Governor's Package 2013: Tax Reform

This proposal seeks to create a simpler, lower, and flatter tax structure and tax administration/arbitration system for Louisiana that will drive economic development, create jobs, and keep more money in the pockets of Louisiana citizens. The first part aims to simplify Louisiana's tax code. The second part concerns internet sales and compliance and the simplification of tax administration. The third part would create the Louisiana Tax Court.

<u>Simplification of Louisiana's Tax Structure</u>

- The centerpiece of the plan is the simplification of the tax code. The plan repeals the individual income tax, the corporate income tax, and the corporate franchise tax. As a result, the plan also eliminates the approximately 130 tax exemptions associated with such taxes.
- The plan also proposes to eliminate unnecessary state sales tax exemptions—of which there are 191 in the state. However, the plan maintains targeted exemptions in three areas: bare necessities, specific Louisiana industries that drive the state's economy, and government purchases. These include:
  - Constitutionally protected sales tax exemptions, including food for home consumption, residential utilities, prescription drugs, and fuel.
  - Sales tax exemptions that drive specific sectors of Louisiana's economy: manufacturing, machinery, and equipment (MM&E), non-residential utilities, farm and agriculture, offshore drilling rigs, vessels greater than 50 tons, tangible personal property for lease or rental, manufacturers' rebates and trade-in value on new vehicle purchases, vendor's compensation, and certain non-profit organizations.
  - Sales tax exemptions on purchases whose cost is already borne by the taxpayer: those made by federal, state and local governments. It makes no sense to impose a tax on the tax collector who is spending the public dollar to make the purchase in the first place.
- The plan revamps and refocuses Louisiana's economic development incentives, ensuring that they are producing the highest return on investment possible. These include the enterprise zone tax credit and motion picture investor tax credit. The plan also retains other important credits to the state, such as the historic tax credit.
- The plan protects low income families and retirees who pay little or no income tax currently by creating the Family Assistance Rebate Program (FARP) and Retirees Benefit Program (RBP).
  - FARP compensates low income households based on the impact of the increased sales tax over any benefit from the reduction of income taxes.
  - RBP provides a rebate for eligible retirees that have less than $60,000 adjusted gross income that will compensate them based on the impact of the increased sales tax over any benefit from the reduction of income taxes.

To pay for this simpler, fairer, flatter tax code, the plan moves to a broader sales tax base. Sales taxes have proven to be a much more stable source of revenue than the personal and corporate income taxes.

- Changes in the sales tax.
  - Increase the current state sales tax rate from 4% to 5.88%.
  - Expand the sales tax base, *for state sales tax only*, to include services, excluding healthcare, education, construction, real estate, financial services, advertisement "buys", legal services, oil and gas services, and funerals.
  - Protect small service providers by creating a "de minimis" exemption that will exclude any service providers with annual revenue under $10,000.

- Revising the tax on tobacco products.
    - Increase cigarette excise tax from $0.36 per pack to $1.41 per pack, on par with the national average and equal to the rate imposed by Texas.
    - Raise the variable rates for other tobacco products to the rate of 68% of the manufacturer's price, equal to the rate imposed by Arkansas.
- A comprehensive but reduced incentive package for oil and gas.
    - Eliminate some of the severance tax exemptions, but work with the oil and gas industry to maintain or modify several important exemptions.
    - Note that while the plan broadens the sales tax base to include new professional services, the plan exempts oil and gas services.

<u>Internet Sales and Compliance and Simplification of Tax Administration</u>

- The plan creates a uniform sales tax base for "remote sales," i.e., sales made by vendors not physically located in Louisiana, and creates a Louisiana Sales Tax Commission to act as collector, auditor, interpreter, and rule maker around state and local sales tax.
- Congress is currently considering legislation that would require states to compel remote sellers to collect and remit sales tax. Should that legislation pass, Louisiana should be ready to require remote sellers to collect and remit sales tax. However, a condition of that legislation is that a state must have a single collector, auditor, and interpreter of the law, and uniform base for remote sales.
- Under the plan, the Louisiana Sales Tax Commission would be made up of state and locally nominated gubernatorial appointees confirmed by the Senate.
- The Commission would contract with local collectors, of which there is currently one in each parish, to perform collection and auditing services on behalf of the Commission.
- The Commission would create a uniform sales and use tax return that will significantly reduce the burden of sales tax administration on business. Building on the Parish E-file system, this simplified return would benefit from the single remote sales tax base and unified oversight entity.
- The plan assumes no new revenue from remote sellers. In the event there is a federal solution, we will include a provision that will adjust the rate downward to account for any additional revenue.

<u>Louisiana Tax Court</u>

- Under current law, tax disputes on the state level are resolved on by the Board of Tax Appeals and those on the local level must be pursued in district court—or courts, plural if the issue crosses parish lines.
- Six states have judicial branch tax courts and 22 have independent tax tribunals. Of those states, Oregon's Tax Court came closest to the model court established under the plan. Oregon, like other states, has proven that an independent judicial branch tax court is not only feasible but extremely effective and efficient.
- The plan creates a Tax Court to hear all types of tax cases. The Tax Court would have jurisdiction over all state and local tax matters. This would create uniformity within the current court system for all state and local taxes.
- The Tax Court would consist of three elected judges. One judge would serve the 1st circuit, one judge would be shared between the 2nd and 3rd circuits and one judge would be shared between the 4th and 5th circuits. On issues relating to sales tax, only those that had been previously arbitrated by the Uniform Sales Tax Commission would be eligible for appeal to the Tax Court.
- No new structures or systems need to be created. The Tax Courts would be housed within the current Courts of Appeal. The venue would be the Court of Appeal associated with the domicile of the taxpayer. After final decision from the Tax Court, cases could be appealed to the Court of Appeal or Supreme Court.