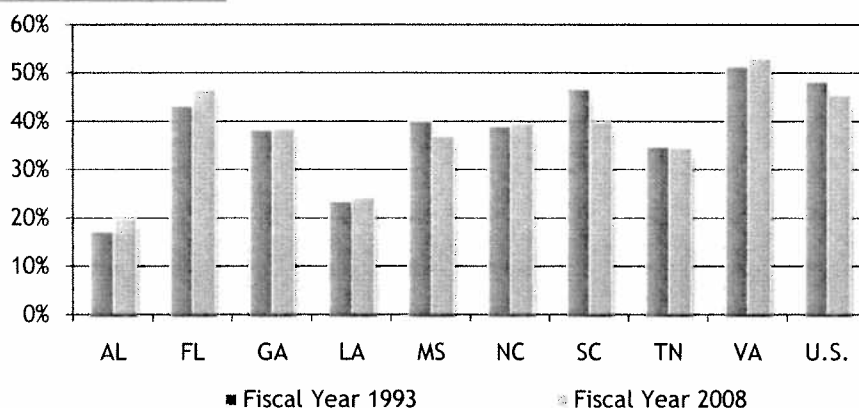
## North Carolina

North Carolina makes a distinction between three property categories, real property, motor vehicles, and personal property, but all property is assessed at the rate of 100% of fair market value. Although, the assessment rate is much higher than those in neighboring states, North Carolina local governments typically impose a lower millage rate. For example, in 2008, the average effective county millage rate was 6.2 mills, and the average municipal millage rate was 4 mills. North Carolina provides exemptions to the elderly, veterans, and the disabled. Business inventories and household personal property are exempt from the property tax. The property tax in North Carolina is assessed and collected by local governments; the North Carolina Department of Revenue does not assess or collect property taxes. All counties in North Carolina are required to conduct appraisals of real property at least once every eight years.

## Tennessee

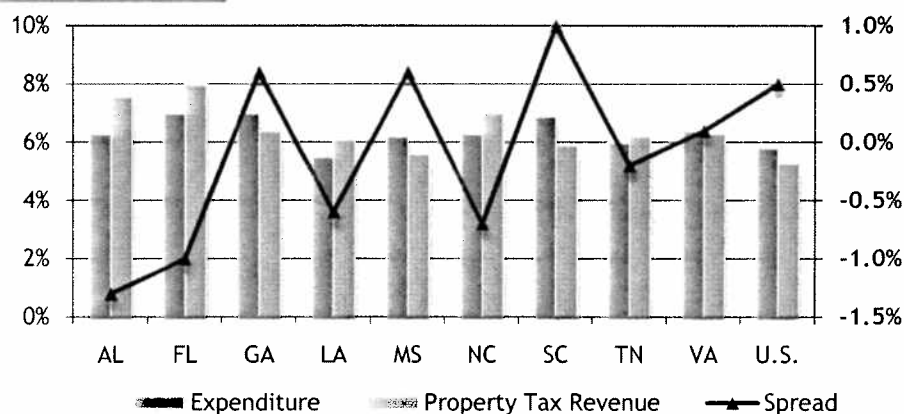
Property in Tennessee is classified into five categories for property tax assessments. Utility property is assessed at a rate of 55% of fair market value. Primary residential property is assessed at a rate of 25%, and commercial and industrial real property is assessed at a rate of 40%. Finally, business personal property is assessed at 30%, and agricultural property is assessed at

**FIGURE 14** Property Tax Revenue as % of Local Revenue



Source and notes: 2008 Annual Survey of State and Local Government Finances, U.S. Census Bureau.

**FIGURE 15** Annualized Growth Rates (1993 to 2008)



Source and notes: 2008 Annual Survey of State and Local Government Finances, U.S. Census Bureau.



25%. The average millage rate was 31.4 mills in 2008. Tennessee does not offer exemptions for property tax relief, and all property owners are required to pay their property taxes in full. However, the state makes reimbursements directly to certain property owners which, in effect, serves as a form of property tax relief. Eligible property owners include the elderly and disabled.

In November 2006, the Tennessee legislature approved a local option property tax freeze for property owners who are sixty-five or older and have an annual income that is below the limit established by the county in which they reside. See Tennessee Constitution Article II §28. Property taxes for owners who qualify for the program are frozen at the amount owed in the first year of eligibility, and this amount does not change unless the subject property is sold or improved. Real property in Tennessee is appraised for tax purposes every four to six years. Between years of appraisal, fair market values are changed in response to transfers of ownership and completion of improvements.

### Virginia

Virginia assesses all property at a rate of 100% of fair market value, and in 2008, the average millage rate was 18.9 mills. Virginia offers tax relief to the elderly and the disabled as well as abatements for certain residential and commercial revitalization projects. In contrast to other states, a large number of Virginia homeowners pay property taxes to their servicer as part of their monthly mortgage payment. Those homeowners who do not pay their property taxes in this manner are billed in equal installments twice each year. Virginia appraises real property annually.

### State Comparison Summary

Figures 14 and 15 emphasize two important fiscal trends for local governments in the state of South Carolina relative to other states in the southeastern region. First, figure 14 shows property tax revenue as a percentage of total local government revenue for the years 1993 and 2008. Over this period, South Carolina was the only state in the region that experienced a substantial decrease in property tax revenue as a percentage of local government revenue, and this decrease was also much larger than the national trend. Second, figure 15 shows the compounded growth of local government expenditure and property tax revenue between 1993 and 2008. Again, South Carolina stands in sharp contrast to other states in the southeastern region. From 1993 to 2008, the difference between the growth of expenditure and property tax revenue in South Carolina was greater than all of the other southeastern states and the national average.

*“...an increase in the millage rate effectively gives counties a mechanism to increase actual taxes by an amount that is greater than the sum of CPI and population growth.”*

Finally, table 7 on page 25 highlights an additional trend relative to the analysis of the property tax system in South Carolina. As mentioned above, residential property owners in the

state of South Carolina pay lower property taxes in proportion to the value of their property than owners of any other property tax category. However, it is also important to note that residential property owners in the state of South Carolina pay some of the lowest taxes when compared to owners in neighboring states. For instance, table 7 shows primary residential property taxes paid as a percentage of both home values and median income for the nine states in the Southeastern region and the nation as a whole. On the basis of both measures, only three states in the region have lower residential property taxes than the state of South Carolina.

## RECOMMENDATIONS

The property tax has been the most important source of revenue for local governments in the state of South Carolina. However, a number of opportunities exist to promote a greater degree of equity and efficiency in South Carolina's property tax system.

### 1. Limit Millage Rate Increases

At the present, the millage rate in a given county can increase year-to-year by the sum of the annual percentage change in the CPI and the resident population for the past twelve months. However, this approach potentially suffers from two closely related problems. First, the factors from which allowable millage increases are determined certainly impact the property tax base as well. For example, one would expect higher prices to at least partially reflect higher real and personal property prices, and a

larger population would be expected to demand a larger quantity of personal property and greater improvements to real property as well. If rising prices and a larger population lead to higher taxable property values as well as a higher quantity of property demanded, then an increase in the millage effectively gives counties a mechanism to increase actual taxes by an amount that is greater than the sum of CPI and population growth.

*“...any efforts to reform the property tax system in South Carolina must address issues related to local government expenditure.”*

Second, millage rates are currently allowed to increase over time with no mechanism for decreases other than the express will of county governments or years of general reassessment in which a rollback millage calculation is substituted. Taken at the extreme, if the average state-wide millage rate of 297.6 mills was compounded at 3.9%, the sum of the average annual increase in the CPI of 2.5% and the average annual increase in the resident population in South Carolina of 1.4% over the past fifteen years, then the millage rate would reach 1,000 mills in thirty two years. If the average annual increase in the average millage rate in South Carolina of 1.3% over the past fifteen years was used instead, which would consider adjustments for years of rollback millage rates, then the millage rate would grow to 1,000 mills in ninety four years. Other percentage tax

rates are set at a certain level and adjusted only periodically. As a result, individuals, businesses, and governments are able to form an expectation of their tax liability or tax revenue with a higher degree of confidence. Perhaps these same agents would be better served if property tax rates were considered in the same manner.

## 2. Eliminate Exemptions

A number of the available property tax exemptions either allow similar categories of property to be treated differently for property tax purposes or are subject to some degree of abusive practices. First, both real and personal property that is owned by a homeowners' association (HOA) should be assessed in the same manner as real and personal property that is owned individually or under some other form of ownership. At the present, an HOA may elect to have its property valued at the greater of \$500 per acre or an amount equal to the receipts of the association, not including dues from the members, divided by a capitalization rate of 20%. See South Carolina Code §12-43-227 and 230(d). However, this method effectively allows owners of identical property types to be treated differently for property tax purposes. For example, if an HOA and an individual each owned a comparable type of swimming pool, their property tax liability would be calculated differently. Given that the principle use of these property types will typically be the same, equity would require that they are assessed under the same methods.

Second, the minimum requirements for real property used to grow

timber to qualify as agricultural real property may allow property owners who are not devoted to the growth of timber for commercial purposes to claim the exemption. To meet the current requirements, timber property must be at least five acres. See South Carolina Code §12-43-232. However, according to the United States Department of Agriculture, the average tract of timber property in South Carolina was approximately fifty six acres in 2008. Increasing the minimum to acreage requirement to ten or fifteen acres would further reduce the potential for abusive practices related to the use value treatment of timber property. Finally, if the period of time subject to rollback taxes after a change in use of agricultural real property was increased from five years to ten years or more, the difference between the use value of the subject property and its fair market value based on the change in use would be better captured.

## 3. Modify Assessment Rate for Real Property

Owner occupied primary residential real property is currently assessed at the rate of 4% while other real property, including residential real property that is not owner occupied, is assessed at the rate of 6%. Furthermore, most of the property tax relief programs that are intended to reduce the property tax burden for residential real property owners are available only to owners of residential real property who also occupy their property. As a result, home owners seem to be favored over landlords and other owners of real property from a policy standpoint.



Many tax systems divide liability at least partially in consideration of the ability to pay of the taxpayer, and for this reason, distributing the property tax burden on the basis of the form of ownership is not without merit. For example, landlords and corporate owners of real property are generally engaged in commercial efforts while home owners are not. Furthermore, although the use of the property is identical in the case of home owners and landlords, home owners may not possess the same general ability to pay as landlords. However, the characteristics of the occupant are as important as the characteristics of the owner in distributing the tax liability for owners of real property.

The comparison of home owners and landlords illustrates some of the problems encountered when certain real property types are treated differently for property tax purposes. All else remaining constant, when landlords are faced with increases in their costs, they will attempt to pass as much of the cost increase as possible to their tenants in the form of higher rents. The degree to which landlords may successfully pass cost increases to their tenants will, over a period of time, depend on the relative sensitivity of the landlord and the tenant to changes in cost. If tenants are less sensitive to cost increases, then landlords will more successfully pass their cost increases to tenants, and as a result, tenants will pay a larger portion of the cost increase than the landlord will.

Since tenants face costs associated with moving to a new apartment, it is fair to assume that landlords are able to pass at least a portion of

their cost increases to tenants. If landlords are assessed at a higher assessment rate than home owners and tenants consequentially face rent increases by some factor of proportionality, then differences in assessment rates will lead to lower ownership costs relative to rental costs for real property. Further, if primary residential owners embody a more affluent demographic than renters or if home owners and renters consume similar levels of local government services, then the current property tax structure is regressive to the lower demographics.

Equity would require that these disparities are eliminated by either increasing the assessment rate for home owners, reducing the assessment rate for owners of other real property, or some combination thereof. In fact, only three states in the Southeastern region, Alabama, Mississippi, and Virginia, assess these two property types differently.<sup>10</sup> Leveling the assessment rates for real property would also limit the potential for abusive practices related to the classification of owner occupied primary residential real property. Currently, owners of primary and second homes who are married may be able to classify both homes as owner occupied by maintaining ownership in the name of both spouses separately, and at the very least, these owners may attempt to claim the home of higher value as

their primary residence to reduce their property tax bill. Further, reducing the assessment rate for owners of other real property would reduce the disincentive for investment in other real property that is promoted by the current policy. Finally, eliminating the disparity between the treatment of these property types would limit the benefits of FILOT agreements, which generally favor new owners and employers at the expense of existing ones.

## CONCLUSION

For nearly one hundred years, the property tax system has effectively served as a major revenue source for local governments in the state of South Carolina. However, there are many aspects of this system that could be improved. First, all real property should be treated the same for property tax purposes. Second, several of the available exemptions should be amended to limit the potential for abusive action. Finally, millage rates increases should be limited, and adjustments should only occur periodically. As a result of these changes, the property tax system in South Carolina would promote a greater degree of efficiency and equity for all property owners.

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<sup>10</sup> Louisiana also assesses owner occupied primary residential real property and other real property differently; however, the differences are small in comparison to the assessment rates in Alabama, Mississippi, and Virginia. All land in Louisiana, both residential and commercial, is assessed at a rate of 10% of fair market value. Residential buildings are assessed at a rate of 10%, and commercial buildings are assessed at a rate of 15%.

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## Appendix

Table 1. Property Tax Revenues by County

{Values in \$000's}

| County       | 2003        | 2004        | 2005        | 2006        | 2007        | 2008        | 5 Year<br>Growth Rate |
|--------------|-------------|-------------|-------------|-------------|-------------|-------------|-----------------------|
| Abbeville    | 13,327.1    | 14,602.0    | 12,977.8    | 14,471.6    | 13,444.1    | 13,221.5    | -0.2%                 |
| Aiken        | 85,617.8    | 97,640.2    | 94,292.9    | 104,301.1   | 108,562.9   | 106,711.8   | 4.5%                  |
| Allendale    | 8,049.9     | 9,272.7     | 10,188.1    | 9,713.6     | 9,699.6     | 9,706.1     | 3.8%                  |
| Anderson     | 119,471.1   | 131,992.3   | 129,615.1   | 139,289.4   | 139,092.9   | 130,359.6   | 1.8%                  |
| Bamberg      | 8,743.2     | 9,917.4     | 9,525.5     | 10,943.2    | 10,449.1    | 9,884.9     | 2.5%                  |
| Barnwell     | 12,845.1    | 13,959.4    | 13,042.9    | 14,415.9    | 15,542.6    | 15,743.6    | 4.2%                  |
| Beaufort     | 166,928.9   | 177,803.3   | 192,293.6   | 221,948.1   | 247,104.4   | 237,972.3   | 7.3%                  |
| Berkeley     | 78,728.5    | 83,185.9    | 83,861.0    | 108,852.9   | 111,480.8   | 108,910.6   | 6.7%                  |
| Calhoun      | 11,317.5    | 11,523.6    | 11,196.9    | 14,240.6    | 14,529.2    | 15,648.1    | 6.7%                  |
| Charleston   | 310,976.5   | 336,660.2   | 350,838.4   | 466,460.8   | 480,027.4   | 417,173.1   | 6.1%                  |
| Cherokee     | 47,480.9    | 45,409.3    | 44,257.3    | 46,067.1    | 46,020.4    | 49,719.4    | 0.9%                  |
| Chester      | 24,705.6    | 26,125.3    | 27,242.5    | 27,759.1    | 28,658.1    | 30,219.1    | 4.1%                  |
| Chesterfield | 22,124.6    | 23,139.4    | 23,547.0    | 23,710.4    | 25,236.8    | 25,815.4    | 3.1%                  |
| Clarendon    | 16,144.5    | 17,305.1    | 17,771.4    | 19,521.3    | 19,234.0    | 19,828.4    | 4.2%                  |
| Colleton     | 25,115.2    | 29,275.8    | 24,415.7    | 30,494.2    | 34,525.3    | 37,095.4    | 8.1%                  |
| Darlington   | 39,469.7    | 40,808.9    | 40,714.3    | 43,610.5    | 46,792.6    | 44,104.1    | 2.2%                  |
| Dillon       | 11,484.7    | 12,848.2    | 11,325.9    | 13,596.4    | 14,666.5    | 14,273.2    | 4.4%                  |
| Dorchester   | 66,418.2    | 71,166.9    | 72,172.0    | 85,526.1    | 95,111.9    | 92,880.2    | 6.9%                  |
| Edgefield    | 13,405.4    | 14,736.9    | 13,945.7    | 15,134.1    | 16,843.9    | 15,781.3    | 3.3%                  |
| Fairfield    | 32,225.9    | 32,381.0    | 32,527.8    | 37,733.9    | 37,988.4    | 38,649.8    | 3.7%                  |
| Florence     | 77,226.5    | 81,715.1    | 82,825.5    | 88,525.0    | 95,966.6    | 84,242.0    | 1.8%                  |
| Georgetown   | 59,861.4    | 61,887.6    | 61,225.4    | 68,377.9    | 80,237.8    | 81,522.6    | 6.4%                  |
| Greenville   | 308,974.0   | 323,034.3   | 326,227.3   | 270,914.7   | 350,568.3   | 325,779.2   | 1.1%                  |
| Greenwood    | 53,550.4    | 55,912.8    | 55,598.4    | 58,569.8    | 62,997.7    | 61,109.4    | 2.7%                  |
| Hampton      | 12,294.1    | 14,464.6    | 15,276.4    | 15,990.7    | 16,637.2    | 17,182.8    | 6.9%                  |
| Horry        | 223,795.4   | 239,208.4   | 234,577.3   | 291,930.0   | 322,280.0   | 350,669.5   | 9.4%                  |
| Jasper       | 15,989.6    | 15,884.9    | 15,734.6    | 24,600.9    | 23,459.7    | 23,547.6    | 8.0%                  |
| Kershaw      | 34,226.4    | 32,624.8    | 32,909.5    | 37,024.0    | 38,853.7    | 41,394.3    | 3.9%                  |
| Lancaster    | 35,668.2    | 36,911.8    | 37,443.0    | 42,906.5    | 46,827.0    | 48,273.7    | 6.2%                  |
| Laurens      | 30,118.8    | 29,300.4    | 29,221.4    | 32,847.4    | 30,580.4    | 31,608.0    | 1.0%                  |
| Lee          | 8,696.4     | 8,955.1     | 8,611.3     | 9,681.3     | 10,068.6    | 10,099.1    | 3.0%                  |
| Lexington    | 225,744.9   | 234,852.4   | 232,910.1   | 269,787.3   | 304,051.0   | 268,139.2   | 3.5%                  |
| Marion       | 15,803.4    | 15,532.1    | 14,896.6    | 14,498.3    | 16,347.7    | 15,461.8    | -0.4%                 |
| Marlboro     | 13,811.3    | 14,281.4    | 14,143.0    | 16,044.8    | 16,123.7    | 16,027.1    | 3.0%                  |
| McCormick    | 6,500.3     | 6,753.6     | 6,640.1     | 9,759.9     | 9,127.4     | 8,969.0     | 6.7%                  |
| Newberry     | 28,457.9    | 29,810.7    | 27,504.9    | 31,752.4    | 41,131.2    | 38,860.8    | 6.4%                  |
| Oconee       | 66,015.6    | 66,415.8    | 67,161.6    | 88,087.2    | 89,303.4    | 88,622.5    | 6.1%                  |
| Orangeburg   | 69,642.2    | 76,679.5    | 74,550.2    | 80,381.2    | 83,423.2    | 86,487.8    | 4.4%                  |
| Pickens      | 51,501.6    | 52,590.6    | 53,700.6    | 63,788.0    | 63,783.2    | 71,772.1    | 6.9%                  |
| Richland     | 299,028.7   | 326,984.0   | 349,066.4   | 325,560.7   | 350,322.7   | 366,757.0   | 4.2%                  |
| Saluda       | 9,924.4     | 9,929.1     | 9,802.4     | 10,969.7    | 12,215.9    | 10,733.9    | 1.6%                  |
| Spartanburg  | 210,300.7   | 208,400.2   | 209,401.7   | 216,921.2   | 241,015.0   | 233,120.7   | 2.1%                  |
| Sumter       | 59,736.0    | 63,120.2    | 57,537.1    | 68,424.4    | 71,714.2    | 70,952.2    | 3.5%                  |
| Union        | 16,895.6    | 16,316.9    | 16,061.2    | 15,562.5    | 16,597.8    | 16,644.8    | -0.3%                 |
| Williamsburg | 17,394.0    | 18,956.4    | 17,321.4    | 18,807.0    | 23,397.6    | 26,518.9    | 8.8%                  |
| York         | 176,723.1   | 189,052.4   | 187,913.3   | 210,296.6   | 234,043.0   | 236,149.3   | 6.0%                  |
| State Total  | 3,242,461.2 | 3,429,329.3 | 3,454,012.5 | 3,829,800.0 | 4,166,085.3 | 4,064,343.2 | 4.6%                  |

Source: Office of Research and Statistics, South Carolina Budget and Control Board.

Table 2. Percentage Distribution of Property Tax Revenues by County

| County       | 2003   | 2004   | 2005   | 2006   | 2007   | 2008   | 5 Year<br>Average |
|--------------|--------|--------|--------|--------|--------|--------|-------------------|
| Abbeville    | 0.4%   | 0.4%   | 0.4%   | 0.4%   | 0.3%   | 0.3%   | 0.4%              |
| Aiken        | 2.6%   | 2.8%   | 2.7%   | 2.7%   | 2.6%   | 2.6%   | 2.7%              |
| Allendale    | 0.2%   | 0.3%   | 0.3%   | 0.3%   | 0.2%   | 0.2%   | 0.3%              |
| Anderson     | 3.7%   | 3.8%   | 3.8%   | 3.6%   | 3.3%   | 3.2%   | 3.6%              |
| Bamberg      | 0.3%   | 0.3%   | 0.3%   | 0.3%   | 0.3%   | 0.2%   | 0.3%              |
| Barnwell     | 0.4%   | 0.4%   | 0.4%   | 0.4%   | 0.4%   | 0.4%   | 0.4%              |
| Beaufort     | 5.1%   | 5.2%   | 5.6%   | 5.8%   | 5.9%   | 5.9%   | 5.6%              |
| Berkeley     | 2.4%   | 2.4%   | 2.4%   | 2.8%   | 2.7%   | 2.7%   | 2.6%              |
| Calhoun      | 0.3%   | 0.3%   | 0.3%   | 0.4%   | 0.3%   | 0.4%   | 0.4%              |
| Charleston   | 9.6%   | 9.8%   | 10.2%  | 12.2%  | 11.5%  | 10.3%  | 10.6%             |
| Cherokee     | 1.5%   | 1.3%   | 1.3%   | 1.2%   | 1.1%   | 1.2%   | 1.3%              |
| Chester      | 0.8%   | 0.8%   | 0.8%   | 0.7%   | 0.7%   | 0.7%   | 0.7%              |
| Chesterfield | 0.7%   | 0.7%   | 0.7%   | 0.6%   | 0.6%   | 0.6%   | 0.6%              |
| Clarendon    | 0.5%   | 0.5%   | 0.5%   | 0.5%   | 0.5%   | 0.5%   | 0.5%              |
| Colleton     | 0.8%   | 0.9%   | 0.7%   | 0.8%   | 0.8%   | 0.9%   | 0.8%              |
| Darlington   | 1.2%   | 1.2%   | 1.2%   | 1.1%   | 1.1%   | 1.1%   | 1.2%              |
| Dillon       | 0.4%   | 0.4%   | 0.3%   | 0.4%   | 0.4%   | 0.4%   | 0.4%              |
| Dorchester   | 2.0%   | 2.1%   | 2.1%   | 2.2%   | 2.3%   | 2.3%   | 2.2%              |
| Edgefield    | 0.4%   | 0.4%   | 0.4%   | 0.4%   | 0.4%   | 0.4%   | 0.4%              |
| Fairfield    | 1.0%   | 0.9%   | 0.9%   | 1.0%   | 0.9%   | 1.0%   | 1.0%              |
| Florence     | 2.4%   | 2.4%   | 2.4%   | 2.3%   | 2.3%   | 2.1%   | 2.3%              |
| Georgetown   | 1.8%   | 1.8%   | 1.8%   | 1.8%   | 1.9%   | 2.0%   | 1.9%              |
| Greenville   | 9.5%   | 9.4%   | 9.4%   | 7.1%   | 8.4%   | 8.0%   | 8.6%              |
| Greenwood    | 1.7%   | 1.6%   | 1.6%   | 1.5%   | 1.5%   | 1.5%   | 1.6%              |
| Hampton      | 0.4%   | 0.4%   | 0.4%   | 0.4%   | 0.4%   | 0.4%   | 0.4%              |
| Horry        | 6.9%   | 7.0%   | 6.8%   | 7.6%   | 7.7%   | 8.6%   | 7.4%              |
| Jasper       | 0.5%   | 0.5%   | 0.5%   | 0.6%   | 0.6%   | 0.6%   | 0.5%              |
| Kershaw      | 1.1%   | 1.0%   | 1.0%   | 1.0%   | 0.9%   | 1.0%   | 1.0%              |
| Lancaster    | 1.1%   | 1.1%   | 1.1%   | 1.1%   | 1.1%   | 1.2%   | 1.1%              |
| Laurens      | 0.9%   | 0.9%   | 0.8%   | 0.9%   | 0.7%   | 0.8%   | 0.8%              |
| Lee          | 0.3%   | 0.3%   | 0.2%   | 0.3%   | 0.2%   | 0.2%   | 0.3%              |
| Lexington    | 7.0%   | 6.8%   | 6.7%   | 7.0%   | 7.3%   | 6.6%   | 6.9%              |
| Marion       | 0.5%   | 0.5%   | 0.4%   | 0.4%   | 0.4%   | 0.4%   | 0.4%              |
| Marlboro     | 0.4%   | 0.4%   | 0.4%   | 0.4%   | 0.4%   | 0.4%   | 0.4%              |
| McCormick    | 0.2%   | 0.2%   | 0.2%   | 0.3%   | 0.2%   | 0.2%   | 0.2%              |
| Newberry     | 0.9%   | 0.9%   | 0.8%   | 0.8%   | 1.0%   | 1.0%   | 0.9%              |
| Oconee       | 2.0%   | 1.9%   | 1.9%   | 2.3%   | 2.1%   | 2.2%   | 2.1%              |
| Orangeburg   | 2.1%   | 2.2%   | 2.2%   | 2.1%   | 2.0%   | 2.1%   | 2.1%              |
| Pickens      | 1.6%   | 1.5%   | 1.6%   | 1.7%   | 1.5%   | 1.8%   | 1.6%              |
| Richland     | 9.2%   | 9.5%   | 10.1%  | 8.5%   | 8.4%   | 9.0%   | 9.1%              |
| Saluda       | 0.3%   | 0.3%   | 0.3%   | 0.3%   | 0.3%   | 0.3%   | 0.3%              |
| Spartanburg  | 6.5%   | 6.1%   | 6.1%   | 5.7%   | 5.8%   | 5.7%   | 6.0%              |
| Sumter       | 1.8%   | 1.8%   | 1.7%   | 1.8%   | 1.7%   | 1.7%   | 1.8%              |
| Union        | 0.5%   | 0.5%   | 0.5%   | 0.4%   | 0.4%   | 0.4%   | 0.4%              |
| Williamsburg | 0.5%   | 0.6%   | 0.5%   | 0.5%   | 0.6%   | 0.7%   | 0.5%              |
| York         | 5.5%   | 5.5%   | 5.4%   | 5.5%   | 5.6%   | 5.8%   | 5.6%              |
| State Total  | 100.0% | 100.0% | 100.0% | 100.0% | 100.0% | 100.0% | ---               |

Source: Office of Research and Statistics, South Carolina Budget and Control Board.

Table 3. Property Tax Revenues by Property Type and County (Fiscal 2008)

{Values in \$000's}

| County       | Primary<br>Residence | Agricultural<br>(Private) | Agricultural<br>(Corporate) | Other Real  | Motor<br>Vehicles | Motor<br>Carrier |
|--------------|----------------------|---------------------------|-----------------------------|-------------|-------------------|------------------|
| Abbeville    | 2,330.2              | 295.9                     | 64.2                        | 2,550.7     | 2,164.4           | 79.4             |
| Aiken        | 28,524.8             | 1,120.6                   | 91.6                        | 28,626.0    | 14,858.0          | 276.6            |
| Allendale    | 642.7                | 494.7                     | 239.6                       | 1,172.2     | 1,052.8           | 16.3             |
| Anderson     | 31,245.3             | 559.5                     | 18.8                        | 41,520.2    | 18,659.8          | 93.8             |
| Bamberg      | 1,538.8              | 716.3                     | 36.0                        | 2,148.6     | 1,760.5           | 215.8            |
| Barnwell     | 2,535.0              | 451.0                     | 29.3                        | 3,910.2     | 2,454.2           | 251.3            |
| Beaufort     | 59,735.6             | 122.4                     | 2.4                         | 146,835.3   | 13,279.2          | 196.4            |
| Berkeley     | 24,093.2             | 338.7                     | 253.3                       | 39,360.8    | 11,340.7          | 409.9            |
| Calhoun      | 1,083.9              | 297.6                     | 10.8                        | 1,844.3     | 1,311.3           | 143.8            |
| Charleston   | 110,453.4            | 291.7                     | 95.7                        | 223,476.7   | 28,943.8          | 447.4            |
| Cherokee     | 8,527.7              | 255.3                     | 42.3                        | 11,386.6    | 5,618.9           | 226.5            |
| Chester      | 3,529.8              | 381.0                     | 149.2                       | 5,303.1     | 3,220.7           | 216.8            |
| Chesterfield | 3,638.4              | 669.8                     | 19.6                        | 5,429.4     | 3,843.6           | 165.8            |
| Clarendon    | 2,191.0              | 786.5                     | 134.0                       | 8,369.3     | 3,278.7           | 368.1            |
| Colleton     | 4,251.3              | 1,012.6                   | 426.3                       | 19,281.1    | 3,727.4           | 359.7            |
| Darlington   | 5,967.4              | 542.5                     | 29.3                        | 7,221.1     | 5,620.8           | 313.1            |
| Dillon       | 1,688.4              | 560.6                     | 73.3                        | 4,084.6     | 2,177.0           | 225.6            |
| Dorchester   | 30,163.4             | 298.1                     | 97.9                        | 33,862.6    | 11,142.1          | 243.4            |
| Edgefield    | 3,862.1              | 482.0                     | 23.7                        | 4,006.6     | 2,503.6           | 244.0            |
| Fairfield    | 4,287.6              | 576.6                     | 181.3                       | 7,090.5     | 2,746.7           | 275.3            |
| Florence     | 15,509.7             | 1,740.9                   | 130.8                       | 25,976.0    | 11,527.4          | 406.6            |
| Georgetown   | 16,345.1             | 281.8                     | 301.4                       | 49,285.2    | 5,041.9           | 257.7            |
| Greenville   | 90,243.9             | 311.3                     | 0.7                         | 106,149.2   | 39,567.5          | 1,300.8          |
| Greenwood    | 8,254.5              | 314.5                     | 50.4                        | 13,745.0    | 6,972.1           | 356.4            |
| Hampton      | 2,534.5              | 664.2                     | 155.9                       | 4,756.6     | 2,788.6           | 197.6            |
| Horry        | 56,010.4             | 913.0                     | 149.5                       | 221,141.8   | 28,891.1          | 438.4            |
| Jasper       | 2,640.3              | 297.2                     | 209.2                       | 7,109.3     | 1,807.2           | 137.2            |
| Kershaw      | 11,225.6             | 479.6                     | 155.3                       | 10,805.9    | 5,656.0           | 374.8            |
| Lancaster    | 12,246.0             | 323.2                     | 75.3                        | 17,737.9    | 5,932.0           | 268.0            |
| Laurens      | 4,653.1              | 332.2                     | 50.2                        | 8,964.1     | 5,030.6           | 380.7            |
| Lee          | 1,098.1              | 719.9                     | 41.2                        | 2,692.4     | 1,679.4           | 234.9            |
| Lexington    | 88,201.8             | 666.4                     | 34.5                        | 79,280.7    | 39,165.5          | 705.3            |
| Marion       | 3,170.9              | 301.7                     | 72.4                        | 6,432.1     | 2,015.4           | 427.8            |
| Marlboro     | 1,346.1              | 524.4                     | 551.7                       | 3,321.0     | 1,964.5           | 231.2            |
| McCormick    | 2,094.5              | 207.6                     | 93.6                        | 2,539.8     | 1,487.4           | 129.7            |
| Newberry     | 8,850.7              | 670.6                     | 145.1                       | 11,072.3    | 4,639.1           | 336.2            |
| Oconee       | 17,740.6             | 303.2                     | 21.6                        | 26,590.7    | 6,273.2           | 481.7            |
| Orangeburg   | 10,812.2             | 1,739.6                   | 135.0                       | 21,233.7    | 9,804.5           | 473.3            |
| Pickens      | 18,186.1             | 136.1                     | 12.9                        | 29,090.6    | 8,845.9           | 390.3            |
| Richland     | 98,329.8             | 508.1                     | 79.7                        | 127,908.6   | 38,055.9          | 628.6            |
| Saluda       | 1,868.5              | 441.0                     | 27.4                        | 4,080.2     | 1,666.9           | 271.8            |
| Spartanburg  | 51,993.1             | 535.2                     | 12.8                        | 67,443.0    | 27,776.0          | 1,268.1          |
| Sumter       | 16,492.3             | 721.8                     | 130.7                       | 22,056.3    | 10,020.5          | 91.9             |
| Union        | 2,202.5              | 228.2                     | 91.9                        | 3,352.7     | 2,563.8           | 301.1            |
| Williamsburg | 1,860.0              | 1,094.0                   | 288.0                       | 4,400.7     | 3,273.3           | 399.8            |
| York         | 62,259.8             | 401.1                     | 42.6                        | 63,984.4    | 25,765.5          | 494.4            |
| State        | 936,460.0            | 25,109.9                  | 5,078.5                     | 1,538,629.7 | 437,914.9         | 15,753.7         |

Source: Office of Research and Statistics, South Carolina Budget and Control Board.

{Table Continued}

{Values in \$000's}

| County       | Manufacturing | Utility   | Business<br>Personal | Other<br>Personal | FILOT     | Total       |
|--------------|---------------|-----------|----------------------|-------------------|-----------|-------------|
| Abbeville    | 2,867.5       | 1,944.1   | 313.4                | 185.2             | 426.4     | 13,221.5    |
| Aiken        | 12,510.7      | 9,912.7   | 3,847.6              | 1,249.5           | 5,693.7   | 106,711.8   |
| Allendale    | 3,110.1       | 2,549.9   | 325.6                | 43.6              | 58.7      | 9,706.1     |
| Anderson     | 8,495.0       | 11,281.4  | 5,698.7              | 1,815.5           | 10,971.5  | 130,359.6   |
| Bamberg      | 1,091.7       | 1,799.1   | 465.4                | 112.7             | ---       | 9,884.9     |
| Barnwell     | 2,665.4       | 1,989.3   | 674.8                | 271.8             | 511.2     | 15,743.6    |
| Beaufort     | 418.5         | 5,091.0   | 6,975.2              | 5,316.2           | ---       | 237,972.3   |
| Berkeley     | 12,033.8      | 6,731.9   | 3,150.2              | 1,640.3           | 9,557.6   | 108,910.6   |
| Calhoun      | 6,334.3       | 926.8     | 311.8                | 55.0              | 3,328.5   | 15,648.1    |
| Charleston   | 12,798.1      | 12,851.0  | 13,115.0             | 7,600.3           | 7,100.0   | 417,173.1   |
| Cherokee     | 10,059.3      | 4,519.0   | 1,779.2              | 363.3             | 6,941.2   | 49,719.4    |
| Chester      | 7,825.8       | 4,081.1   | 1,396.5              | 288.3             | 3,826.7   | 30,219.1    |
| Chesterfield | 6,498.6       | 2,561.8   | 1,033.0              | 209.8             | 1,745.5   | 25,815.4    |
| Clarendon    | 1,310.3       | 1,764.5   | 772.3                | 458.3             | 395.4     | 19,828.4    |
| Colleton     | 1,888.4       | 2,653.0   | 949.2                | 568.7             | 1,977.7   | 37,095.4    |
| Darlington   | 6,710.7       | 11,327.4  | 2,142.3              | 911.4             | 3,318.1   | 44,104.1    |
| Dillon       | 2,442.2       | 1,529.9   | 889.9                | 148.3             | 453.5     | 14,273.2    |
| Dorchester   | 6,027.4       | 4,161.6   | 1,735.8              | 931.7             | 4,216.4   | 92,880.2    |
| Edgefield    | 2,031.0       | 1,743.2   | 318.9                | 142.2             | 423.9     | 15,781.3    |
| Fairfield    | 2,047.2       | 20,589.2  | 662.9                | 192.6             | ---       | 38,649.8    |
| Florence     | 11,153.6      | 5,525.5   | 4,791.4              | 1,785.4           | 5,694.8   | 84,242.0    |
| Georgetown   | 5,508.8       | 1,409.0   | 1,305.7              | 1,347.1           | 438.9     | 81,522.6    |
| Greenville   | 26,109.5      | 16,571.6  | 19,349.9             | 4,734.2           | 21,440.5  | 325,779.2   |
| Greenwood    | 11,797.7      | 3,640.4   | 2,464.0              | 756.9             | 12,757.7  | 61,109.4    |
| Hampton      | 1,021.8       | 3,335.9   | 1,005.3              | 187.9             | 534.4     | 17,182.8    |
| Horry        | 4,163.5       | 8,043.4   | 12,213.0             | 12,704.4          | 6,001.1   | 350,669.5   |
| Jasper       | 3,679.0       | 2,302.3   | 1,445.1              | 162.6             | 3,758.2   | 23,547.6    |
| Kershaw      | 5,186.0       | 3,487.7   | 1,507.1              | 563.3             | 1,953.0   | 41,394.3    |
| Lancaster    | 4,568.3       | 2,622.2   | 1,344.1              | 554.4             | 2,602.2   | 48,273.7    |
| Laurens      | 4,483.8       | 3,506.9   | 1,827.6              | 472.1             | 1,906.8   | 31,608.0    |
| Lee          | 1,457.6       | 1,356.7   | 642.8                | 70.1              | 106.0     | 10,099.1    |
| Lexington    | 11,325.9      | 25,995.3  | 11,685.4             | 5,124.4           | 5,954.0   | 268,139.2   |
| Marion       | 774.1         | 1,653.6   | 239.3                | 280.2             | 94.4      | 15,461.8    |
| Marlboro     | 2,533.4       | 1,431.1   | 538.0                | 120.1             | 3,465.7   | 16,027.1    |
| McCormick    | 724.0         | 955.7     | 451.4                | 75.3              | 210.0     | 8,969.0     |
| Newberry     | 4,493.4       | 3,390.3   | 1,803.0              | 503.3             | 2,956.8   | 38,860.8    |
| Oconee       | 3,764.1       | 27,880.7  | 1,389.4              | 1,130.3           | 3,047.0   | 88,622.5    |
| Orangeburg   | 15,472.7      | 13,795.6  | 5,126.0              | 743.4             | 7,151.9   | 86,487.8    |
| Pickens      | 2,801.1       | 6,077.2   | 2,450.2              | 1,097.9           | 2,683.9   | 71,772.1    |
| Richland     | 26,720.5      | 30,753.7  | 22,890.0             | 6,681.7           | 14,200.3  | 366,757.0   |
| Saluda       | 844.5         | 1,025.0   | 330.3                | 178.2             | ---       | 10,733.9    |
| Spartanburg  | 35,946.3      | 15,974.4  | 13,595.7             | 3,789.6           | 14,786.6  | 233,120.7   |
| Sumter       | 7,894.4       | 4,830.5   | 4,314.4              | 697.7             | 3,701.6   | 70,952.2    |
| Union        | 3,318.4       | 1,723.4   | 619.4                | 582.1             | 1,661.5   | 16,644.8    |
| Williamsburg | 5,592.1       | 2,893.0   | 867.7                | 192.7             | 5,657.7   | 26,518.9    |
| York         | 19,181.6      | 46,315.9  | 7,435.6              | 2,479.7           | 7,788.8   | 236,149.3   |
| State        | 329,682.3     | 346,504.9 | 168,189.7            | 69,519.8          | 191,499.7 | 4,064,343.2 |

Source: Office of Research and Statistics, South Carolina Budget and Control Board.

Table 4. Assessment Ratios by Property Type

|   |                            |
|---|----------------------------|
| Manufacturing Property <sup>11</sup>          | 10.5% of fair market value |
| Transportation Property <sup>12</sup>         | 9.5% of fair market value  |
| Agricultural Property (Private) <sup>13</sup> | 4.0% of use value          |
| Agricultural Property (Corporate)             | 6.0% of use value          |
| Primary Residence <sup>14</sup>               | 4.0% of fair market value  |
| Other Real Property                           | 6.0% of fair market value  |
| Inventories (Corporate)                       | 6.0% of fair market value  |
| Farm Machinery and Equipment <sup>15</sup>    | 5.0% of fair market value  |
| Personal Motor Vehicles <sup>16</sup>         | 6.0% of fair market value  |
| Other Personal Property                       | 10.5% of depreciated value |

<sup>11</sup> Includes all real and personal property owned by or leased to manufacturers, utilities, and mining operators and used by any manufacturer, utility, or mining operation.

<sup>12</sup> Includes all real and personal property owned by or leased to companies engaged in transportation for hire of persons or property and used by any company in the conduct of such business (railroads, private carlines, airlines, pipelines, etc.).

<sup>13</sup> Includes agricultural property owned by certain corporations which do not (i) have more than ten (10) shareholders; (ii) have as a shareholder a person (other than an estate) who is not an individual; (iii) have a nonresident alien as a shareholder; or (iv) have more than one (1) class of stock.

<sup>14</sup> May include up to five (5) acres of contiguous land.

<sup>15</sup> Does not include motor vehicles.

<sup>16</sup> Assessment ratio for personal motor vehicles reduced by 0.75% annually over a seven (7) year period from 10.5% in 2001 to 6.0% in 2007. See S.C. Const. art. X, § 1, cl. 8(B)(1) and S.C. Const. art. X, § 2, cl. b.

Table 5. Average Millage Rates by County

| County       | 2003   | 2004   | 2005   | 2006   | 2007   | 2008   | 5 Year<br>Growth Rate |
|--------------|--------|--------|--------|--------|--------|--------|-----------------------|
| Abbeville    | 0.3137 | 0.3228 | 0.3295 | 0.3429 | 0.3610 | 0.3452 | 1.9%                  |
| Aiken        | 0.2598 | 0.2618 | 0.2677 | 0.2732 | 0.2776 | 0.2824 | 1.7%                  |
| Allendale    | 0.4840 | 0.4860 | 0.5310 | 0.5787 | 0.5270 | 0.6160 | 4.9%                  |
| Anderson     | 0.4796 | 0.3077 | 0.3051 | 0.3152 | 0.3294 | 0.3181 | -7.9%                 |
| Bamberg      | 0.4331 | 0.4620 | 0.4612 | 0.4730 | 0.4833 | 0.4994 | 2.9%                  |
| Barnwell     | 0.3253 | 0.3688 | 0.3644 | 0.3818 | 0.3898 | 0.3953 | 4.0%                  |
| Beaufort     | 0.2435 | 0.1841 | 0.1870 | 0.1989 | 0.2166 | 0.2248 | -1.6%                 |
| Berkeley     | 0.2619 | 0.2800 | 0.2682 | 0.2622 | 0.2708 | 0.2715 | 0.7%                  |
| Calhoun      | 0.2640 | 0.2680 | 0.2680 | 0.2940 | 0.2958 | 0.2955 | 2.3%                  |
| Charleston   | 0.2399 | 0.2448 | 0.2049 | 0.2039 | 0.2108 | 0.2208 | -1.7%                 |
| Cherokee     | 0.2451 | 0.2554 | 0.2619 | 0.2584 | 0.2903 | 0.3018 | 4.2%                  |
| Chester      | 0.3931 | 0.4166 | 0.4194 | 0.4265 | 0.4317 | 0.4291 | 1.8%                  |
| Chesterfield | 0.2671 | 0.2977 | 0.2590 | 0.2794 | 0.3080 | 0.3161 | 3.4%                  |
| Clarendon    | 0.3120 | 0.3139 | 0.3177 | 0.3320 | 0.3461 | 0.3444 | 2.0%                  |
| Colleton     | 0.3427 | 0.3366 | 0.2357 | 0.2767 | 0.3100 | 0.3175 | -1.5%                 |
| Dartlington  | 0.2447 | 0.2501 | 0.2400 | 0.2530 | 0.2641 | 0.2739 | 2.3%                  |
| Dillon       | 0.3025 | 0.3108 | 0.3224 | 0.3340 | 0.3447 | 0.3560 | 3.3%                  |
| Dorchester   | 0.3350 | 0.3461 | 0.3074 | 0.3299 | 0.3381 | 0.3577 | 1.3%                  |
| Edgefield    | 0.3592 | 0.3632 | 0.3522 | 0.3327 | 0.3337 | 0.3412 | -1.0%                 |
| Fairfield    | 0.3110 | 0.3163 | 0.3436 | 0.3759 | 0.3846 | 0.3962 | 5.0%                  |
| Florence     | 0.2754 | 0.3974 | 0.2863 | 0.2978 | 0.3063 | 0.3138 | 2.6%                  |
| Georgetown   | 0.2399 | 0.2399 | 0.2484 | 0.1935 | 0.2075 | 0.2147 | -2.2%                 |
| Greenville   | 0.2582 | 0.2609 | 0.2670 | 0.2778 | 0.2647 | 0.2736 | 1.2%                  |
| Greenwood    | 0.2554 | 0.2788 | 0.2997 | 0.3034 | 0.3256 | 0.3207 | 4.7%                  |
| Hampton      | 0.4681 | 0.4930 | 0.5204 | 0.5055 | 0.5100 | 0.5235 | 2.3%                  |
| Horry        | 0.2317 | 0.2304 | 0.2215 | 0.2268 | 0.2366 | 0.2365 | 0.4%                  |
| Jasper       | 0.3490 | 0.3797 | 0.3678 | 0.2940 | 0.3299 | 0.3236 | -1.5%                 |
| Kershaw      | 0.2357 | 0.2393 | 0.2477 | 0.2237 | 0.2513 | 0.2792 | 3.4%                  |
| Lancaster    | 0.3084 | 0.3185 | 0.3292 | 0.2825 | 0.2832 | 0.3096 | 0.1%                  |
| Laurens      | 0.2636 | 0.2704 | 0.2753 | 0.2940 | 0.3039 | 0.3236 | 4.2%                  |
| Lee          | 0.3249 | 0.3352 | 0.4177 | 0.4237 | 0.4357 | 0.4533 | 6.9%                  |
| Lexington    | 0.3738 | 0.3771 | 0.3523 | 0.3717 | 0.3964 | 0.4164 | 2.2%                  |
| Marion       | 0.2739 | 0.2804 | 0.2881 | 0.3046 | 0.3134 | 0.3177 | 3.0%                  |
| Marlboro     | 0.3341 | 0.3336 | 0.3356 | 0.3403 | 0.3599 | 0.3675 | 1.9%                  |
| McCormick    | 0.2803 | 0.3069 | 0.3290 | 0.3150 | 0.3193 | 0.3202 | 2.7%                  |
| Newberry     | 0.3487 | 0.3515 | 0.4228 | 0.4324 | 0.4465 | 0.4543 | 5.4%                  |
| Oconee       | 0.1960 | 0.2040 | 0.2651 | 0.2525 | 0.2621 | 0.2640 | 6.1%                  |
| Orangeburg   | 0.3589 | 0.3649 | 0.3754 | 0.3852 | 0.4009 | 0.4030 | 2.3%                  |
| Pickens      | 0.2376 | 0.2580 | 0.2371 | 0.2390 | 0.2739 | 0.2752 | 3.0%                  |
| Richland     | 0.3537 | 0.3674 | 0.3792 | 0.4008 | 0.4174 | 0.4321 | 4.1%                  |
| Saluda       | 0.3574 | 0.3799 | 0.3896 | 0.3910 | 0.3719 | 0.3785 | 1.2%                  |
| Spartanburg  | 0.2855 | 0.2953 | 0.2990 | 0.3178 | 0.3408 | 0.3371 | 3.4%                  |
| Sumter       | 0.2984 | 0.3357 | 0.3452 | 0.3157 | 0.3503 | 0.3650 | 4.1%                  |
| Union        | 0.3104 | 0.3100 | 0.3210 | 0.3243 | 0.3297 | 0.3303 | 1.3%                  |
| Williamsburg | 0.2984 | 0.2936 | 0.3030 | 0.3219 | 0.3596 | 0.3686 | 4.3%                  |
| York         | 0.2793 | 0.2611 | 0.2875 | 0.2985 | 0.3192 | 0.3290 | 3.3%                  |
| State Total  | 0.2844 | 0.2837 | 0.2778 | 0.2785 | 0.2902 | 0.2976 | 0.9%                  |

Source: Office of Research and Statistics, South Carolina Budget and Control Board.



Table 6. Real Per Capital Expenditure by County (Chained 2005 Dollars)

| County       | 2003    | 2004    | 2005    | 2006    | 2007    | 2008    | 5 Year<br>Growth Rate |
|--------------|---------|---------|---------|---------|---------|---------|-----------------------|
| Abbeville    | 1,946.1 | 1,740.9 | 1,818.7 | 2,019.5 | 1,866.6 | 1,850.5 | -1.0%                 |
| Aiken        | 2,151.5 | 2,205.6 | 2,159.5 | 2,360.6 | 2,481.2 | 2,424.9 | 2.4%                  |
| Allendale    | 2,639.2 | 2,621.5 | 2,985.2 | 2,938.3 | 2,672.2 | 2,841.0 | 1.5%                  |
| Anderson     | 2,250.7 | 1,986.8 | 2,124.1 | 2,209.3 | 2,229.8 | 2,382.4 | 1.1%                  |
| Bamberg      | 1,993.0 | 2,426.8 | 2,327.6 | 2,348.4 | 2,241.3 | 2,233.0 | 2.3%                  |
| Barnwell     | 2,708.9 | 2,699.0 | 2,535.1 | 2,647.2 | 2,593.7 | 2,633.5 | -0.6%                 |
| Beaufort     | 2,928.8 | 2,946.5 | 2,801.0 | 2,728.7 | 3,036.5 | 3,038.2 | 0.7%                  |
| Berkeley     | 2,316.1 | 2,180.3 | 2,096.7 | 2,708.1 | 2,676.8 | 2,349.6 | 0.3%                  |
| Calhoun      | 2,000.1 | 1,929.5 | 1,952.1 | 2,071.8 | 2,183.5 | 3,004.8 | 8.5%                  |
| Charleston   | 3,010.6 | 2,991.5 | 2,820.8 | 3,028.5 | 3,242.4 | 3,415.6 | 2.6%                  |
| Cherokee     | 2,006.9 | 2,180.8 | 2,122.2 | 2,240.0 | 2,387.1 | 2,702.4 | 6.1%                  |
| Chester      | 3,630.0 | 2,530.5 | 2,257.4 | 2,240.9 | 2,328.0 | 2,569.2 | -6.7%                 |
| Chesterfield | 2,882.6 | 2,877.1 | 2,091.3 | 2,232.2 | 2,421.7 | 2,282.1 | -4.6%                 |
| Clarendon    | 2,063.2 | 2,118.0 | 2,084.2 | 2,178.1 | 2,376.9 | 2,466.9 | 3.6%                  |
| Colleton     | 2,004.0 | 2,159.7 | 2,166.2 | 2,618.8 | 2,624.2 | 2,829.1 | 7.1%                  |
| Darlington   | 2,094.7 | 2,038.5 | 2,162.9 | 2,630.7 | 2,326.7 | 2,385.0 | 2.6%                  |
| Dillon       | 2,088.2 | 2,128.7 | 2,228.4 | 2,192.2 | 2,211.2 | 2,324.5 | 2.2%                  |
| Dorchester   | 1,975.9 | 1,970.4 | 2,033.8 | 2,086.2 | 2,269.0 | 2,355.1 | 3.6%                  |
| Edgefield    | 1,937.8 | 1,923.2 | 1,874.4 | 1,925.7 | 1,946.6 | 2,439.8 | 4.7%                  |
| Fairfield    | 2,619.9 | 2,595.3 | 2,782.9 | 2,983.7 | 2,890.0 | 2,918.1 | 2.2%                  |
| Florence     | 2,145.1 | 2,204.6 | 2,276.8 | 2,313.2 | 2,425.5 | 2,409.9 | 2.4%                  |
| Georgetown   | 2,871.6 | 2,709.2 | 2,603.4 | 2,798.9 | 2,865.7 | 3,154.0 | 1.9%                  |
| Greenville   | 2,422.4 | 2,519.4 | 2,787.0 | 2,733.5 | 2,527.9 | 2,316.3 | -0.9%                 |
| Greenwood    | 2,286.9 | 2,175.0 | 2,288.8 | 2,188.8 | 2,456.0 | 3,099.6 | 6.3%                  |
| Hampton      | 2,320.7 | 2,475.5 | 2,513.6 | 2,536.5 | 2,529.9 | 2,947.1 | 4.9%                  |
| Horry        | 2,962.3 | 2,808.3 | 2,887.4 | 3,216.9 | 3,511.1 | 3,433.4 | 3.0%                  |
| Jasper       | 2,342.6 | 2,614.0 | 2,718.9 | 4,148.8 | 3,883.1 | 3,830.7 | 10.3%                 |
| Kershaw      | 1,994.2 | 1,820.9 | 1,920.2 | 2,114.1 | 2,263.8 | 3,021.6 | 8.7%                  |
| Lancaster    | 1,919.6 | 1,799.8 | 1,884.1 | 2,187.8 | 2,576.7 | 2,504.8 | 5.5%                  |
| Laurens      | 1,648.6 | 1,619.6 | 1,582.2 | 1,719.0 | 2,077.8 | 1,813.3 | 1.9%                  |
| Lee          | 1,933.8 | 2,145.2 | 1,975.7 | 1,941.8 | 2,130.7 | 2,357.7 | 4.0%                  |
| Lexington    | 2,627.3 | 2,659.2 | 2,651.1 | 3,127.5 | 3,090.3 | 3,220.7 | 4.2%                  |
| Marion       | 2,380.9 | 2,611.6 | 2,270.3 | 2,315.7 | 2,282.0 | 2,338.6 | -0.4%                 |
| Marlboro     | 2,202.3 | 2,299.6 | 2,376.9 | 2,462.9 | 2,295.5 | 2,473.0 | 2.3%                  |
| McCormick    | 1,944.4 | 2,913.6 | 2,200.0 | 2,038.8 | 1,749.3 | 1,909.3 | -0.4%                 |
| Newberry     | 2,286.4 | 2,846.7 | 2,485.5 | 2,866.8 | 2,981.9 | 3,208.2 | 7.0%                  |
| Oconee       | 2,023.0 | 2,038.1 | 2,001.5 | 2,392.5 | 2,527.5 | 2,428.4 | 3.7%                  |
| Orangeburg   | 2,494.6 | 2,574.4 | 3,233.2 | 2,855.1 | 2,626.4 | 2,933.0 | 3.3%                  |
| Pickens      | 1,630.6 | 1,923.7 | 1,718.1 | 1,814.4 | 1,891.9 | 2,033.0 | 4.5%                  |
| Richland     | 2,378.7 | 2,346.6 | 2,468.8 | 2,981.1 | 2,932.9 | 3,006.4 | 4.8%                  |
| Saluda       | 1,613.9 | 1,620.9 | 1,418.4 | 1,472.7 | 1,406.6 | 1,709.4 | 1.2%                  |
| Spartanburg  | 2,081.3 | 2,128.6 | 2,193.2 | 2,241.0 | 2,427.3 | 2,536.5 | 4.0%                  |
| Sumter       | 2,285.6 | 2,169.7 | 2,110.3 | 2,287.8 | 2,984.1 | 2,753.4 | 3.8%                  |
| Union        | 2,165.1 | 2,056.5 | 2,351.0 | 2,157.2 | 2,253.1 | 2,560.3 | 3.4%                  |
| Williamsburg | 2,152.0 | 2,280.0 | 2,162.0 | 2,105.4 | 2,322.4 | 2,639.2 | 4.2%                  |
| York         | 2,471.3 | 2,523.1 | 2,579.9 | 2,628.8 | 2,721.1 | 3,187.4 | 5.2%                  |
| State Total  | 2,381.2 | 2,381.7 | 2,410.2 | 2,590.7 | 2,673.3 | 2,747.9 | 2.9%                  |

Source: Office of Research and Statistics, South Carolina Budget and Control Board.

Table 7. Property Taxes on Owner Occupied Housing by State (Fiscal 2008)

| State          | Property Taxes | Rank | Median Home Value | Taxes as % of Value | Rank | Median Income | Taxes as % of Income | Rank |
|----------------|----------------|------|-------------------|---------------------|------|---------------|----------------------|------|
| Alabama        | 383.0          | 49.0 | 121,500.0         | 0.3%                | 48.0 | 52,843.0      | 0.7%                 | 49.0 |
| Alaska         | 2,377.0        | 13.0 | 237,800.0         | 1.0%                | 19.0 | 83,860.0      | 2.8%                 | 22.0 |
| Arizona        | 1,316.0        | 33.0 | 229,200.0         | 0.6%                | 39.0 | 61,849.0      | 2.1%                 | 32.0 |
| Arkansas       | 534.0          | 46.0 | 105,700.0         | 0.5%                | 43.0 | 49,032.0      | 1.1%                 | 46.0 |
| California     | 2,829.0        | 10.0 | 467,000.0         | 0.6%                | 37.0 | 81,757.0      | 3.5%                 | 15.0 |
| Colorado       | 1,395.0        | 30.0 | 242,200.0         | 0.6%                | 38.0 | 72,539.0      | 1.9%                 | 37.0 |
| Connecticut    | 4,603.0        | 2.0  | 306,000.0         | 1.5%                | 8.0  | 87,419.0      | 5.3%                 | 3.0  |
| Delaware       | 1,075.0        | 39.0 | 250,900.0         | 0.4%                | 47.0 | 68,004.0      | 1.6%                 | 42.0 |
| Florida        | 1,860.0        | 21.0 | 218,700.0         | 0.9%                | 24.0 | 56,633.0      | 3.3%                 | 18.0 |
| Georgia        | 1,298.0        | 34.0 | 169,100.0         | 0.8%                | 28.0 | 63,807.0      | 2.0%                 | 34.0 |
| Hawaii         | 1,338.0        | 31.0 | 560,200.0         | 0.2%                | 49.0 | 82,794.0      | 1.6%                 | 39.0 |
| Idaho          | 1,213.0        | 36.0 | 183,700.0         | 0.7%                | 35.0 | 55,898.0      | 2.2%                 | 30.0 |
| Illinois       | 3,384.0        | 7.0  | 214,900.0         | 1.6%                | 6.0  | 70,341.0      | 4.8%                 | 5.0  |
| Indiana        | 1,205.0        | 37.0 | 125,200.0         | 1.0%                | 21.0 | 58,763.0      | 2.1%                 | 33.0 |
| Iowa           | 1,492.0        | 28.0 | 120,700.0         | 1.2%                | 15.0 | 59,291.0      | 2.5%                 | 27.0 |
| Kansas         | 1,569.0        | 26.0 | 125,700.0         | 1.2%                | 13.0 | 61,908.0      | 2.5%                 | 26.0 |
| Kentucky       | 823.0          | 43.0 | 118,400.0         | 0.7%                | 32.0 | 51,676.0      | 1.6%                 | 41.0 |
| Louisiana      | 188.0          | 50.0 | 132,400.0         | 0.1%                | 50.0 | 54,062.0      | 0.3%                 | 50.0 |
| Maine          | 1,897.0        | 20.0 | 180,200.0         | 1.1%                | 18.0 | 57,117.0      | 3.3%                 | 17.0 |
| Maryland       | 2,612.0        | 11.0 | 341,200.0         | 0.8%                | 29.0 | 86,373.0      | 3.0%                 | 19.0 |
| Massachusetts  | 3,406.0        | 6.0  | 353,600.0         | 1.0%                | 20.0 | 84,549.0      | 4.0%                 | 9.0  |
| Michigan       | 2,191.0        | 17.0 | 151,300.0         | 1.4%                | 9.0  | 59,229.0      | 3.7%                 | 10.0 |
| Minnesota      | 2,019.0        | 19.0 | 213,800.0         | 0.9%                | 22.0 | 69,515.0      | 2.9%                 | 21.0 |
| Mississippi    | 468.0          | 47.0 | 99,700.0          | 0.5%                | 46.0 | 46,793.0      | 1.0%                 | 47.0 |
| Missouri       | 1,236.0        | 35.0 | 141,500.0         | 0.9%                | 23.0 | 57,486.0      | 2.2%                 | 31.0 |
| Montana        | 1,463.0        | 29.0 | 180,300.0         | 0.8%                | 26.0 | 54,100.0      | 2.7%                 | 23.0 |
| Nebraska       | 2,175.0        | 18.0 | 126,500.0         | 1.7%                | 3.0  | 60,963.0      | 3.6%                 | 11.0 |
| Nevada         | 1,714.0        | 24.0 | 271,500.0         | 0.6%                | 36.0 | 69,851.0      | 2.5%                 | 29.0 |
| New Hampshire  | 4,501.0        | 3.0  | 264,700.0         | 1.7%                | 5.0  | 77,222.0      | 5.8%                 | 2.0  |
| New Jersey     | 6,320.0        | 1.0  | 364,100.0         | 1.7%                | 2.0  | 90,010.0      | 7.0%                 | 1.0  |
| New Mexico     | 843.0          | 42.0 | 165,100.0         | 0.5%                | 42.0 | 52,861.0      | 1.6%                 | 40.0 |
| New York       | 3,622.0        | 4.0  | 318,900.0         | 1.1%                | 17.0 | 76,409.0      | 4.7%                 | 6.0  |
| North Carolina | 1,159.0        | 38.0 | 154,500.0         | 0.8%                | 30.0 | 57,790.0      | 2.0%                 | 35.0 |
| North Dakota   | 1,591.0        | 25.0 | 112,500.0         | 1.4%                | 10.0 | 59,599.0      | 2.7%                 | 25.0 |
| Ohio           | 1,807.0        | 23.0 | 140,200.0         | 1.3%                | 12.0 | 60,493.0      | 3.0%                 | 20.0 |
| Oklahoma       | 762.0          | 44.0 | 105,500.0         | 0.7%                | 31.0 | 53,873.0      | 1.4%                 | 44.0 |
| Oregon         | 2,204.0        | 16.0 | 273,300.0         | 0.8%                | 27.0 | 64,095.0      | 3.4%                 | 16.0 |
| Pennsylvania   | 2,207.0        | 15.0 | 164,700.0         | 1.3%                | 11.0 | 62,082.0      | 3.6%                 | 12.0 |
| Rhode Island   | 3,534.0        | 5.0  | 286,000.0         | 1.2%                | 16.0 | 75,813.0      | 4.7%                 | 7.0  |
| South Carolina | 678.0          | 45.0 | 138,700.0         | 0.5%                | 44.0 | 54,466.0      | 1.2%                 | 45.0 |
| South Dakota   | 1,560.0        | 27.0 | 126,200.0         | 1.2%                | 14.0 | 57,761.0      | 2.7%                 | 24.0 |
| Tennessee      | 924.0          | 41.0 | 138,600.0         | 0.7%                | 34.0 | 53,794.0      | 1.7%                 | 38.0 |
| Texas          | 2,232.0        | 14.0 | 126,800.0         | 1.8%                | 1.0  | 63,850.0      | 3.5%                 | 14.0 |
| Utah           | 1,328.0        | 32.0 | 236,000.0         | 0.6%                | 40.0 | 67,921.0      | 2.0%                 | 36.0 |
| Vermont        | 3,281.0        | 8.0  | 214,700.0         | 1.5%                | 7.0  | 62,857.0      | 5.2%                 | 4.0  |
| Virginia       | 1,854.0        | 22.0 | 269,600.0         | 0.7%                | 33.0 | 75,504.0      | 2.5%                 | 28.0 |
| Washington     | 2,595.0        | 12.0 | 308,100.0         | 0.8%                | 25.0 | 73,724.0      | 3.5%                 | 13.0 |
| West Virginia  | 457.0          | 48.0 | 95,900.0          | 0.5%                | 45.0 | 46,105.0      | 1.0%                 | 48.0 |
| Wisconsin      | 2,963.0        | 9.0  | 173,300.0         | 1.7%                | 4.0  | 64,507.0      | 4.6%                 | 8.0  |
| Wyoming        | 1,012.0        | 40.0 | 188,200.0         | 0.5%                | 41.0 | 64,279.0      | 1.6%                 | 43.0 |
| United States  | 1,897.0        | n/a  | 197,600.0         | 1.0%                | n/a  | 65,385.0      | 2.9%                 | n/a  |

Source: 2008 Annual Survey of State and Local Government Finances, U.S. Census Bureau.

Table 8. Property Tax Relief by Category (Fiscal 2008)

{Values in \$000's}

| County       | Manuf. Dep.<br>Reimbursement | Property Tax<br>Relief (Tier 1) | Homestead<br>Ex. (Tier 2) | Property Tax<br>Relief (Tier 3) | TOTAL     |
|--------------|------------------------------|---------------------------------|---------------------------|---------------------------------|-----------|
| Abbeville    | 490.1                        | 1,322.0                         | 1,427.2                   | 2,389.9                         | 5,629.1   |
| Aiken        | 435.4                        | 8,147.5                         | 4,826.5                   | 12,854.4                        | 26,263.8  |
| Allendale    | 344.1                        | 413.4                           | 659.4                     | ---                             | 1,416.9   |
| Anderson     | 2,189.9                      | 7,970.9                         | 8,426.7                   | 15,299.7                        | 33,887.3  |
| Bamberg      | 89.9                         | 824.0                           | 986.6                     | 2,350.6                         | 4,251.2   |
| Barnwell     | 440.5                        | 1,082.0                         | 1,090.3                   | 2,181.6                         | 4,794.3   |
| Beaufort     | 42.9                         | 7,036.3                         | 3,536.7                   | 39,247.0                        | 49,862.8  |
| Berkeley     | 1,827.1                      | 7,891.3                         | 3,562.5                   | 19,024.8                        | 32,305.7  |
| Calhoun      | 1,505.5                      | 785.3                           | 548.6                     | 2,250.0                         | 5,089.4   |
| Charleston   | 2,215.0                      | 16,955.8                        | 8,255.1                   | 58,976.9                        | 86,402.8  |
| Cherokee     | 424.4                        | 2,992.4                         | 2,106.9                   | 3,527.8                         | 9,051.4   |
| Chester      | 910.4                        | 2,027.2                         | 2,202.8                   | 2,500.0                         | 7,640.4   |
| Chesterfield | 1,362.6                      | 1,858.3                         | 1,598.1                   | 2,500.0                         | 7,319.0   |
| Clarendon    | 41.6                         | 1,824.1                         | 3,053.2                   | 1,655.4                         | 6,574.3   |
| Colleton     | 148.3                        | 2,098.1                         | 1,662.3                   | 2,500.0                         | 6,408.8   |
| Darlington   | 487.8                        | 3,748.3                         | 2,602.8                   | 3,217.8                         | 10,056.6  |
| Dillon       | 245.4                        | 1,562.3                         | 975.8                     | 1,369.7                         | 4,153.2   |
| Dorchester   | 818.7                        | 7,046.1                         | 2,710.6                   | 21,093.8                        | 31,669.2  |
| Edgefield    | 195.9                        | 1,553.0                         | 982.7                     | 2,250.0                         | 4,981.6   |
| Fairfield    | 67.0                         | 1,395.6                         | 1,250.0                   | 2,500.0                         | 5,212.7   |
| Florence     | 3,563.4                      | 5,911.8                         | 4,508.8                   | 13,129.2                        | 27,113.2  |
| Georgetown   | 1,302.2                      | 4,615.4                         | 1,940.6                   | 7,874.3                         | 15,732.4  |
| Greenville   | 3,355.1                      | 23,410.3                        | 10,768.7                  | 43,276.8                        | 80,811.0  |
| Greenwood    | 562.5                        | 3,397.6                         | 3,493.4                   | 3,632.5                         | 11,086.0  |
| Hampton      | 90.6                         | 1,332.5                         | 1,431.8                   | 1,687.3                         | 4,542.2   |
| Horry        | 557.5                        | 11,678.7                        | 5,517.2                   | 24,842.7                        | 42,596.1  |
| Jasper       | 22.8                         | 980.9                           | 655.5                     | 2,500.0                         | 4,159.2   |
| Kershaw      | 581.8                        | 3,705.4                         | 2,292.0                   | 5,958.3                         | 12,537.5  |
| Lancaster    | 872.0                        | 3,724.7                         | 2,615.7                   | 5,884.7                         | 13,097.2  |
| Laurens      | 599.6                        | 2,757.7                         | 3,294.9                   | 1,703.4                         | 8,355.6   |
| Lee          | 98.1                         | 1,721.7                         | 994.5                     | 2,250.0                         | 5,064.3   |
| Lexington    | 1,342.5                      | 25,143.9                        | 10,529.7                  | 61,015.9                        | 98,032.0  |
| Marion       | 832.8                        | 1,588.8                         | 1,427.4                   | 1,186.4                         | 5,035.5   |
| Marlboro     | 252.3                        | 990.1                           | 1,177.4                   | 2,250.0                         | 4,669.7   |
| McCormick    | 79.2                         | 404.1                           | 625.9                     | 2,500.0                         | 3,609.2   |
| Newberry     | 531.8                        | 2,148.6                         | 2,398.7                   | 4,108.9                         | 9,188.0   |
| Oconee       | 785.0                        | 3,948.1                         | 3,345.8                   | 8,800.1                         | 16,879.1  |
| Orangeburg   | 1,986.2                      | 6,046.6                         | 4,180.7                   | 3,679.7                         | 15,893.2  |
| Pickens      | 515.8                        | 5,897.5                         | 4,365.5                   | 8,421.2                         | 19,200.0  |
| Richland     | 971.8                        | 21,943.7                        | 10,543.1                  | 27,225.6                        | 60,684.3  |
| Saluda       | 29.1                         | 1,329.4                         | 874.9                     | 1,238.2                         | 3,471.6   |
| Spartanburg  | 3,095.9                      | 17,189.2                        | 11,643.5                  | 36,654.7                        | 68,583.2  |
| Sumter       | 992.3                        | 4,260.6                         | 4,113.0                   | 7,392.7                         | 16,758.6  |
| Union        | 553.7                        | 1,564.2                         | 2,031.7                   | 2,500.0                         | 6,649.6   |
| Williamsburg | 279.2                        | 1,366.4                         | 1,678.1                   | 2,500.0                         | 5,823.7   |
| York         | 1,941.7                      | 19,376.5                        | 6,746.1                   | 30,590.9                        | 58,655.2  |
| State        | 40,077.5                     | 254,968.2                       | 155,659.5                 | 510,492.7                       | 961,197.9 |

Source: Office of Research and Statistics, South Carolina Budget and Control Board.

Table 9. Other Local Taxes by Category (Fiscal 2008)

{Values in \$000's}

| County       | Local Option<br>Sales Tax | Local<br>Hosp. Tax | Local<br>Accom. Tax | Capital/<br>Trans. Tax | TOTAL     |
|--------------|---------------------------|--------------------|---------------------|------------------------|-----------|
| Abbeville    | 1,585.0                   | ---                | 2.8                 | ---                    | 1,587.8   |
| Aiken        | 1,125.5                   | 488.6              | 638.3               | 26,655.3               | 28,907.8  |
| Allendale    | 497.7                     | ---                | 1.6                 | 366.6                  | 865.9     |
| Anderson     | ---                       | 2,228.3            | 169.2               | ---                    | 2,397.5   |
| Bamberg      | 1,072.9                   | ---                | ---                 | ---                    | 1,072.9   |
| Barnwell     | 1,671.0                   | 179.9              | 32.7                | ---                    | 1,883.6   |
| Beaufort     | ---                       | 8,618.3            | 3,703.8             | 27,076.4               | 39,398.5  |
| Berkeley     | 17,339.5                  | ---                | ---                 | ---                    | 17,339.5  |
| Calhoun      | 826.5                     | ---                | ---                 | ---                    | 826.5     |
| Charleston   | 74,109.3                  | 19,268.3           | 18,091.5            | 40,097.1               | 151,566.2 |
| Cherokee     | ---                       | 944.7              | 171.2               | ---                    | 1,115.9   |
| Chester      | 3,016.5                   | 18.1               | 26.3                | ---                    | 3,060.8   |
| Chesterfield | 4,028.2                   | 473.8              | 65.5                | ---                    | 4,567.4   |
| Clarendon    | 2,840.4                   | 246.5              | 183.1               | ---                    | 3,270.1   |
| Colleton     | 4,300.6                   | 906.1              | 763.5               | ---                    | 5,970.1   |
| Darlington   | 5,008.8                   | 609.1              | 93.7                | ---                    | 5,711.7   |
| Dillon       | 2,427.8                   | 408.1              | 115.7               | 2,548.4                | 5,499.9   |
| Dorchester   | 638.9                     | 2,384.5            | 185.6               | 9,601.1                | 12,810.1  |
| Edgefield    | 1,124.6                   | ---                | ---                 | ---                    | 1,124.6   |
| Fairfield    | 1,456.6                   | ---                | 28.9                | ---                    | 1,485.4   |
| Florence     | 21,071.3                  | 2,809.6            | 1,348.3             | ---                    | 25,229.2  |
| Georgetown   | 9.7                       | 2,599.6            | 2,141.7             | ---                    | 4,750.9   |
| Greenville   | 92.0                      | 15,821.2           | 2,285.2             | ---                    | 18,198.4  |
| Greenwood    | ---                       | 1,246.6            | 223.3               | 8,046.6                | 9,516.5   |
| Hampton      | 1,379.5                   | ---                | 4.0                 | 1,551.9                | 2,935.4   |
| Horry        | ---                       | 49,097.1           | 5,340.2             | 63,537.1               | 117,974.4 |
| Jasper       | 3,166.7                   | 363.1              | 375.1               | ---                    | 3,904.9   |
| Kershaw      | 4,412.6                   | ---                | 131.0               | ---                    | 4,543.6   |
| Lancaster    | 2,039.6                   | 700.5              | 24.7                | ---                    | 2,764.7   |
| Laurens      | 3,565.6                   | 579.4              | 72.2                | ---                    | 4,217.3   |
| Lee          | 897.3                     | ---                | ---                 | 114.1                  | 1,011.4   |
| Lexington    | 846.5                     | ---                | 1,198.6             | ---                    | 2,045.1   |
| Marion       | 2,504.1                   | 348.4              | ---                 | ---                    | 2,852.5   |
| Marlboro     | 1,390.8                   | 223.7              | 35.5                | ---                    | 1,650.1   |
| McCormick    | 527.4                     | ---                | 122.9               | ---                    | 650.3     |
| Newberry     | ---                       | 481.6              | 79.5                | 3,523.5                | 4,084.6   |
| Oconee       | ---                       | 430.2              | 186.8               | ---                    | 617.0     |
| Orangeburg   | 302.2                     | 1,139.7            | 360.3               | 10,020.1               | 11,822.4  |
| Pickens      | 10,759.6                  | 2,549.6            | 416.4               | ---                    | 13,725.6  |
| Richland     | 50,824.8                  | 13,997.4           | 1,521.6             | ---                    | 66,343.8  |
| Saluda       | 851.6                     | ---                | 122.7               | ---                    | 974.3     |
| Spartanburg  | ---                       | 5,557.5            | 1,111.6             | ---                    | 6,669.1   |
| Sumter       | 9,995.4                   | 2,295.1            | 366.2               | ---                    | 12,656.7  |
| Union        | ---                       | 222.0              | ---                 | ---                    | 222.0     |
| Williamsburg | 2,082.4                   | 184.9              | 60.3                | ---                    | 2,327.7   |
| York         | ---                       | 5,108.3            | 1,123.0             | 25,976.0               | 32,207.4  |
| State        | 239,789.1                 | 142,529.7          | 42,924.7            | 219,114.2              | 644,357.7 |

Source: Office of Research and Statistics, South Carolina Budget and Control Board.

Table 10. List of Available Property Tax Exemptions

The following property is exempt from property taxes in the state of South Carolina:

1. All property owned by the following organizations , as long as the property is used exclusively for the organization's purpose and no profit is realized:
  - A. American Legion, Veterans of Foreign Wars, Spanish American War Veterans, Disabled American Veterans, Fleet Reserve Association and other similar veterans' organizations
  - B. YMCA and YWCA
  - C. Salvation Army
  - D. Boy Scouts and Girl Scouts
  - E. Palmetto Junior Homemakers Association and New Homemakers of South Carolina
  - F. South Carolina Association of Future Farmers of America and New Farmers of South Carolina
  - G. Any fraternal society, corporation or association
  - H. Any religious, charitable, eleemosynary, educational or literary society, corporation or association
  - I. Volunteer fire departments and rescue squads
  - J. Nonprofit museums
  - K. Nonprofit or eleemosynary community theater companies, symphony orchestras, county and community arts councils and commissions, and other similar companies
2. The dwelling house and up to one acre of surrounding land is exempt for:
  - A. a veteran who is permanently and totally disabled from a service-connected disability and the surviving spouse
  - B. the surviving spouse of military personnel killed in the line of duty
  - C. a paraplegic or hemiplegic person and the surviving spouse
3. Two motor vehicles for which special license tags have been issued are exempt if owned by:
  - A. a prisoner of war of World War I, World War II, Korean Conflict or Vietnam Conflict
  - B. a permanently and totally disabled veteran (In lieu of a special tag, certification from the Veterans' Administration that disability is service connected is acceptable.)
  - C. recipients of the Medal of Honor
  - D. persons required to use wheelchairs (in lieu of a special tag, the taxpayer must provide a physician's certification that they are required to use a wheelchair.)
4. All property of the following is exempt:
  - A. the state, counties, municipalities, school districts, water and sewer authorities and other political subdivisions if property is used exclusively for public purposes  
Note: No application is necessary to receive this exemption.
  - B. schools, colleges and other institutions of learning when no profit goes to private use
  - C. nonprofit hospitals and institutions caring for the infirmed, handicapped, elderly, children or indigent persons when no profit goes to private use
  - D. public libraries
  - E. churches, parsonages and burying grounds
  - F. charitable trusts and foundations if property is used for charitable and public purposes
  - G. nonprofit corporations providing water supply or sewage disposal
  - H. nonprofit housing corporations providing low-cost housing to the elderly or handicapped (Organization must be authorized by Section 202 of the Housing Act of 1959.)

{Continued on Next Page}

5. The following exemptions pertain to personal effects and the home:
  - A. household goods and furniture used in the owner's home
  - B. household goods and furniture used in a time-share residential unit
  - C. clothing

Note: No application is necessary to receive exemptions discussed in 5 A, B and C.

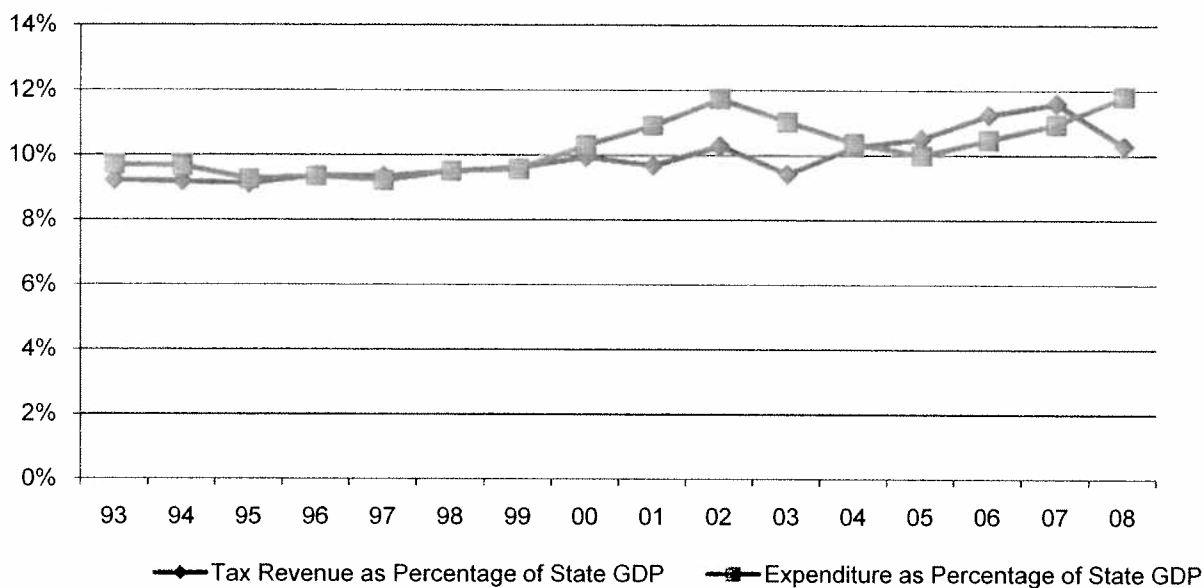
  - D. a homestead exemption of \$50,000 is available to residents who are 65 years of age, who are totally disabled or who are totally blind. This exemption is granted by the County Auditor. Taxpayer is required to file an application with the County Auditor.
  - E. Up to \$100,000 exemption for legal residences from ordinary school millage.

Note: No application necessary for this exemption. amount of exemption may vary from year to year.
6. The following exemptions pertain to the farm:
  - A. all agricultural products owned by the producer
  - B. livestock and poultry
  - C. farm machinery and equipment
  - D. greenhouses

Note: No application is necessary for these exemptions.
7. The following exemptions pertain to business concerns:
  - A. New manufacturing facilities and additions costing at least \$50,000 to existing manufacturing facilities are exempt from the ordinary county taxes for a period of five years
  - B. Corporate headquarters, corporate office facilities and distribution facilities are exempt from ordinary county taxes for a period of five years if the cost of new construction or additions is \$50,000 or more and 75 or more full-time jobs are created
  - C. Manufacturers' inventories
  - D. Merchants' inventories
  - E. Personal property of an air carrier operating a hub in South Carolina is exempt for 10 years
  - F. Water, air or noise pollution equipment and facilities
8. Other property tax exemptions are:
  - A. Real property leased on a nonprofit basis to a state agency, county, municipality or other political subdivision used for a public purpose other than office space or warehousing
  - B. Property leased to and operated by the S.C. Public Service Authority for generating or transmitting electricity
  - C. Personal property used for public display loaned or leased on a nonprofit basis to a state agency, county, municipality or other political subdivision or to an organization exempt from federal income tax under IRC section 501-514
  - D. Carnival equipment owned, leased or used by a foreign corporation or nonresident for a period of less than six months if property tax has been paid in another state
  - E. Other property owned by churches if no income producing ventures are located on the property and no profit or benefit is derived by any individual
  - F. Nonprofit community-owned recreation facilities open to the general public
  - G. Personal property in transit with 'no situs' status
  - H. Intangible personal property

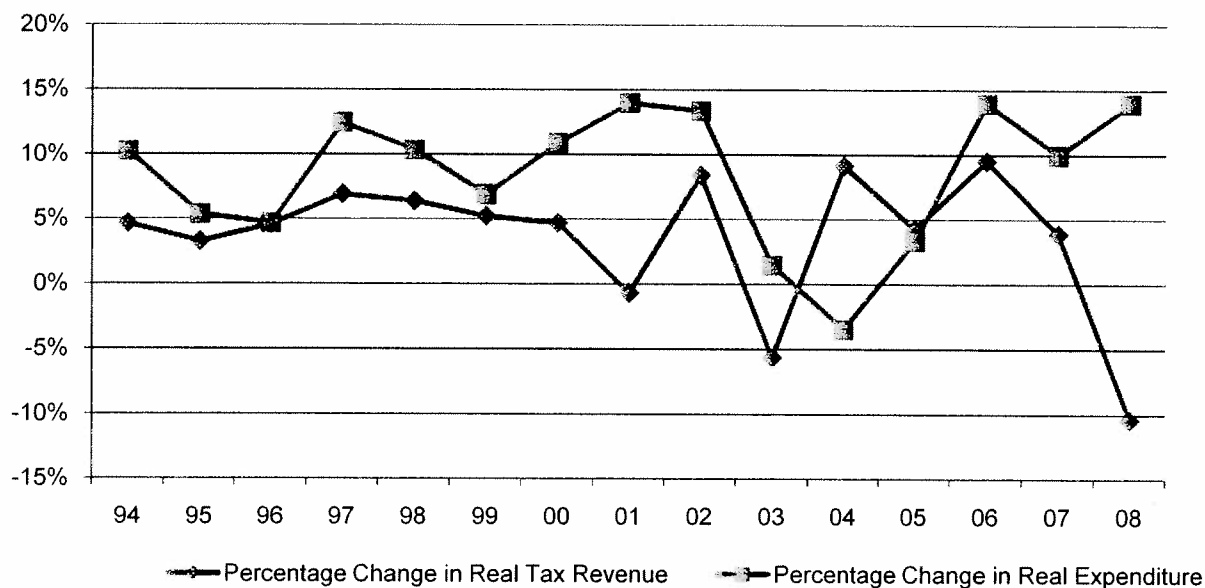
Source: South Carolina Department of Revenue.

FIGURE 1A

**Consolidated State and Local Tax Revenue and Expenditure as Percentage of State GDP**

Source and notes: Office of Research and Statistics, South Carolina Budget and Control Board.

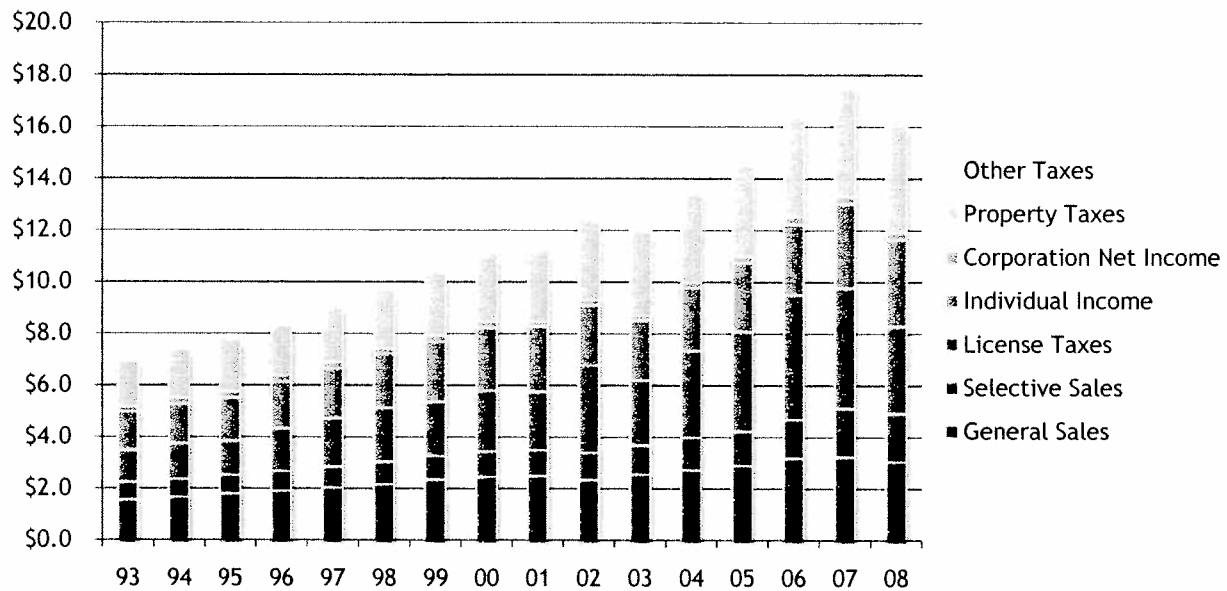
FIGURE 2A

**Annual Percentage Change in Consolidated State and Local Tax Revenue and Expenditure**

Source and notes: Office of Research and Statistics, South Carolina Budget and Control Board.

FIGURE 3A

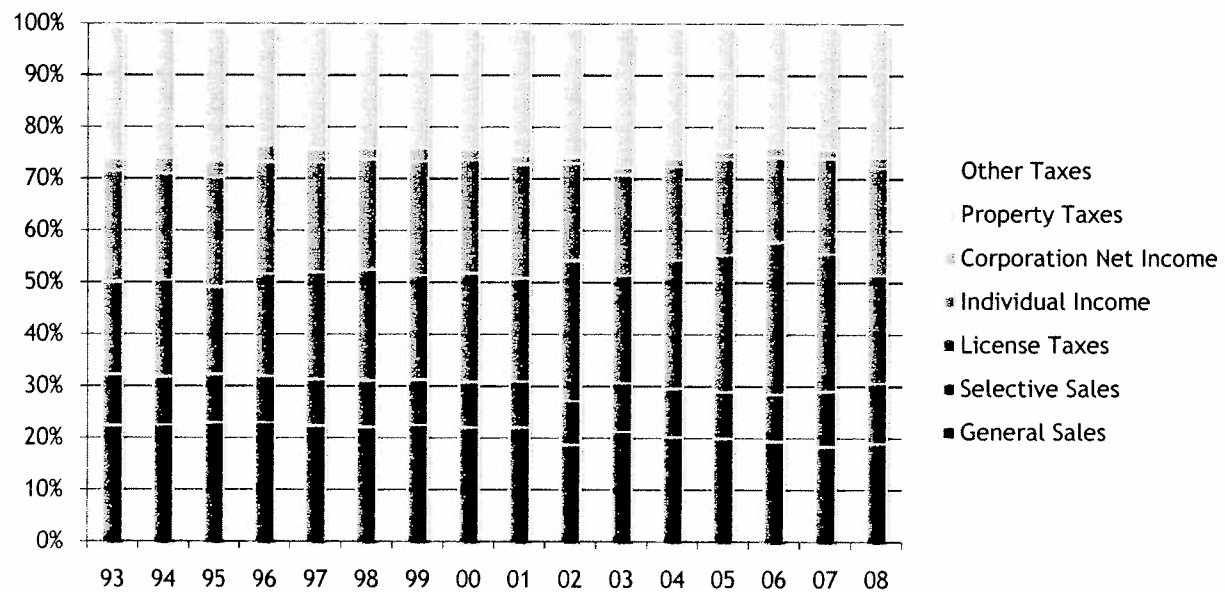
## Consolidated State and Local Tax Revenue (Billions of Dollars)



Source and notes: Office of Research and Statistics, South Carolina Budget and Control Board. Values in billions of current dollars.

FIGURE 4A

## Consolidated State and Local Tax Revenue

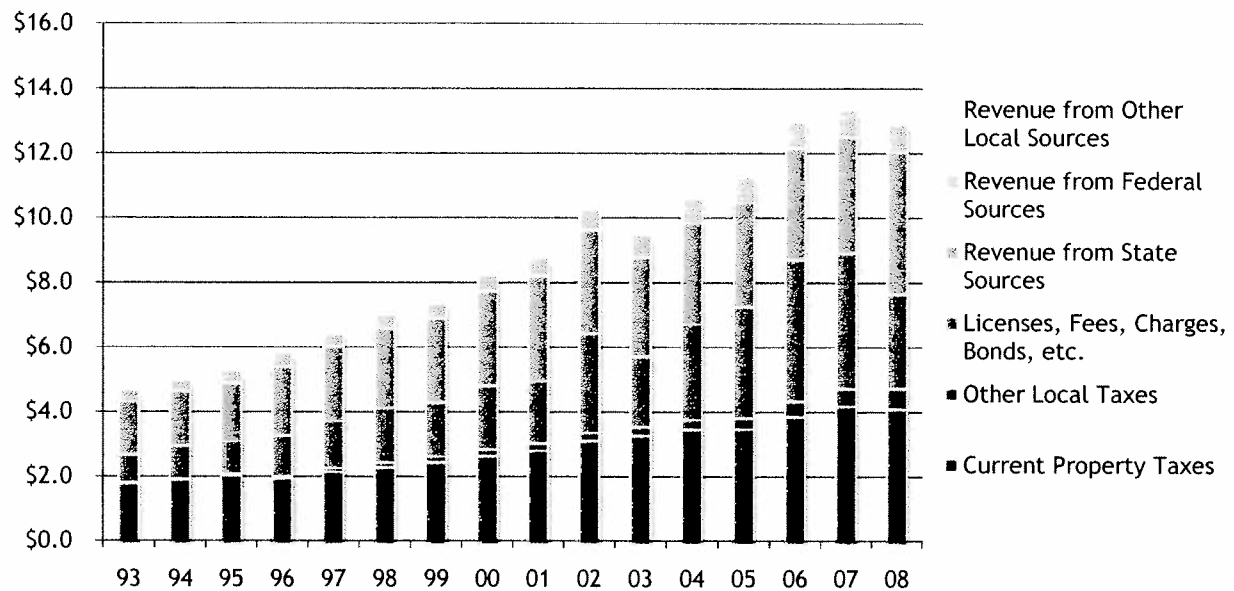


Source and notes: Office of Research and Statistics, South Carolina Budget and Control Board.



FIGURE 5A

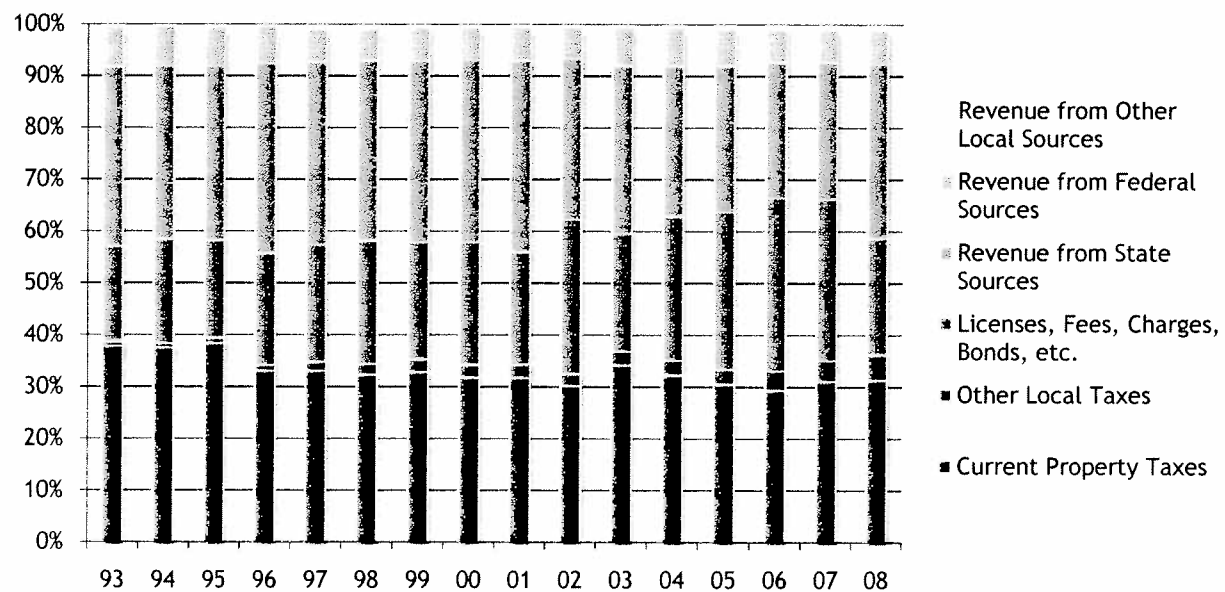
## Total Local Government Revenue (Billions of Dollars)



Source and notes: Office of Research and Statistics, South Carolina Budget and Control Board. Values in billions of current dollars.

FIGURE 6A

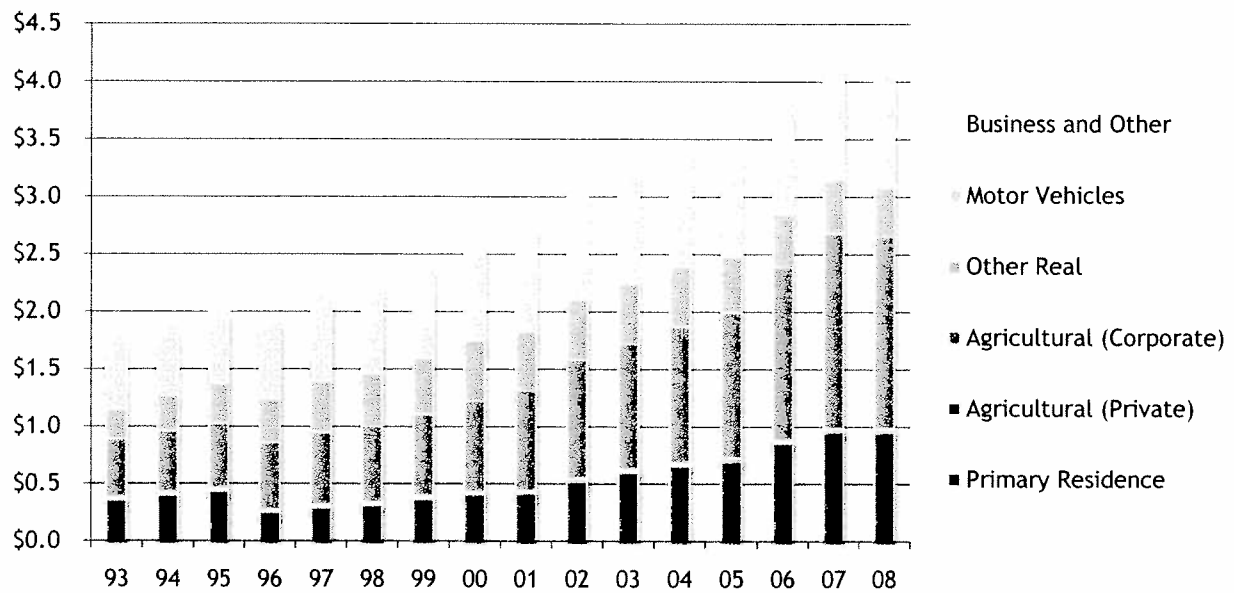
## Total Local Government Revenue



Source and notes: Office of Research and Statistics, South Carolina Budget and Control Board.

FIGURE 7A

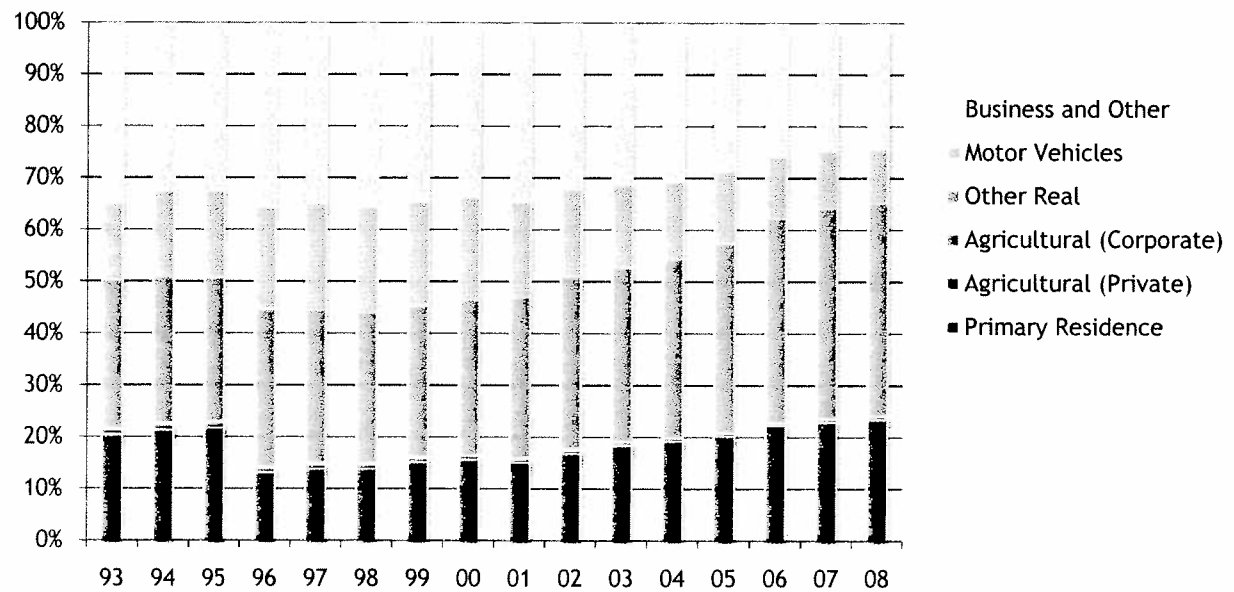
## Local Government Property Tax Revenue (Billions of Dollars)



Source and notes: Office of Research and Statistics, South Carolina Budget and Control Board. Values in billions of current dollars.

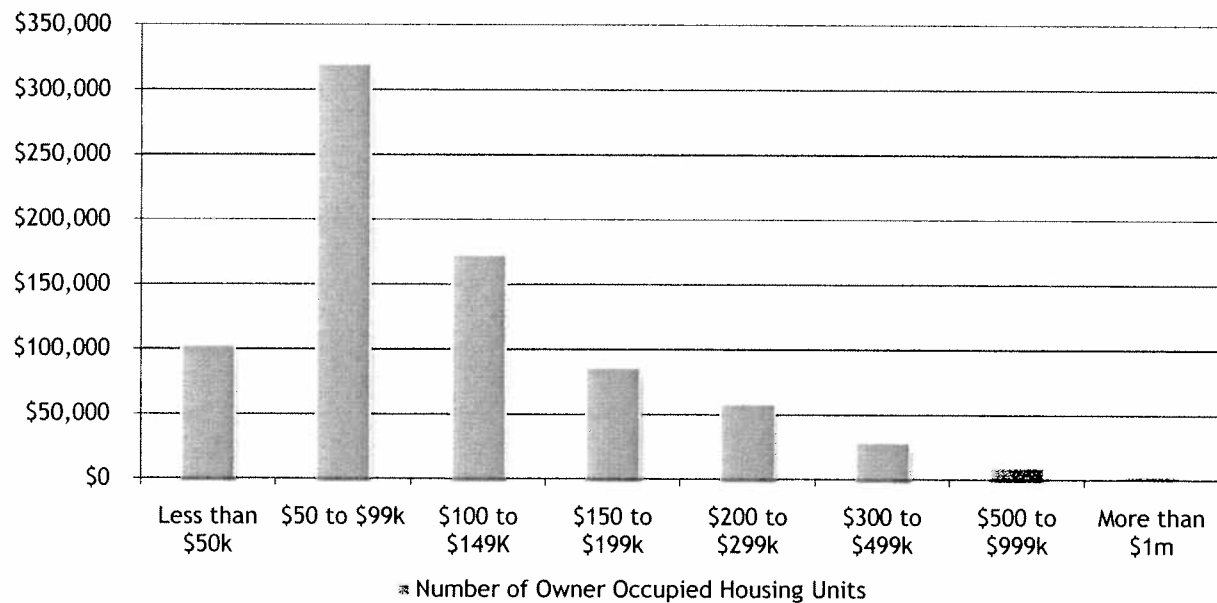
FIGURE 8A

## Local Government Property Tax Revenue



Source and notes: Office of Research and Statistics, South Carolina Budget and Control Board. Values in billions of current dollars.

FIGURE 9A

**Distribution of South Carolina Owner Occupied Housing Values (Fiscal 2000)**

Source and notes: Office of Research and Statistics, South Carolina Budget and Control Board.

# South Carolinas Taxation Realignment Commission

## An Appendix to:

## Fuel Tax Report

### Contents

TRAC Fuel Tax Exemption Recommendation - Draft Legislation (5 cent increase)

TRAC Fuel Tax Recommendation - Draft Legislation (Structural Modification)

Table: "Gasoline Taxes in the Southeast", prepared from various sources by Craig H. Parks, Sr. Research Analyst, Senate Finance Committee, September 15, 2009.

"South Carolina Revenue Sources and Fiscal Impacts: Motor Fuel Tax", prepared by the South Carolina Budget and Control Board, Division of Research and Statistical Services, Office of Economic Research, September 1, 2009.

Table: "South Carolina Gasoline, Special Fuel, and Highway Use User Fee Revenue by Type and Allocation" (FY1996-97 - FY2008-09), prepared by the South Carolina Budget and Control Board, Division of Research and Statistical Services, Office of Economic Research, September 1, 2009.

Table: "State Motor Fuel Tax Rates" (a 50 state comparison as of January 1, 2010), prepared by the Federation of Tax Administrators, February 2010.

Table: A history of North Carolina Motor Fuel Tax Rates, prepared by the North Carolina Department of Revenue, June 15, 2010.

Bulletin: Georgia Prepaid State Tax Rates (on motor fuel; effective January 1, 2010), prepared by the Georgia Department of Revenue, November 30, 2009.

Bulletin: Georgia Prepaid Local Sales Tax (on motor fuel; effective January 1, 2010), prepared by the Georgia Department of Revenue, November 30, 2009.

Testimony: Mr. Buck Limehouse, Secretary of Transportation, South Carolina Department of Transportation, presentation to the Tax Realignment Commission, October 28, 2009.

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9                                   **A BILL**

10  
11       TO AMEND SECTION 12-28-310(A) OF THE 1976 CODE,  
12       RELATING TO USER FEES ON GASOLINE AND DIESEL  
13       FUEL, TO INCREASE THE USER FEE ON MOTOR FUELS  
14       FROM SIXTEEN CENTS PER GALLON TO TWENTY-ONE  
15       CENTS PER GALLON; TO ADD SECTION 12-28-340 TO  
16       PROVIDE FOR A PROCEDURE TO IMPOSE TAXES ON  
17       FUELS WHICH ARE NOT COMMONLY SOLD OR  
18       MEASURED BY THE GALLON AND ARE USED IN ANY  
19       MOTOR VEHICLES ON THE PUBLIC HIGHWAYS OF THIS  
20       STATE; TO MAKE TECHNICAL AND CONFORMING  
21       AMENDMENTS TO SECTIONS 12-28-2720, 12-28-2910(A)  
22       AND 12-28-2915(A); AND TO TEMPORARILY INCREASE  
23       THE ENVIRONMENTAL IMPACT FEE IMPOSED  
24       PURSUANT TO SECTION 12-28-2355.

25       Be it enacted by the General Assembly of the State of South  
26       Carolina:

27  
28       SECTION 1. Section 12-28-310 of the 1976 Code is amended to  
29       read:

30  
31               “Section 12-28-310. (A) Subject to the exemptions provided  
32       in this chapter, a motor fuel user fee comprised of sixteen twenty-  
33       one cents a per gallon is imposed on:

34               (1) all gasoline, gasohol, or blended fuels containing  
35       gasoline that are used or consumed for any purpose in this State;  
36       and

37               (2) all diesel fuel, substitute fuels, or alternative fuels, or  
38       blended fuels containing diesel fuel that are used or consumed in  
39       this State in producing or generating power for propelling motor  
40       vehicles.  
41

1 SECTION 2. Article 3, Chapter 28, Title 12 of the 1976 Code is  
2 amended by adding:

3  
4 “Section 12-28-340. In the event that any motor fuels or  
5 alternative fuels which are not commonly sold or measured by the  
6 gallon are used in any motor vehicles on the public highways of  
7 this State, the department shall promulgate regulations to assess,  
8 levy, and collect tax upon those fuels. Any tax collected pursuant  
9 to this section must be distributed in the same manner as provided  
10 in this chapter.”

11  
12 SECTION 3. Section 12-28-2720 of the 1976 Code is amended to  
13 read:

14  
15 “Section 12-28-2720. Subject to the provisions of Sections 12-  
16 28-2355, 12-28-2730, 12-28-2740, and 12-28-2910, The the  
17 proceeds from ten and thirty four hundredths cents a gallon of the  
18 motor fuel user fee ~~on gasoline only~~ as levied and provided for in  
19 this chapter must be ~~turned over~~ remitted to the State Highway  
20 Fund of the Department of Transportation for the purpose of that  
21 department.”

22  
23  
24 SECTION 4. Section 12-28-2910(A) of the 1976 Code is  
25 amended to read:

26  
27 “Section 12-28-2910(A). The first eighteen million dollars  
28 generated from ~~three cents of the motor fuel~~ user fee levied in this  
29 chapter must be credited to the Department of Transportation State  
30 Non-Federal Aid Highway Fund.”

31  
32 SECTION 5. Section 12-28-2915(A) of the 1976 Code is  
33 amended to read:

34  
35 “Section 12-28-2915 (A) Notwithstanding another provision of  
36 law, ~~seven~~ twenty million dollars of the taxes collected pursuant to  
37 Article 1, Chapter 23, Title 12 must be placed in the account for  
38 economic development contained in Section 12-28-2910 ~~for fiscal~~  
39 ~~year 2005-2006, fourteen million dollars for fiscal year 2006-2007,~~  
40 ~~and twenty million dollars for fiscal year 2007-2008 and for each~~  
41 ~~succeeding fiscal year thereafter.~~

42

1 SECTION 6. Section 12-28-2355(B) of the 1976 Code is amended  
2 to read:

3  
4 “(B) In addition to the inspection fee of one-fourth cent a gallon  
5 imposed pursuant to subsection (A), an environmental impact fee  
6 of one-half cent a gallon is imposed which must be used by the  
7 department for the purposes of carrying out the provisions of this  
8 chapter. This one-half cent a gallon environmental impact fee  
9 must be paid and collected in the same manner that the one-fourth  
10 cent a gallon inspection fee is paid and collected, except that the  
11 monies generated from these environmental impact fees must be  
12 transmitted by the Department of Revenue to the Department of  
13 Health and Environmental Control which shall deposit the fees as  
14 provided in Section 44-2-40. Two years after enactment of this  
15 section, the one cent a gallon environmental impact fee shall be  
16 reduced to one-half cent a gallon.“

17  
18  
19 SECTION 7. This act takes effect upon approval by the Governor.

20 ----XX----

21

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9                                   **A BILL**

10  
11 TO AMEND SECTION 12-28-310 OF THE 1976 CODE,  
12 RELATING TO USER FEES ON GASOLINE AND DIESEL  
13 FUEL, TO PROVIDE THAT THE MOTOR FUEL USER FEE IS  
14 COMPRISED OF A NINE CENTS PER GALLON  
15 COMPONENT AND A WHOLESALE PRICE COMPONENT,  
16 AND TO PROVIDE FOR THE DETERMINATION OF THE  
17 WHOLESALE PRICE COMPONENT; BY ADDING SECTION  
18 12-28-340 TO PROVIDE FOR A PROCEDURE TO IMPOSE  
19 TAXES ON FUELS WHICH ARE NOT COMMONLY SOLD  
20 OR MEASURED BY THE GALLON AND ARE USED IN ANY  
21 MOTOR VEHICLES ON THE PUBLIC HIGHWAYS OF THIS  
22 STATE, TO MAKE TECHNICAL AND CONFORMING  
23 AMENDMENTS TO SECTIONS 12-28-2720, 12-28-2725, 12-28-  
24 2730(A), 12-28-2910(A) AND 12-28-2715(A); AND TO  
25 TEMPORARILY INCREASE THE ENVIRONMENTAL  
26 IMPACT FEE IMPOSED PURSUANT TO SECTION 12-28-  
27 2355.

28  
29 Be it enacted by the General Assembly of the State of South  
30 Carolina:

31  
32 SECTION 1. Section 12-28-310 of the 1976 Code is amended to  
33 read:

34  
35       “Section 12-28-310. (A) Subject to the exemptions provided  
36 in this chapter, a motor fuel user fee comprised of sixteen a nine  
37 cents a per gallon component and a wholesale price component is  
38 imposed on:

39       (1) all gasoline, gasohol, or blended fuels containing  
40 gasoline that are used or consumed for any purpose in this State;  
41 and



1 (2) all diesel fuel, substitute fuels, or alternative fuels, or  
2 blended fuels containing diesel fuel that are used or consumed in  
3 this State in producing or generating power for propelling motor  
4 vehicles.

5 (B) The wholesale price component of the motor fuel user fee  
6 is the cents-per-gallon equivalent, rounded upwards to the next  
7 tenth of a cent, of four percent of the average wholesale price of  
8 motor fuel for the applicable base period, or seven cents per gallon,  
9 whichever is greater.

10 (1) The director must determine the wholesale price for each  
11 base period. Each calendar year is divided into two base periods.  
12 One base period ends on March thirty first and the other base  
13 period ends on September thirtieth. The tax rate set by the director  
14 using the data for the base period that ends on March thirty first  
15 applies to the six-month period that begins the following July first  
16 and ends on December thirty first. The tax rate set by the director  
17 using the data for the base period that ends on September thirtieth  
18 applies to the six-month period that begins the following January  
19 first and ends on June thirtieth.

20 (2) To determine the average wholesale price of motor fuel  
21 for each base period, the director must use data produced by the  
22 United States Department of Energy in the "Monthly Energy  
23 Review" concerning refiner and gas plant operator sales prices of  
24 finished motor gasoline and Number Two diesel fuel for resale,  
25 data furnished by suppliers, importers, and distributors, or other  
26 reliable data related to wholesale selling prices, or a combination  
27 of all three.

28 (3) For each six-month period beginning January first and  
29 July first, the department must notify affected taxpayers and the  
30 Department of Transportation of the tax rate to be applied during  
31 the base period.

32 (4) The wholesale price component of the motor fuel user  
33 fee shall not exceed twenty-one cents per gallon from the date of  
34 enactment of this section until June 30, 2017, and may not increase  
35 thereafter at a rate any greater than the national Consumer Price  
36 Index, as published by the United States Bureau of Labor  
37 Statistics..

38 ~~(B)~~ (C) The user fee levied on motor fuel subject to the user  
39 fee pursuant to this chapter is a levy and assessment on the  
40 consumer, and the levy and assessment on other persons as  
41 specified in this chapter are as agents of the State for the collection  
42 of the user fee. This section does not affect the method of  
43 collecting the user fee as provided in this chapter. The user fee

1 imposed by this section must be collected and paid at those times,  
2 in the manner, and by the persons specified in this chapter.

3 ~~(C)~~ (D) The license user fee imposed by this section is instead  
4 of all sales, use, or other excise tax that may be imposed otherwise  
5 by any municipality, county, or other local political subdivision of  
6 the State.”

7  
8 SECTION 2. Article 3, Chapter 28, Title 12 of the 1976 Code is  
9 amended by adding:

10  
11 “Section 12-28-340. In the event that any motor fuels or  
12 alternative fuels which are not commonly sold or measured by the  
13 gallon are used in any motor vehicles on the public highways of  
14 this State, the department shall promulgate regulations to assess,  
15 levy, and collect tax upon those fuels. Any tax collected pursuant  
16 to this section must be distributed in the same manner as provided  
17 in this chapter.”

18  
19 SECTION 3. Section 12-28-2720 of the 1976 Code is amended to  
20 read:

21  
22 “Section 12-28-2720. Subject to the provisions of Sections 12-  
23 28-2355, 12-28-2730, 12-28-2740, and 12-28-2910, The the  
24 proceeds from ten and thirty four hundredths cents a gallon of the  
25 motor fuel user fee on gasoline only as levied and provided for in  
26 this chapter must be turned over remitted to the State Highway  
27 Fund of the Department of Transportation for the purpose of that  
28 department.”

29  
30 SECTION 4. Section 12-28-2725 of the 1976 Code is amended to  
31 read:

32  
33 “Section 12-28-2725. (A) ~~Of the ten and thirty four hundredths~~  
34 ~~cents user fee on gasoline imposed pursuant to this chapter, an~~ An  
35 amount equal to twenty-five hundredths of a one cent of the nine  
36 cent per gallon component of the motor fuel user fee on gasoline  
37 only remitted to the State Highway Fund pursuant to Section 12-  
38 28-2720 on each gallon must be used by the department for mass  
39 transit.

40 (B) The State Auditor annually shall audit, or cause to be  
41 audited, the state’s regional transit authorities and eleemosynary  
42 organizations acting as regional transit authorities receiving funds  
43 from the Department of Transportation. Copies of the audits must

1 be made available to the department and to the General  
2 Assembly.”

3  
4 SECTION 5. Section 12-28-2730(A) of the 1976 Code is  
5 amended to read:

6  
7 “Section 12-28-2730. (A) One and six hundred twenty five  
8 thousandths percent of the proceeds from ~~thirteen~~ the nine cents  
9 component of the gasoline motor fuel user fee imposed on gasoline  
10 only pursuant to this chapter must be transmitted to the  
11 Department of Natural Resources for a special water recreational  
12 resources fund of the State. All balances in the fund must be  
13 carried forward annually so that no part of it reverts to any other  
14 fund.”

15  
16  
17 SECTION 6. Section 12-28-2910(A) of the 1976 Code is  
18 amended to read:

19  
20 “Section 12-28-2910. (A) The first eighteen million dollars  
21 generated from ~~three cents of the motor fuel~~ user fee levied in this  
22 chapter must be credited to the Department of Transportation State  
23 Non-Federal Aid Highway Fund.”

24  
25 SECTION 7. Section 12-28-2915(A) of the 1976 Code is  
26 amended to read:

27  
28 “Section 12-28-2915 (A) Notwithstanding another provision of  
29 law, ~~seven~~ twenty million dollars of the taxes collected pursuant to  
30 Article 1, Chapter 23, Title 12 must be placed in the account for  
31 economic development contained in Section 12-28-2910 ~~for fiscal~~  
32 ~~year 2005-2006, fourteen million dollars for fiscal year 2006-2007,~~  
33 ~~and twenty million dollars for fiscal year 2007-2008 and for each~~  
34 ~~succeeding~~ fiscal year ~~thereafter~~.

35  
36  
37 SECTION 8. Section 12-28-2355(B) of the 1976 Code is amended  
38 to read:

39  
40 “(B) In addition to the inspection fee of one-fourth cent a gallon  
41 imposed pursuant to subsection (A), an environmental impact fee  
42 of one-half cent a gallon is imposed which must be used by the  
43 department for the purposes of carrying out the provisions of this

1 chapter. This one-half cent a gallon environmental impact fee  
2 must be paid and collected in the same manner that the one-fourth  
3 cent a gallon inspection fee is paid and collected, except that the  
4 monies generated from these environmental impact fees must be  
5 transmitted by the Department of Revenue to the Department of  
6 Health and Environmental Control which shall deposit the fees as  
7 provided in Section 44-2-40. Two years after enactment of this  
8 section, the one cent a gallon environmental impact fee shall be  
9 reduced to one-half cent a gallon.“

10  
11  
12 SECTION 9. This act takes effect upon approval by the Governor.

13 -----XX-----  
14

# Gasoline\* Taxes in the Southeast (Cents per Gallon)

| Taxes per Gallon (cents)                                       |                                    |                    | Volume<br>Barrels/Yr. <sup>1</sup><br>(1,000's) | Percent | Gas Tax<br>Wtd. Avg. |
|--|------------------------------------|--------------------|---|---------|----------------------|
| Base<br>Excise Tax<br>(Gas)                                    | Additional<br>Sales Taxes/<br>Fees | Total<br>State Tax |   |         |                      |
| Florida <sup>4</sup>   | 4                                  | 34.5               | 208,744   | 23.58%  | 8.14                 |
| W. Virginia <sup>12</sup>                                      | 20.5                               | 32.2               | 20,217  | 2.28%   | 0.74                 |
| N. Carolina <sup>9</sup>                                       | 29.9                               | 30.15              | 107,871   | 12.19%  | 3.68                 |
| Kentucky <sup>8</sup>  | 21.1                               | 22.5               | 54,131  | 6.12%   | 1.38                 |
| Arkansas <sup>3</sup>  | 21.5                               | 21.8               | 34,962  | 3.95%   | 0.86                 |
| Tennessee <sup>10</sup>  | 20                                 | 21.4               | 76,076  | 8.60%   | 1.84                 |
| Alabama <sup>2</sup>   | 16                                 | 20.9               | 64,300  | 7.27%   | 1.52                 |
| Georgia <sup>5</sup>   | 7.5                                | 20.9               | 121,069   | 13.68%  | 2.86                 |
| Louisiana <sup>7</sup>   | 20                                 | 20                 | 57,866  | 6.54%   | 1.31                 |
| Virginia <sup>11</sup>   | 17.5                               | 18.4               | 99,021  | 11.19%  | 2.17                 |
| Mississippi <sup>6</sup>                                       | 18                                 | 18.4               | 40,534  | 4.58%   | 0.84                 |
| S. Carolina  | 16                                 | 16.75              | 61,328  |         |                      |
| Southeastern Average (excluding SC) - Weighted based on volume |                                    |                    | 884,791   | 100.00% | 25.33                |

\* Gasoline only, excluding Diesel and LPG.

Sources: State agencies, Energy Information Administration, Federal Highway Administration and the American Petroleum Institute.

## NOTES:

1 The average Southeastern gas tax is weighted based on each state's reported energy consumption for 2007. Specifically, consumption of "motor gasoline" (all sectors) measured in thousand barrels (petroleum). Data from Energy Information Administration.

2 ALABAMA: 16 cpg base tax plus 3 cpg enviro fees. Estimate also includes

county/city levied cpg taxes estimated by API to be 2 cpg.

3 ARKANSAS: 21.5 cpg base tax plus 0.2 cpg enviro fee.

4 FLORIDA: Base excise tax of 4 cpg plus a wtd avg. 30.5 cpg of local option and other fees. gas gallons

Florida Dept. of Revenue and API.

5 GEORGIA: Base tax of 7.5 cpg plus an estimated 13.4 cpg of state and local sales taxes. Estimated based on

"prepaid state tax rates" published by the GA DOR 7/1/09. LOST range from 1-3% weighted on co. population

6 KENTUCKY: Excise tax includes 5 cpg hwy user fee and 10 cpg indexed variable tax based on wholesale price plus 1.4 cpg enviro fee.

7 LOUISIANA: Base tax of 20 cpg with no add ons.

8 MISSISSIPPI: Base tax of 18 cpg with 0.4 cpg enviro fee. Not included is a 3 cpg "seawall" tax levied in 3 MS counties.

9 N. CAROLINA: Base tax of 29.9 cpg (based on combo of 17.5 excise & wholesale prices adjusted periodically) plus 0.25 cpg enviro fee.

10 TENNESSEE: Base tax of 20 cpg plus 1.4 cpg of special taxes and enviro fees.

11 VIRGINIA: Base tax of 17.5 cpg plus 0.6 cpg enviro fees. Also includes a wtd. Avg. sales tax component of 1.3 cpg based on the

2% sales tax in the NVTD.

12 W. VIRGINIA: Base tax of 20.5 cpg plus a variable wholesale tax of 11.7 cpg adjusted periodically.

# Motor Fuel Tax

## Summary

Statute: 12-28-110 to 12-28-2490

Date Enacted: 1922

Date of last change: 1987

Rate: \$0.1675 per gallon

Current Distribution: \$0.1034 to the State Highway Fund (DOT)  
 \$0.0266 to the "C" Fund (Counties)  
 (First \$18,000,000 to State Non-Federal Aid Highway Fund  
 (DOT); 1% of 13-cents to Dept. of Natural Resources  
 \$0.03 to the Strategic Highway Fund (SHIMS) / Econ. Dev.  
 \$0.005 to DHEC  
 \$0.0025 to Petroleum Inspection Fee to DHEC

Following Attachment: Motor Fuel by Type and Allocation of Revenues

## Fiscal Year Collections 1/

|      |               |
|------|---------------|
| FY05 | \$503,050,415 |
| FY06 | \$511,973,375 |
| FY07 | \$533,284,480 |
| FY08 | \$534,166,432 |
| FY09 | \$514,764,946 |

1/ Revenues do not include DHEC and Petroleum Inspection Fees

## FY10 Fiscal Impacts as a Result of Change in Current Law

|   |               |
|---|---------------|
| Increase State Excise Tax by One Cent <sup>1</sup>  | \$34,925,587  |
| Increase State Excise Tax by Five Cents <sup>2</sup>  | \$174,627,934 |
| Impose 6 percent sales tax on full retail price including taxes and fees <sup>3</sup>   | \$557,412,366 |
| Impose 6 percent sales tax on full retail price excluding state excise tax <sup>4</sup>   | \$523,883,803 |
| Impose 6 percent sales tax on full retail price excluding state and federal excise tax <sup>5</sup>                                       | \$485,325,955 |
| Impose 6 percent sales tax on full retail price excluding all taxes (state and federal excise tax and SC environmental fees) <sup>6</sup> | \$483,754,304 |

<sup>1</sup>Based on estimated 3.49 Billion gallons of gas, diesel and LPG in SC in FY09 x \$0.01

<sup>2</sup>Based on estimated 3.49 Billion gallons of gas, diesel and LPG in SC in FY09 x \$0.05

<sup>3-6</sup>Based on short-term energy price info from US DOE/EIA and gallon figures from SCDOT

<sup>3</sup>Price includes cpg state excise tax (\$0.16), federal excise tax (\$0.184 gas, \$0.244 diesel, \$0.183 LPG), and state environmental fees (\$0.0075)

<sup>4</sup>Price less the \$0.16 state excise tax but including federal tax and SC environmental fees

<sup>5</sup>Price less state and federal excise tax but including SC environmental fees

<sup>6</sup>Retail price only / excludes all taxes and fees

## South Carolina Gasoline, Special Fuel, and Highway-Use User Fee Revenue by Type and Allocation

Page 1 of 2

| Distribution of Motor Fuels  |  | FY 1996-97  | FY 1997-98  | FY 1998-99  | FY 1999-00  | FY 2000-01  | FY 2001-02  | FY 2002-03  | FY 2003-04  | FY 2004-05  | FY 2005-06  | FY 2006-07  | FY 2007-08  | FY 2008-09  |
|--|--|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Total Gasoline/Motor Fuel User Fees (UF)                                 |  | 403,985,784 | 420,684,109 | 433,683,204 | 455,308,122 | 449,630,752 | 456,335,008 | 467,808,145 | 489,318,641 | 503,050,415 | 511,973,375 | 533,284,480 | 534,166,432 | 514,764,946 |
| 13-Cent Motor Fuel User Fees, subtotal                                   |  | 328,215,427 | 343,216,514 | 352,318,244 | 369,868,537 | 365,391,118 | 370,424,319 | 379,481,022 | 398,826,606 | 408,747,723 | 416,413,405 | 433,271,560 | 434,010,851 | 418,283,117 |
| Gasoline User Fee (12-28-310) 1/   |  | 258,568,063 | 279,334,758 | 281,752,126 | 292,654,446 | 288,492,135 | 295,194,710 | 300,481,652 | 314,167,826 | 315,400,436 | 322,196,773 | 332,598,524 | 333,818,074 | 327,747,770 |
| Special Fuel (SF) User Fee (12-28-310) 1/                                |  | 68,164,098  | 59,942,403  | 70,566,118  | 77,240,386  | 76,898,983  | 75,228,609  | 78,999,370  | 84,657,780  | 93,347,287  | 94,216,632  | 100,685,037 | 100,192,777 | 90,515,347  |
| Highway-Use User Fee (Old 12-31-410) 1/                                  |  | 1,492,266   | 3,938,353   | 0           | 73,705      | 0           | 0           | 0           | 0           | 0           | 0           | 0           | 0           | 0           |
| 3-Cent SHIMS (DOT & Econ. Dev., subtotal)                                |  | 75,780,358  | 77,468,685  | 81,274,960  | 85,339,585  | 84,239,634  | 85,910,689  | 88,127,123  | 90,493,035  | 94,302,682  | 95,569,970  | 100,012,920 | 100,166,581 | 96,501,829  |
| Economic Development (12-28-2910(A))                                     |  | 18,000,000  | 18,000,000  | 18,000,000  | 18,000,000  | 18,000,000  | 18,000,000  | 18,000,000  | 18,000,000  | 18,000,000  | 18,000,000  | 18,000,000  | 18,000,000  | 18,000,000  |
| Residual SHIMS / DOT Revenue (12-28-2750) 2/                             |  | 57,780,358  | 59,468,565  | 63,274,960  | 67,339,585  | 66,239,634  | 67,910,689  | 70,127,123  | 72,493,035  | 76,302,682  | 77,569,970  | 82,012,920  | 82,155,581  | 78,501,829  |
| Allocation of Motor Fuel Revenues, 16-cent levy (12-28-2730(A))          |  | 2,585,681   | 2,793,348   | 2,817,521   | 2,826,544   | 2,804,921   | 2,861,647   | 3,004,817   | 3,141,678   | 3,154,004   | 3,221,968   | 3,325,865   | 3,338,181   | 3,277,478   |
| 1-Cent Gasoline UF to General Fund / DOT (12-28-2720) 3/                 |  | 19,094,162  | NA          | NA          | NA          | NA          | NA          | NA          | NA          | NA          | NA          | NA          | NA          | NA          |
| 9.34/10.34/13.34-Cent Gas, SF and Highway Use to DOT (12-28-2720) 2/     |  | 311,937,766 | 343,306,134 | 355,701,372 | 375,088,792 | 370,306,201 | 375,490,025 | 385,734,961 | 404,536,228 | 418,005,986 | 425,484,255 | 444,586,819 | 445,206,980 | 427,065,854 |
| 2.66-Cent Allowment of Gas UF for 'C' funds to Counties (12-28-2740 (A)) |  | 52,378,136  | 56,584,827  | 57,074,311  | 59,282,766  | 58,439,630  | 59,893,036  | 60,868,337  | 63,640,735  | 63,890,424  | 65,267,152  | 67,371,796  | 67,621,271  | 66,391,514  |
| \$18 MM proration of 3-Cent Gas UF (12-28-2910(C)) 4/                    |  | 18,000,000  | 18,000,000  | 18,000,000  | 18,000,000  | 18,000,000  | 18,000,000  | 18,000,000  | 18,000,000  | 18,000,000  | 18,000,000  | 18,000,000  | 18,000,000  | 18,000,000  |
| Dept. of Commerce (DOC), Econ. Devel. Account                            |  | 18,000,000  | 18,000,000  | 18,000,000  | 18,000,000  | 18,000,000  | 18,000,000  | 18,000,000  | 18,000,000  | 18,000,000  | 18,000,000  | 18,000,000  | 18,000,000  | 18,000,000  |
| State Non-Federal Aid Highway Fund (NHF), DOT                            |  | NA          | NA          | NA          | NA          | NA          | NA          | NA          | NA          | NA          | NA          | NA          | NA          | NA          |
| Reference: Total Fuel User Fee Allocations, 16-cent levy                 |  | 403,985,784 | 420,684,109 | 433,683,204 | 455,308,122 | 449,630,752 | 456,335,008 | 467,808,145 | 489,318,641 | 503,050,415 | 511,973,375 | 533,284,480 | 534,166,432 | 514,764,946 |
| Reference: Total User Fees, less Econ. Dev. 16-cent levy                 |  | 385,985,784 | 402,684,109 | 415,583,204 | 437,308,122 | 431,630,752 | 438,335,008 | 449,608,145 | 471,318,641 | 485,050,415 | 493,973,375 | 515,284,480 | 516,166,432 | 496,764,946 |

Notes: Figures are net of refunds issued. Detail may not add to total due to rounding. Registration Fees are excluded. Act 68 of 2003, Section 3.888, substituted "user fee" for "tax" and "motor fuel" for "taxable motor fuel" wherever cited in Chapter 28 of Title 12. This schedule also excludes one-fourth cent a gallon Inspection Fee as allocated to state General Fund (GF). S. C. Dept. of Agriculture (SCDOA) and/or NFHF within DOT. References: 38-41-120 repealed in Act 136 of 1995, as 12-28-2355(A). Paragraph (C) was added in Section 2 of Act 176 of 2005 for two-year phase-out of GF portion in FYRS '06-07 with 10% allocated to SCDOA and remainder to NFHF thereafter. This schedule further excludes the one-half cent a gallon Environmental Impact Fee under 12-28-2355(B) [and 44-2-60(B)], for which funds are deposited under 44-2-40, and then allocated to Supple accounts within DMHC to regulate clean up of underground petroleum storage tanks. 1/ Rate increased from 13-cent to 16-cent per gallon effective May 1, 1996. International Fuel Tax Agreement (IFTA) effective June 1996. 2/ Beginning in FY 1993-94, remainder of extra 3-cent tax for SHIMS was allocated to DOT to service bonded debt and match federal highway funds. Sec. 12-28-2725 allocates 25-cent of total 10.34-cent distribution of user fees on gasoline to DOT for mass transit programs. 3/ Effective June 1, 1997, General Fund distribution reduced to one-half cent. Effective July 1, 1997, General Fund distribution eliminated and DOT portion raised to 10.34 cents from 9.34 cents. 4/ Expenditure as authorized by S.C. Coordinating Council for Economic Development. Includes one-time transfer of \$10 million in FY 1992-93 for special project. Reference: Part II, Sec. 71 of Act 501 of 1992.

(UF): User Fee (SF): Special Fuel (diesel).  
Source: Board of Economic Advisors, as compiled from State Treasurer and Department of Transportation (DOT) year-end reports. 10/02/09/mgd

NA: Not applicable R: Revised

P: GASTALRP\_06.123

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# State Motor Fuel Tax Rates

(January 1, 2010)

|                   | GASOLINE |         |        | DIESEL FUEL |         |        | GASOHOL |         |        | Notes                              |
|-------------------|----------|---------|--------|-------------|---------|--------|---------|---------|--------|------------------------------------|
|                   | Excise   | Fee/Tax | Total  | Excise      | Fee/Tax | Total  | Excise  | Fee/Tax | Total  |                                    |
| Alabama /1        | 16.0     | 2.0     | 18.0   | 19.0        |         | 19.0   | 16.0    | 2.0     | 18.0   | Inspection fee                     |
| Alaska            | 8.0      | *       | 8.0    | 8.0         |         | 8.0    | 8.0     |         | 8.0    |                                    |
| Arizona           | 18.0     |         | 18.0   | 18.0        |         | 18.0   | 18.0    |         | 18.0   | /3                                 |
| Arkansas          | 21.5     |         | 21.5   | 22.5        |         | 22.5   | 21.5    |         | 21.5   |                                    |
| California        | 18.0     |         | 18.0   | 18.0        |         | 18.0   | 18.0    |         | 18.0   | Sales tax applicable               |
| Colorado          | 22.0     |         | 22.0   | 20.5        |         | 20.5   | 22.0    |         | 22.0   |                                    |
| Connecticut       | 25.0     |         | 25.0   | 37.0        |         | 37.0   | 25.0    |         | 25.0   |                                    |
| Delaware          | 23.0     |         | 23.0   | 22.0        |         | 22.0   | 23.0    |         | 23.0   | Plus 0.5% GRT                      |
| Florida /2        | 4.0      | 12.0    | 16.0   | 16.8        | 12.8    | 29.6   | 4.0     | 12.0    | 16.0   | Sales tax added to excise /2       |
| Georgia           | 7.5      | 9.3     | 16.8   | 7.5         | 10.0    | 17.5   | 7.5     | 9.3     | 16.8   | Sales tax added to excise          |
| Hawaii /1         | 17.0     |         | 17.0   | 17.0        |         | 17.0   | 17.0    |         | 17.0   | Sales tax applicable               |
| Idaho             | 25.0     | 1       | 26.0   | 25.0        | 1       | 26.0   | 25.0    | 1       | 26.0   | Clean water tax /7                 |
| Illinois /1       | 19.0     | 1.1     | 20.1   | 21.5        | 1.1     | 22.6   | 19.0    | 1.1     | 20.1   | Sales tax add., env. & LUST fee /3 |
| Indiana           | 18.0     |         | 18.0   | 16.0        |         | 16.0   | 18.0    |         | 18.0   | Sales tax applicable /3            |
| Iowa              | 21.0     |         | 21.0   | 22.5        |         | 22.5   | 19.0    |         | 19.0   |                                    |
| Kansas            | 24.0     |         | 24.0   | 26.0        |         | 26.0   | 24.0    |         | 24.0   |                                    |
| Kentucky          | 22.7     | 1.4     | 24.1   | 19.7        | 1.4     | 21.1   | 22.7    | 1.4     | 24.1   | Environmental fee /4 /3            |
| Louisiana         | 20.0     |         | 20.0   | 20.0        |         | 20.0   | 20.0    |         | 20.0   |                                    |
| Maine             | 29.5     |         | 29.5   | 30.7        |         | 30.7   | 29.5    |         | 29.5   | /5                                 |
| Maryland          | 23.5     |         | 23.5   | 24.25       |         | 24.25  | 23.5    |         | 23.5   |                                    |
| Massachusetts     | 21.0     |         | 21.0   | 21.0        |         | 21.0   | 21.0    |         | 21.0   |                                    |
| Michigan          | 19.0     |         | 19.0   | 15.0        |         | 15.0   | 19.0    |         | 19.0   | Sales tax applicable               |
| Minnesota         | 27.1     |         | 27.1   | 27.1        |         | 27.1   | 27.1    |         | 27.1   |                                    |
| Mississippi       | 18.0     | 0.4     | 18.4   | 18.0        | 0.4     | 18.4   | 18.0    | 0.4     | 18.4   | Environmental fee                  |
| Missouri          | 17.0     | 0.55    | 17.55  | 17.0        | 0.55    | 17.55  | 17.0    | 0.55    | 17.55  | Inspection fee                     |
| Montana           | 27.0     |         | 27.0   | 27.75       |         | 27.75  | 27.0    |         | 27.0   |                                    |
| Nebraska          | 26.8     | 0.9     | 27.7   | 26.8        | 0.3     | 27.1   | 26.8    | 0.9     | 27.7   | Petroleum fee /5                   |
| Nevada /1         | 24.0     | 0.055   | 24.055 | 27.0        |         | 27.00  | 24.0    | 0.055   | 24.055 | Inspection fee                     |
| New Hampshire     | 18.0     | 1.625   | 19.625 | 18.0        | 1.625   | 19.625 | 18.0    | 1.625   | 19.625 | Oil discharge cleanup fee          |
| New Jersey        | 10.5     | 4.0     | 14.50  | 13.5        | 4.0     | 17.50  | 10.5    | 4.0     | 14.50  | Petroleum fee                      |
| New Mexico        | 17.0     | 1.875   | 18.875 | 21.0        | 1.875   | 22.875 | 17.0    | 1.875   | 18.875 | Petroleum loading fee              |
| New York          | 8.0      | 16.4    | 24.4   | 8.0         | 14.65   | 22.65  | 8.0     | 16.4    | 24.4   | Petroleum Tax, Sales tax appl.     |
| North Carolina    | 30.3     | 0.25    | 30.55  | 30.3        | 0.25    | 30.55  | 30.3    | 0.25    | 30.55  | /4 Inspection tax                  |
| North Dakota      | 23.0     |         | 23.0   | 23.0        |         | 23.0   | 23.0    |         | 23.0   |                                    |
| Ohio              | 28.0     |         | 28.0   | 28.0        |         | 28.0   | 28.0    |         | 28.0   | Plus 3 cents commercial            |
| Oklahoma          | 16.0     | 1.0     | 17.0   | 13.0        | 1.0     | 14.0   | 16.0    | 1.0     | 17.0   | Environmental fee                  |
| Oregon /1         | 24.0     |         | 24.0   | 24.0        |         | 24.0   | 24.0    |         | 24.0   |                                    |
| Pennsylvania      | 12.0     | 19.2    | 31.2   | 12.0        | 26.1    | 38.1   | 12.0    | 19.2    | 31.2   | Oil franchise tax                  |
| Rhode Island      | 30.0     | 1       | 31.0   | 30.0        | 1       | 31.0   | 30.0    | 1       | 31.0   | LUST tax                           |
| South Carolina    | 16.0     |         | 16.0   | 16.0        |         | 16.0   | 16.0    |         | 16.0   |                                    |
| South Dakota /1   | 22.0     |         | 22.0   | 22.0        |         | 22.0   | 20.0    |         | 20.0   |                                    |
| Tennessee /1      | 20.0     | 1.4     | 21.4   | 17.0        | 1.4     | 18.4   | 20.0    | 1.4     | 21.4   | Petroleum Tax & Envir. Fee         |
| Texas             | 20.0     |         | 20.0   | 20.0        |         | 20.0   | 20.0    |         | 20.0   |                                    |
| Utah              | 24.5     |         | 24.5   | 24.5        |         | 24.5   | 24.5    |         | 24.5   |                                    |
| Vermont           | 19.0     | 5.5     | 24.5   | 25.0        | 4.0     | 29.0   | 19.0    | 5.5     | 24.5   | Cleanup Fee & Trans. Fee           |
| Virginia /1       | 17.5     |         | 17.5   | 17.5        |         | 17.5   | 17.5    |         | 17.5   | /6                                 |
| Washington        | 37.5     |         | 37.5   | 37.5        |         | 37.5   | 37.5    |         | 37.5   | 0.5% privilege tax                 |
| West Virginia     | 20.5     | 11.7    | 32.2   | 20.5        | 11.7    | 32.2   | 20.5    | 11.7    | 32.2   | Sales tax added to excise          |
| Wisconsin /5      | 30.9     | 2.0     | 32.9   | 30.9        | 2.0     | 32.9   | 30.9    | 2.0     | 32.9   | /5 Petroleum Insp. Fee             |
| Wyoming           | 13.0     | 1       | 14.0   | 13.0        | 1       | 14.0   | 13.0    | 1       | 14.0   | License tax                        |
| Dist. of Columbia | 20.0     |         | 20.0   | 20.0        |         | 20.0   | 20.0    |         | 20.0   |                                    |
| Federal           | 18.3     | 0.1     | 18.4   | 24.3        | 0.1     | 24.4   | 13.0    | 0.1     | 13.1   | /7 LUST tax                        |

SOURCE: Compiled by FTA from various sources.

/1 Tax rates do not include local option taxes. In AL, 1 - 3 cents; HI, 8.8 to 18.0 cent; IL, 5 cents in Chicago and 6 cents in Cook county (gasoline only); NV, 4.0 to 9.0 cents; OR, 1 to 3 cents; SD and TN, one cent; and VA 2%.

/2 Local taxes for gasoline and gasohol vary from 12.6 cents to 18.6 cents. Plus a 2.07 cent per gallon pollution tax.

/3 Carriers pay an additional surcharge equal to AZ-8 cents, IL-12.3 cents (g) 13.5 cents (d), IN-11 cents, KY-2% (g) 4.7% (d).

/4 Tax rate is based on the average wholesale price and is adjusted quarterly. The actual rates are: KY, 9%; and NC, 17.5¢ + 7%.

/5 Portion of the rate is adjustable based on maintenance costs, sales volume, cost of fuel to state government, or inflation.

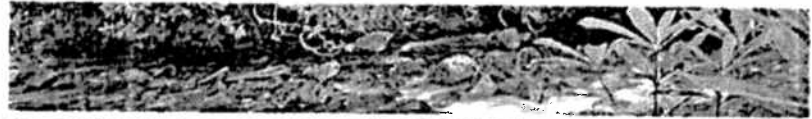
/6 Large trucks pay an additional 3.5 cents.

/7 Tax rate is reduced by the percentage of ethanol used in blending (reported rate assumes the max. 10% ethanol).

(C2)



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## Motor Fuels Tax Rates

June 15, 2010

| Date                | Tax Rate |
|---------------------|----------|
| 07/01/10 - 12/31/10 | 31.9     |
| 01/01/10 - 06/30/10 | 30.3     |
| 01/01/08 - 12/31/09 | 29.9     |
| 07/01/07 - 12/31/07 | 29.7     |
| 01/01/06 - 06/30/07 | 29.9     |
| 07/01/05 - 12/31/05 | 27.1     |
| 01/01/05 - 06/30/05 | 26.6     |
| 07/01/04 - 12/31/04 | 24.6     |
| 01/01/04 - 06/30/04 | 24.3     |
| 07/01/03 - 12/31/03 | 24.2     |
| 01/01/03 - 06/30/03 | 23.4     |
| 07/01/02 - 12/31/02 | 22.1     |
| 01/01/02 - 06/30/02 | 24.2     |
| 07/01/01 - 12/31/01 | 24.1     |
| 01/01/01 - 06/30/01 | 24.3     |
| 07/01/00 - 12/31/00 | 23.1     |
| 01/01/00 - 06/30/00 | 22.0     |
| 07/01/99 - 12/31/99 | 21.0     |
| 01/01/99 - 06/30/99 | 21.2     |
| 07/01/98 - 12/31/98 | 21.6     |
| 01/01/98 - 06/30/98 | 22.3     |
| 07/01/97 - 12/31/97 | 22.6     |
| 01/01/97 - 06/30/97 | 22.6     |
| 07/01/96 - 12/31/96 | 21.7     |
| 01/01/96 - 06/30/96 | 22.0     |
| 07/01/95 - 12/31/95 | 21.6     |
| 01/01/95 - 06/30/95 | 21.7     |
| 07/01/94 - 12/31/94 | 21.3     |
| 07/01/93 - 06/30/94 | 22.0     |
| 01/01/93 - 06/30/93 | 22.3     |
| 07/01/92 - 12/31/92 | 21.9     |
| 01/01/92 - 06/30/92 | 22.3*    |
| 07/01/91 - 12/31/91 | 22.6     |
| 01/01/91 - 06/30/91 | 22.3     |
| 07/01/90 - 12/31/90 | 21.5     |

|                     |       |         |
|---------------------|-------|---------|
| 01/01/90 - 06/30/90 | ..... | 21.7    |
| 08/01/89 - 12/31/89 | ..... | 20.9**  |
| 07/01/88 - 07/31/89 | ..... | 15.7    |
| 01/01/88 - 06/30/88 | ..... | 15.8    |
| 07/15/86 - 12/31/87 | ..... | 15.5*** |
| 07/01/81 - 07/14/86 | ..... | 12.0    |
| 07/01/69 - 06/30/81 | ..... | 9.0     |
| 01/01/50 - 06/30/69 | ..... | 7.0     |
| 04/01/31 - 12/31/49 | ..... | 6.0     |
| 04/01/29 - 03/31/31 | ..... | 5.0     |
| 03/04/25 - 03/31/29 | ..... | 4.0     |
| 03/01/23 - 03/03/25 | ..... | 3.0     |
| 03/01/21 - 02/28/23 | ..... | 1.0     |

\* Effective January 1, 1992 the tax rate was changed to 17.5 cents per gallon plus 7% of the average wholesale price which was then converted to the nearest 1/10 of a cent. The tax rate was subject to change in January and July of each year.

\*\* Effective August 1, 1989 the tax rate was changed to 17 cents per gallon plus 7% of the average wholesale price which was then converted to the nearest 1/10 of a cent. The tax rate was subject to change in January and July of each year.

\*\*\* Effective July 15, 1986 the tax rate was changed to 14 cents per gallon plus 3% of the average wholesale price which was then converted to the nearest 1/10 of a cent. The tax rate was subject to change in January and July of each year.

In addition to the road tax, every gallon of motor fuel includes a .25 cents per gallon inspection tax.

*Last modified on: 06/18/10 08:09:51 AM.*



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**Georgia Department of Revenue Motor Fuel Tax Bulletin**  
**Prepaid State Tax Rates**  
**Effective: January 1, 2010**

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November 30, 2009

All licensed motor fuel distributors (suppliers) in the State of Georgia must collect a Prepaid State Tax on all motor fuel sold to any purchaser not licensed as a Georgia distributor. The Prepaid State Tax rate for each fuel type is based upon an indexed retail sales price converted to a cent per gallon rate.

**Effective January 1, 2010**, the following Prepaid State Tax Rates must be collected by the licensed distributor on all sales of motor fuel sold to any purchaser not licensed as a Georgia distributor. These Prepaid State Tax rates will be effective January 1, 2010 through June 30, 2010, unless subsequently revised by the Department.

The State Excise Tax rate of 7 ½ cents per gallon must also be collected at the time of sale (except for Aviation Gasoline, which is subject to a 1 cent per gallon excise tax).

| <b><u>Motor Fuel Type</u></b>  | <b><u>3% Prepaid State Tax Rate<br/>(State, County &amp; Municipalities Only)</u></b> | <b><u>4% Prepaid State Tax Rate<br/>(All Other Motor Fuel Sales)</u></b> |
|--------------------------------|---|--|
| 1. Gasoline                    | \$0.070 Per Gal.  | \$0.093 Per Gal.   |
| 2. Diesel (Clear/Dyed)         | \$0.075 Per Gal.  | \$0.100 Per Gal.   |
| 3. Aviation Gasoline           | \$0.129 Per Gal.  | \$0.172 Per Gal.   |
| 4. L.P.G.                      | \$0.052 Per Gal.  | \$0.070 Per Gal.   |
| 5. Special Fuel (includes CNG) | \$0.069 Per Gal.  | \$0.092 Per Gal.   |

The Prepaid State Tax Rate is published semi-annually and is posted to the Department of Revenue web site in May and November of each year, or more frequently, if a revision is required due to a 25% change in the average selling price of any motor fuel during the tax period. Should you have any questions regarding this bulletin, please contact the Motor Fuel Tax Unit at (404) 417-6712, or visit the Department's Website at [www.etax.dor.ga.gov](http://www.etax.dor.ga.gov).

(E1)



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**Georgia Department of Revenue Sales Tax Bulletin**  
**Prepaid Local Tax on Motor Fuel Sales**  
**Effective: January 1, 2010**

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**November 30, 2009**

All licensed motor fuel distributors (suppliers) in the State of Georgia must generally collect a Prepaid Local Tax on all motor fuel sold for highway use at the time the Prepaid State Tax and the State Excise Tax is collected. The average retail sales price is used to calculate the taxable sales subject to the Prepaid Local Tax.

**Effective January 1, 2010**, the Prepaid Local average retail sales prices set out below must be collected by Georgia licensed distributors on all sales of motor fuel sold to any purchaser not licensed as a Georgia distributor. The following average retail sales prices will be in effect until June 30, 2010 unless subsequently revised by the Department.

| <u><b>Motor Fuel Type</b></u>  | <u><b>Average Retail Price</b></u> |
|--------------------------------|------------------------------------|
| 1. Gasoline                    | \$ 2.337 Per/Gal.                  |
| 2. Diesel (Clear/Dyed)         | \$ 2.503 Per/Gal.                  |
| 3. Aviation Gasoline           | \$ 4.303 Per/Gal.                  |
| 4. L.P.G.                      | \$ 1.748 Per/Gal.                  |
| 5. Special Fuel (includes CNG) | \$ 2.302 Per/Gal.                  |

The Prepaid Local Tax average retail sales prices are published semi-annually and posted to the Department of Revenue web site in May and November of each year, or more frequently, if a revision is required.

**FOR MORE INFORMATION**

Should you have any questions regarding this bulletin, please visit our Internet site at [www.etax.dor.ga.gov](http://www.etax.dor.ga.gov) or call the Taxpayer Services Division, Motor Fuel Unit, 8:00 a.m. to 4:30 p.m., EST, Monday through Friday, excluding holidays, at (404) 417-6712. Persons with hearing or speech impairments may call our TDD line at (404) 417-4302.

E2



**Secretary of Transportation**  
*South Carolina Department of Transportation*

October 29, 2009

Commissioners, South Carolina Tax Realignment Commission  
Attention: Mr. Craig Parks  
Senate Finance Committee  
Post Office Box 142  
Columbia, South Carolina 29202-0142

Dear Commissioners:

Thank you for allowing me to present to the Commission yesterday. I commend you for your service and am encouraged by your group's efforts to thoroughly examine the tax structure in South Carolina.

As I mentioned in my comments, there is a distinct disconnect in highway funding in South Carolina. As cars become more energy efficient and alternative vehicles become more popular, highway revenues are declining and we have less money to perform necessary maintenance. I look forward to hearing what solutions the Commission has to offer and encourage you to contact me if I can be of any assistance as you prepare your report.

As promised, I am enclosing a summary of my presentation. I am also providing a history of motor fuel tax in South Carolina and the most recent tax rates across the nation. Thank you again for your time and service. I look forward to receiving your report.

Sincerely,

H. B. Limehouse, Jr.  
Secretary of Transportation

HBL/kml  
Enclosures



South Carolina Department of Transportation

## **SC Taxation Realignment Commission**

October 28, 2009

- SCDOT's primary source of state revenue is a 16 cents motor fuel user fee.
- Across the Southeast region, 51% of state source highway funding is derived from sources other than fuel user fees. In South Carolina, close to 100% comes from the user fee on motor fuel.
- The motor user fee was last increased in 1987 and has never been adjusted for inflation. It is among the lowest in the nation.
- The only way to increase revenue is to put more cars on the road and burn more gallons of motor fuel. This puts a greater strain on the highways and requires more maintenance.
- Motor fuel revenues have been declining for the past two years. SC is down approximately 4%. This same trend is happening on the Federal level.
- National policy is in conflict with the highway funding structure. Congress is encouraging the use of alternative fuels and increasing emission standards. Since both the Federal government and the state government here in South Carolina pay for highways from fuel taxes, this green initiative ultimately hurts our revenue.
- SCDOT also pays sales tax on the goods that we purchase. The Agency is even responsible for the motor fuel user fee when we put gasoline and diesel in state vehicles.

### **Remove sales tax exemption on motor fuel**

- At least 8 states, including Georgia and North Carolina, have a sales tax or similar ad valorem tax based on the price of motor fuel.
- According to the BEA's report, the removal of the exemption in SC would generate approximately \$500 M annually.

### **Sales tax AND motor fuel user fee combination**

- Some states, like NC, charge an ad valorem tax AND a motor fuel user fee on gasoline.
- NC's tax is 17 cents, plus a 7% ad valorem tax. The sales tax is collected from suppliers, is based on the published wholesale price of fuel, and is adjusted every 6 months.
- NC's total tax cannot go below 30 cents.
- In a model like North Carolina's, SC would keep the 16 cents motor fuel user fee in place and add an additional 6% tax. Depending on the price of fuel, SCDOT estimates that this could generate \$775 M (or an additional \$348 M) for highways annually. A floor similar to NC's is essential to allow revenues to remain consistent for planning purposes.
- If the desire was to remain revenue neutral at the time of implementation, SC could reduce the motor fuel user fee from 16 cents to 10.5 cents and add a 3% tax.

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### **State General Fund**

- According to the Federal Highway Administration, 32 states currently place general fund revenues directly into the state highway fund.
- SCDOT receives approximately \$116,000 from the General Fund. This money is for mass transit and commercial motor vehicles rest areas.

### **User Fee on Automotive Parts**

- Some states charge a user fee for automotive parts such as tires, batteries or motor oil.
- Rather than charge per item, Utah determined that 17% of their state sales tax was derived from the sale of vehicles and automotive parts.
- Their General Assembly then dedicated 8.3% of the state sales tax to their highway fund.

### **Sales Tax on Vehicles**

- Many states dedicate the sales tax on vehicles to the highway fund.
- In SC, the sales tax on vehicles, which is capped at \$300, was expected to generate approximately \$94 M in FY 2008-2009.
- According to the BEA, if the \$300 cap was replaced with a 3% sales tax, an estimated \$123.5 M (or an additional \$29 M) would have been collected in FY 2008-2009.
- If the cap was replaced by a 5% sales tax, an estimated \$205.9 M (or an additional \$111 M) would have been collected.
- In NC, there is a 3% Highway Use Tax on vehicles in lieu of a state sales tax. There is no cap on personal vehicles. Revenue collected from the tax goes towards the North Carolina Highway Trust Fund, with a portion diverted to the General Fund. The portion diverted to the General Fund serves to hold education harmless, since they were the recipients of a portion of this funding prior to 1989.
- Virginia charges a 3% Motor Vehicle Sales and Use Tax on vehicles. There is no cap. These funds are dedicated to the General Fund but a portion of the General Fund in Virginia is dedicated to highways.
- West Virginia charges a 5% sales tax on vehicles with no cap. These funds are directed to the State Road Fund.

### **Fees on Rental Cars**

- States like Virginia and Florida both charge a daily user fee on rental cars and use this money for highway maintenance.
- The burden of this tax is paid mainly by out of state visitors.

### **Alternative Fuel Vehicles**

- Alternative fuel vehicles are becoming increasingly popular in the US.
- There are many types of alternative fuel autos, most of which do not use gasoline and therefore the drivers do not pay for using the roads.

**S.C. FUEL TAX HISTORY RECAP**  
(ALL RATES ARE *PER GALLON*)

|                               |  |
|-------------------------------|--|
| Act ____ of 1913              | <b>½ cent (Gen. Fund)</b> <ul style="list-style-type: none"><li>■ To Department of Agriculture and Commerce</li></ul>  |
| Act 494 of 1922               | <b>2 cents (Hwy. Fund) + ½ cent (Gen. Fund)</b> <ul style="list-style-type: none"><li>■ 1 cent to the General Fund</li><li>■ 1 cent to the counties</li></ul>  |
| Act 731 of 1924               | <b>3 cents (Hwy. Fund) + ½ cent (Gen. Fund)</b> <p style="text-align: center;">Until 12/31/24</p> <ul style="list-style-type: none"><li>■ 1 cent to the counties</li><li>■ 1 cent to the General Fund</li><li>■ 1 cent to the Highway Department</li></ul> <p style="text-align: center;">After 12/31/24</p> <ul style="list-style-type: none"><li>■ 3 cents to the Highway Department</li></ul> |
| Act 34 of 1925                | <b>5 cents (Hwy. Fund) + ½ cent (Gen. Fund)</b> <ul style="list-style-type: none"><li>■ 2 cents to the counties</li><li>■ 3 cents to the Highway Department</li></ul>  |
| Act 102 of 1929               | <b>6 cents (Hwy. Fund) + ½ cent (Gen. Fund)</b> <ul style="list-style-type: none"><li>■ 1 cent to the counties</li><li>■ 5 cents to the Highway Department</li></ul>   |
| Act 1053 of 1950 (section 96) | <b>7 cents (Hwy. Fund) + ½ cent (Gen. Fund)</b> <ul style="list-style-type: none"><li>■ 1 cent to the counties (Aid to Subs)</li><li>■ 5 cents to the Highway Department</li><li>■ 1 cent to the "C" fund*</li></ul>   |
| Act 140 of 1959               | <b>7 cents (Hwy. Fund) + ½ cent (Gen. Fund)</b> <ul style="list-style-type: none"><li>■ ½ cent to General Fund for Agriculture increased to ½ cent to General Fund for Agriculture (Fuel Pump Inspection Program)</li></ul>  |
| Act 1575 of 1972              | <b>8 cents (Hwy. Fund) + ½ cent (Gen. Fund)</b> <ul style="list-style-type: none"><li>■ 1 cent to the counties (Aid to Subs)</li><li>■ 5.67 cents to the Highway Department</li><li>■ 1.33 cents to the "C" fund*</li></ul>  |
| Act 141 of 1977               | <b>9 cents (Hwy. Fund) + ½ cent (Gen. Fund)</b> <ul style="list-style-type: none"><li>■ 1 cent to the counties (Aid to Subs)</li><li>■ 6.34 cents to the Highway Department</li><li>■ 1.66 cents to the "C" fund*</li></ul>  |



|                                      |   |
|--------------------------------------|---|
| Act 197 of 1979                      | <b>10 cents (Hwy. Fund) + ¼ cent (Gen. Fund)</b> <ul style="list-style-type: none"> <li>■ 1 cent to the counties (Aid to Subs)</li> <li>■ 7.09 cents to the SCDHPT</li> <li>■ 1.91 cents to the "C" fund*</li> </ul>  |
| Act 506 of 1980                      | <b>11 cents (Hwy. Fund) + ¼ cent (Gen. Fund)</b> <ul style="list-style-type: none"> <li>■ 1 cent to the counties (Aid to Subs)</li> <li>■ 7.84 cents to the SCDHPT</li> <li>■ 2.16 cents to the "C" fund*</li> </ul>  |
| Act 177 of 1981                      | <b>13 cents (Hwy. Fund) + ¼ cent (Gen. Fund)</b> <ul style="list-style-type: none"> <li>■ 1 cent to the counties (Aid to Subs)</li> <li>■ 9.34 cents to the SCDHPT</li> <li>■ 2.66 cents to the "C" fund*</li> </ul>  |
| Act 197 of 1987                      | <b>16 cents (Hwy. Fund) + ¼ cent (Gen. Fund)</b> <ul style="list-style-type: none"> <li>■ 1 cent to the counties (Aid to Subs)</li> <li>■ 9.34 cents to the SCDHPT</li> <li>■ 2.66 cents to the "C" fund*</li> <li>■ 3 cents to the SHIMS fund</li> <li>■ \$10 million transfer to Commerce</li> </ul>  |
| Act 473 of 1990                      | <b>16 cents (Hwy. Fund) + ¼ cent (Gen. Fund) + ½ cent SUPERB Fund</b> <ul style="list-style-type: none"> <li>■ ½ cent added for DHEC's SUPERB Fund to clean up leaking underground storage tanks that existed prior to the 1988 implementation of federal guidelines/penalties governing underground storage tanks.</li> </ul>  |
| Act 171 of 1991 (Part II Section 22) | <b>15 cents (Hwy. Fund) + 1¼ cent (Gen. Fund) + ½ cent SUPERB Fund</b> <ul style="list-style-type: none"> <li>■ 1 cent to the state's general fund (Aid to Subdivisions formula was revised and 1 cent fuel tax became part of state general revenue)</li> <li>■ 9.34 cents to the SCDHPT</li> <li>■ 2.66 cents to the "C" fund*</li> <li>■ 3 cents to the SHIMS fund</li> <li>■ Increase transfer to Commerce from \$10 million to \$15 million</li> </ul> |
| Act 181 of 1993                      | <b>15 cents (Hwy. Fund) + 1¼ cent (Gen. Fund) + ½ cent SUPERB Fund</b> <ul style="list-style-type: none"> <li>■ 1 cent to the state's general fund</li> <li>■ 12.34 cents to the SCDOT (less transfers to DNR and Commerce)</li> <li>■ 2.66 cents to the "C" fund*</li> </ul>   |

(GS)

|                                      |   |
|--------------------------------------|---|
|                                      | <ul style="list-style-type: none"> <li>■ IFTA Program placed under DMV/DPS with funding from Highway Fund</li> </ul>  |
| Act 164 of 1993 (Part II Section 15) | <p><b>15 cents (Hwy. Fund) + 1¼ cent (Gen. Fund) + ½ cent SUPERB Fund</b></p> <ul style="list-style-type: none"> <li>■ Increase the distribution to DNR from one-half percent of the revenue from 13 cents of the gasoline tax to one percent of the revenue from 13 cents of the gasoline tax.</li> <li>■ \$9.5 million transferred from Highway Fund to C-Fund (annual requirement)</li> <li>■ Increased transfer to Commerce from \$15 million to \$18 million</li> </ul>  |
| (Part II Section 23)                 |   |
| (Part II Section 49)                 |   |
| Act 497 of 1994 (Part II Section 34) | <p><b>15 cents (Hwy. Fund) + 1¼ cent (Gen. Fund) + ½ cent SUPERB Fund</b></p> <ul style="list-style-type: none"> <li>■ Created Code Section 12-27-12 prohibiting the use of Highway Fund dollars for non-transportation purposes.</li> </ul>  |
| Act 136 of 1995                      | <p><b>15 cents (Hwy. Fund) + 1¼ cent (Gen. Fund) + ½ cent SUPERB Fund</b></p> <ul style="list-style-type: none"> <li>■ Effective May 1, 1996. Motor fuel tax point of payment transferred to terminal (wholesale)</li> <li>■ This Act inadvertently deleted Code Section 12-27-12, which had been enacted the previous year to protect the Highway Fund from diversions to the General Fund.</li> </ul>   |
| Act 145 (Part II Section 49)         | <p><b>15 cents (Hwy. Fund) + 1¼ cent (Gen. Fund) + ½ cent SUPERB Fund</b></p> <p>Interest from the Highway Fund, Economic Development Account and C-Fund to be placed into the Highway Fund (previously went to the General Fund)</p>   |
| Act 458 of 1996 (Part II Section 5A) | <p><b>16 cents (Hwy. Fund) + ¼ cent (Gen. Fund) + ¼ cent SUPERB Fund</b></p> <p><b>Beginning June 1997:</b></p> <ul style="list-style-type: none"> <li>■ .5 cent to the state's general fund (Previously one cent. This is the Act that transferred the one cent back to SCDOT over a two-year period)</li> <li>■ 12.84 cents to the SCDOT (less transfers to DNR and Commerce)</li> <li>■ 2.66 cents* to the "C" fund</li> <li>■ \$9.5 million from Highway Fund to C-Fund</li> </ul> <p><b>Beginning July 1, 1997:</b></p> <p><b>16 cents</b></p> |

- 13.34 cents to the SCDOT  
(less transfers to DNR and Commerce)
- 2.66 cents\* to the "C" fund
- \$9.5 million from Highway Fund to C-Fund

Act 458 of 1996 (Part II Section 55)

**16 cents (Hwy. Fund) + ¼ cent (Gen. Fund) + ½ cent SUPERB Fund**

- .25 cents must be used by SCDOT for Mass Transit

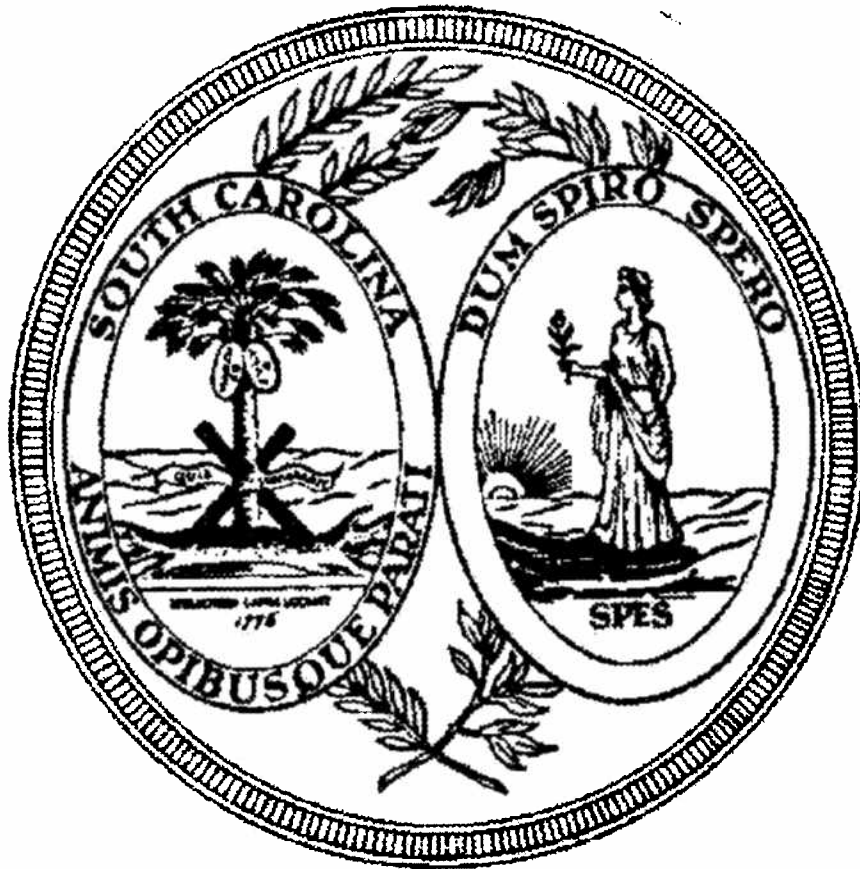
Act 176 of 2005

**July 1, 2005:**

**16.25 cents + ½ cent SUPERB Fund**

- ".25 cent Inspection Fee" transferred to Highway Fund, except 1/10<sup>th</sup> to Dept of Agriculture
- 13.59 cents to SCDOT  
(less transfers to DNR and Dept. of Agriculture  
– This Act deleted the transfer to Commerce with a two-year phase-in.)
- 2.66 cents\* to the "C" fund
- \$9.5 million to C-Fund
- This Act did away with SCDOT contribution to the Statewide Cost Allocation Plan, a \$4 million transfer to the General Fund

# Votes on Proposals



## South Carolina Taxation Realignment Commission

## **TRAC - Votes on Proposals Contained in Final Report**

September 2, 2010 (all members present)

### ***Sales and Use Tax Exemption "Modified Proposal" ADOPTED***

|   |    |
|---|----|
| Burnet Maybank III                      | Y  |
| Bob Steelman                            | Y  |
| Ken Wingate                             | Y  |
| Brian Moody                             | Y  |
| Don Weaver                              | N  |
| Ben Kochenower                          | Y  |
| Charles S. Way, Jr.                     | Y  |
| Jimmy Addison                           | Y  |
| Jack Shuler                             | Y  |
| Kenneth Cosgrove                        | Y  |
| Ray N. Stevens (Ex-officio, non-voting) | NA |

### ***Services and Intangibles Proposal ADOPTED***

|   |    |
|---|----|
| Burnet Maybank III                      | Y  |
| Bob Steelman                            | Y  |
| Ken Wingate                             | Y  |
| Brian Moody                             | Y  |
| Don Weaver                              | Y  |
| Ben Kochenower                          | Y  |
| Charles S. Way, Jr.                     | Y  |
| Jimmy Addison                           | Y  |
| Jack Shuler                             | Y  |
| Kenneth Cosgrove                        | Y  |
| Ray N. Stevens (Ex-officio, non-voting) | NA |

### ***Fuel Tax Proposal ADOPTED***

|   |    |
|---|----|
| Burnet Maybank III                      | Y  |
| Bob Steelman                            | Y  |
| Ken Wingate                             | Y  |
| Brian Moody                             | Y  |
| Don Weaver                              | Y  |
| Ben Kochenower                          | Y  |
| Charles S. Way, Jr.                     | Y  |
| Jimmy Addison                           | Y  |
| Jack Shuler                             | Y  |
| Kenneth Cosgrove                        | Y  |
| Ray N. Stevens (Ex-officio, non-voting) | NA |

October 22, 2010 (Commissioners Way and Kochenower\* absent)

***Individual Income Tax Report ADOPTED (“as amended”)***

Vote was **Unanimous**, with no recorded objections

\*Wishes to be noted in favor of (“aye”) this report

***“Other Funds” Report ADOPTED***

Vote was **Unanimous**, with no recorded objections

\*Wishes to be noted in favor of (“aye”) this report

October 28, 2010 (Commissioner Shuler\* absent)

***Property Tax Report ADOPTED (“as amended”)***

Vote was **Unanimous**, with no recorded objections

\*Wishes to be noted in favor of (“aye”) this report, as amended

***“Conformity” Report ADOPTED***

Vote was **Unanimous**, with no recorded objections

\*Wishes to be noted in favor of (“aye”) this report

***“Fair Tax” Report ADOPTED***

Vote was **Unanimous**, with no recorded objections

\*Wishes to be noted in favor of (“aye”) this report

***Corporate Tax Report ADOPTED***

Vote was **Unanimous**, with no recorded objections

\*Wishes to be noted in favor of (“aye”) this report

***Tax Administration Report ADOPTED***

Vote was **Unanimous**, with no recorded objections

\*Wishes to be noted in favor of (“aye”) this report

**“Tourism Taxes” Report ADOPTED (see below)**

Vote to REMOVE “Time Share” component of report Failed 6 to 2

|   |        |
|---|--------|
| Burnet Maybank III                      | N      |
| Bob Steelman                            | N      |
| Ken Wingate                             | N      |
| Brian Moody                             | N      |
| Don Weaver                              | Y      |
| Ben Kochenower                          | Y      |
| Charles S. Way, Jr.                     | N      |
| Jimmy Addison                           | N      |
| Jack Shuler                             | Absent |
| Kenneth Cosgrove                        | N      |
| Ray N. Stevens (Ex-officio, non-voting) | NA     |

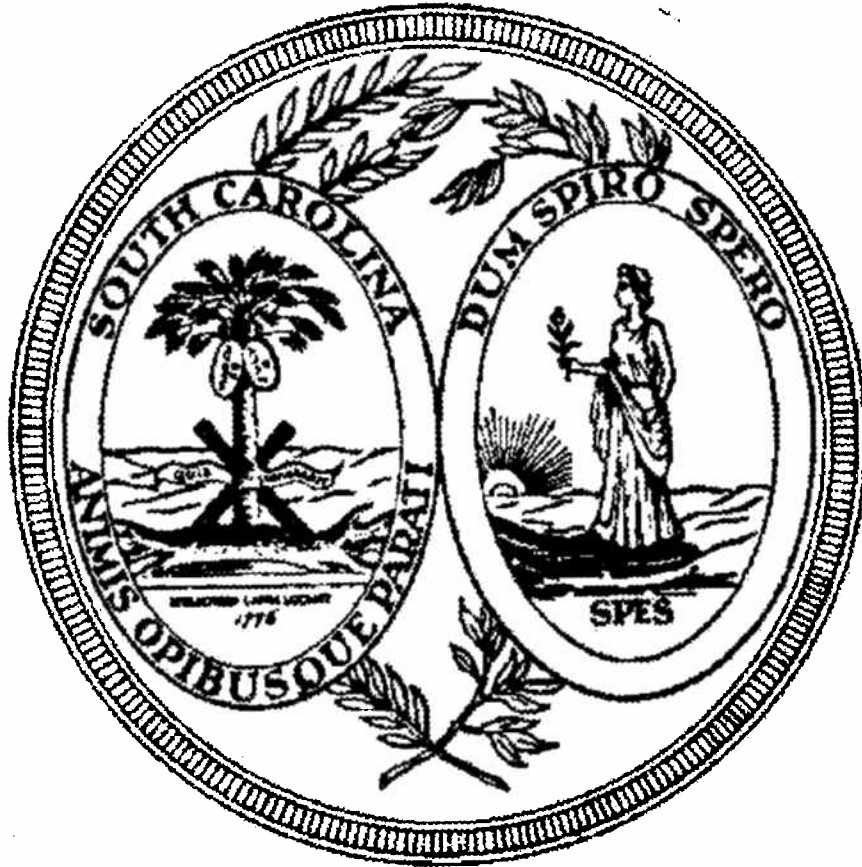
Vote on entire report Unanimous, without recorded objection

***Soft Drink Tax Report TABLED***

|   |         |
|---|---------|
| Burnet Maybank III                      | N       |
| Bob Steelman                            | Y       |
| Ken Wingate                             | Y       |
| Brian Moody                             | Y       |
| Don Weaver                              | Y       |
| Ben Kochenower                          | Y       |
| Charles S. Way, Jr.                     | Y       |
| Jimmy Addison                           | Y       |
| Jack Shuler                             | Absent* |
| Kenneth Cosgrove                        | Y       |
| Ray N. Stevens (Ex-officio, non-voting) | NA      |

\*Wishes to be noted in favor of tabling this report

# Commissioner Comments



## South Carolina Taxation Realignment Commission



CLINE BRANDT KOCHENOWER  
& Co., P.A.  
Certified Public Accountants  
*Established 1950*

ALBERT B. CLINE, CPA  
RAYMOND H. BRANDT, CPA  
BEN D. KOCHENOWER, CPA, CFE, CVA  
STEVEN L. BLAKE, CPA, CFE  
TIMOTHY S. BLAKE, CPA  
JENNIFER J. AUSTIN, CPA

November 30, 2010

Burnet R. Maybank, Chairman  
SC Taxation Realignment Commission

It is an honor and privilege to have been appointed to the Tax Realignment Commission and wish to thank Senator Peeler for his trust. I am extremely proud of the work that we accomplished. I believe we fulfilled the task the General assembly asked of us.

We took a long, deliberate and objective look at the entire tax structure of the State and I believe our work product, taken in its entirety, is fair, equitable, sensible and structurally viable for the citizens and the State as a whole.

The process we went through was valid, legitimate, comprehensive and constructive, and with the application of common sense and compassion, inevitably produced an outcome that is in the best interest of South Carolina. During this process, which took over a year and dozens of meetings, we found serious structural deficiencies throughout the current tax system that will seriously challenge the viability of our present system going forward. We also found that there were differences of perspective and opinion on what specifically constituted fairness, equity, and in the best interest of the State and its citizens by way of addressing these issues. In all of the deliberations I believe we included a significant measure of compassion and care for the most vulnerable among us, the lower income, elderly and those who have greater need.

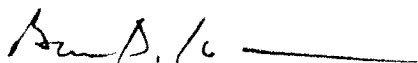
I wish to encourage the general assembly to consider this recommendation carefully and seriously. I believe they/we should continue to look at expanding the services tax base, to include more services that are not business to business, and I believe that a new local and state accommodations tax on time share maintenance fees does not meet the fairness, equity and common sense tests, inasmuch as timeshare ownership is defined in S.C. law as real property ownership, accompanied by a property deed, with the owner paying real estate taxes. The accommodations taxes on maintenance fees is a tax that the other owners of real estate do not pay.

I wish to thank the staff who assisted us greatly in this endeavor. Mr. Craig Parks, Ms. Rena Grant and Ms. Katie Owen were essential and invaluable. Their efforts will never be fully understood or appreciated. I cannot possibly thank them enough.

I have greatly enjoyed my time spent with you, Mr. Chairman, and the various members of the Commission and with staff. I commend this report to the general assembly and the citizens of our State.

With kindest regards and best wishes, I am

Yours Truly,



Ben D. Kochenower, CPA, CFE, CVA  
Commissioner

December 1, 2010

Mr. Burnett R. Maybank, III, Chairman  
SC Taxation Realignment Commission

Dear Mr. Maybank:

It was an honor to serve along with my fellow commissioners in presenting this report to the General Assembly and to the citizens of South Carolina. Much appreciation should go to our commission chairman Burnet Maybank for keeping us focused and on track, to the staffs of both the House Ways and Means committee and to Senate Finance for their diligent efforts to organize our meetings and speakers, and finally to our out-of Columbia commissioners who freely gave a day of their working time to travel back and forth to our Columbia hearings.

I believe our report shows that while South Carolina has some work to be done to update our tax and revenue stream, it also shows that our "three legged stool" of income, property, and sales tax revenue has helped our state weather the worst of this recession.

This report should also serve as a road map for the General Assembly to consider tax changes in future legislative sessions, including our recommendations on taxing internet sales, the large reduction in sales tax exemptions, and the possible shift to begin taxing some services. (where feasible, and where the revenue far outweigh the cost to collect it ).

All of these changes, of course, were based on the expectation of ALSO reducing our sales tax rate from the current 6% sales tax to a rate much closer to, and very possibly below 5%. I did not vote, however, for an expansion of a new state sales tax to include water and residential electricity sales, as these items would generally be hardest felt among those on the lower income scale.

Another item we spent considerable time on was the proposed increase in the fuel/gas tax. Unfortunately, there is no other revenue item that generates sufficient funding for increased road maintenance other than the gas tax. (i.e. registration fees, sales taxes on auto parts, etc.). While it was a difficult vote for me to cast as a member of the Fuel Tax subcommittee of TRAC, we were left with little choice. It should be noted as well that the last increase in our state's gas tax was 1987 under then Gov. Carroll Campbell (when it went up three cents). It should also be noted that TRAC also advanced a separate, and initially revenue neutral, option regarding a change in the current "structure" of the fuel tax, from a static excise tax to a "hybrid" tax based on a combination flat excise and price. A key component of this recommendation, in addition to its revenue neutrality, is the fact that we added a "ceiling" to ensure that our gas tax would never exceed that of North Carolina's.

The other item that we spent considerable time on was the local accommodations and hospitality taxes. As chairman of this subcommittee, it was my hope to shed some light on the

perceived abuse of the General Assembly's intent to fund only "tourist related " expenses (however one wants to define that, since it seems to vary), versus the common practice, among some local governments, to use these funds to simply fill budget shortfalls. When we compared S.C. to other states in the Southeast region, other states (GA, NC, etc.) have done considerably better jobs using these A & H taxes to truly fund marketing campaigns, etc. as a percentage of funds collected. Because we began our meetings on this topic so late this year, looking to our required Nov. 1st deadline, we opted for language that stressed that the Legislature should look farther into the A & H formula to balance out the need for local governments to pay for what they perceive as "tourist related", versus the hospitality industry, who make a compelling case, that these funds are not spent with the greatest return to taxpayers possible. It is my hope that the General Assembly will visit this issue in their next session, and I would be happy to testify on this topic with the large amount of data that we collected during this time. I also voted against the provision to begin taxing timeshare owners some of these A & H taxes, given the depth of the real estate slump and how this could further depress an already slow real estate market in Horry County and along our entire coast.

Finally, although we heard much criticism from local officials on the need to reform Act 388, we heard just as much - if not more - from homeowners who traveled to Columbia from around our state and offered thankful testimony on how it had reduced their annual property taxes. Given the increasing number of real estate foreclosures in S.C., along with our crippling unemployment rate, Act 388 has likely saved many homeowners from default, a fact not brought up by these local officials. In the end, I believe it was wise for the General Assembly to exempt Act 388 from our report, because when the state sales tax revenue begins to rebound, much of this criticism should go away.

I hope Legislators will find some useful information in this report, and thanks again to all those who patiently sat through the hours of testimony we heard and to all those who traveled to Columbia to offer advice to this commission.

Sincerely,

A handwritten signature in dark ink, appearing to read "Don Weaver". The signature is fluid and cursive, with the first name "Don" and last name "Weaver" clearly distinguishable.

Don Weaver  
TRAC Commissioner

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Mr. Burnett R. Maybank, III, Chairman  
SC Taxation Realignment Commission

06 December, 2010

Chairman Maybank,

It was an honor to serve under you on the TRAC Commission. I thank you for your leadership and wisdom. The staffs of both Senate Finance and House Ways & Means also deserve many thanks for the countless hours of pro-bono work they did on our behalf. Craig, Rena and Katie: thank you very much!

Now that the final report has been compiled I want to comment briefly on the value of what was put together. This is the most exhaustive study of SC tax policy ever undertaken. We looked at nearly all aspects of the South Carolina tax code and made the best recommendations for the state. The recommendations weren't based on politics or gamesmanship, they were based on the over fifty expert presentations and testimonies we heard. They were based on the cross-examination of those reports and the testimony from the general public. It is a non-partisan report written for the betterment of South Carolina, not for a party or a specific group of individual taxpayers. The report was written with compassion for low income individuals and spreads the tax burden out evenly over all SC taxpayers.

We found that the South Carolina economy has changed over the past sixty or so years and the South Carolina tax code hasn't always kept up. We've learned that the way in which goods and services are purchased has evolved and our tax code hasn't. The changes we're recommending are revenue neutral and provide South Carolina structural reform going forward.

It is important to me to emphasize that TRAC isn't a tax increase and it is not meant to solve the state budget crisis. We're simply updating and modernizing the tax code to free up South Carolina taxpayers and businesses to succeed in SC. I strongly encourage the legislators to consider passing this legislation as written.

I firmly believe that we have the greatest state in the union and I am proud and honored to serve her in this capacity.

I beg to remain,

Yours very truly,



Kenneth B. Cosgrove, MBA  
Commissioner – SC Tax Realignment Commission

December 6, 2010

Mr. Burnett R. Maybank, III, Chairman  
SC Taxation Realignment Commission

Dear Mr. Maybank:

I'm not sure any of us, save the Chairman, had any clue at the breadth of the task we were assigned. It is pure folly to believe that in the text of over 240 pages of testimony, research and conversation that any thinking soul would agree with all that has been written and said. It is my opinion that a more nuanced way of looking at the final proposal is needed. I'll try and outline my thoughts in these comments. The report is simply too massive in scale to be voted on up or down. The staff and Commissioners conducted themselves with skill, hard work and class. Their passion inspired my own.

I'm sure most, if not all, of the commissioners wrestled with whether to support the proposal in its entirety. One can be assured that I did. The easiest thing in the world would have been to just vote no to the report. I chose not to do that because the work done by the staff and commissioners was so passionate, balanced, and ultimately necessary as we try and make some sense of this tax structure. In the end, voting no was voting to endorse the status quo. It would have been a vote to say the way things are currently is okay. A fair-minded person cannot conclude that our tax structure today needs to remain "as is". It needs to be overhauled even well beyond the scope of the report. I regret we were unable to opine on Act 388.

I will not ask you to endure a tirade about special interests from me. It's really all been said without much effect, if any. I can attest that any impartial view would quickly surmise that the patent unfairness of the current tax structure is rampant. I will also spare you my dissertation on why that is, but it should never have been allowed to become that imbalanced. In a free market, it's not the governments' job to pick the winners and losers. In fact, that choosing is probably why we're in the noncompetitive position that we are today.

My final points which will be located somewhere in the meeting transcripts, but I will repeat my call that any increase in fees and taxes should be offset by decreases in other taxes to allow South Carolina to become more competitive with our neighboring states. It was our goal to have the proposal remain revenue neutral. It is clear that when the economy begins to rally, that these proposals would provide a tax windfall (my word) to the state. I passionately, if not persuasively, argued that every cent of that windfall should be funneled directly to debt reduction. Any honest assessment of our current debt in SC would make this solution, not only obvious, but morally right as well.

It would be a shame to put the report on a shelf for too long. We all need to figure out a new way of doing things. Our future depends on it.

Respectfully,

Brian Moody  
TRAC Commissioner



SWEENY WINGATE & BARROW P.A.

December 13, 2010

Reply To: Main Office

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Post Office Drawer 2426  
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RE: Tax Realignment Commission

Dear Burnie:

I am grateful to you for the quantity of time and diligent leadership you devoted to the TRAC Commission. Your knowledge of state tax law, familiarity with tax administration, and appreciation for tax policy are outstanding. You have been a phenomenal chairman.

At the same time, none of us could have functioned without Craig Parks, Rena Grant, and Katie Owens. Their behind-the-scenes labors made TRAC's work possible. We are grateful to the chairmen of the Senate Finance Committee and the House Ways and Means Committee for making them available for this huge undertaking.

As the length and depth of the report reflects, the TRAC Commission made a diligent and thoughtful analysis of existing state tax laws across the board, and has recommended a host of changes based on solid policy considerations. The big picture ought not be lost in the details. Our charge was to develop recommendations that would broaden the tax base, maintain equity, provide a more stable tax environment, and enhance economic development in South Carolina. Many of the tax laws are antiquated and must be brought into the 21<sup>st</sup> Century. For example, the property tax rates on industrial and commercial properties create an obvious competitive disadvantage when compared to our neighboring states. Likewise, the top marginal rate for individual income taxes (7%) currently creates a false perception that South Carolina is a high-tax state. Broadening the base and lowering the rates across the board will be helpful.

To maintain the adequacy of our tax base, we must recognize the fundamental problem of a changing economy, in which expenditures on tangible goods are declining as a percentage of gross state product. Eliminating the patchwork of sales tax exemptions, applying the sales tax to certain services and reducing the sales tax rate to make the changes tax-neutral are all appropriate.

I have long felt that maintaining a diversity of revenue sources is essential for a healthy state economy. A balanced approach, whereby the sales tax, income tax, and property tax all contribute a significant percentage of total tax revenue will reduce the fluctuations which occur periodically, especially in states which rely heavily on sales tax as the predominant source of revenue.

Thank you again for your leadership in delivering to the General Assembly a blueprint for the future!

Your truly,

SWEENEY, WINGTE & BARROW, P.A.

A handwritten signature in purple ink that reads "Kenneth B. Wingate". The signature is written in a cursive style with a distinct dot over the 'i' in "Wingate".

Kenneth B. Wingate

KBW/alm