ITEP
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Policy Brief

Informing the debate over tax policy nationwide

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State Corporate Tax Disclosure: Why It's Needed

Few state tax trends are as striking as the rapid decline of state corporate income tax revenues. As recently as 1986, state corporate income taxes equaled 0.5 percent of nationwide Gross State Product (GSP) (a measure of statewide economic activity). But in fiscal year 2013 (the last year for which data are available), state and local corporate income taxes were just 0.33 percent of nationwide GSP—representing a decline of over 30 percent.

This long-term decline has a number of causes, including the enactment of new tax breaks and the creation of unintended tax shelters by companies armed with creative accounting staffs. But very little public information is available to help policymakers evaluate the overall impact of these developments. For this reason, some policymakers have called for better public disclosure of how much large corporations are paying (or not paying) in state income taxes. This policy brief explains the dire need for detailed state corporate tax disclosure.

Corporate Disclosure: An Important Tool for Tax Fairness

Tax fairness is important. The perception that state and local taxes are treating individuals and corporations fairly is a cornerstone of public support for the tax system and for the government more broadly. But the fairness of corporate taxes cannot be evaluated without some basic information about how much companies pay in taxes, which tax breaks those companies are utilizing, and how large their profits are in a given year. If some corporations are paying very little in taxes, then we need to know how and why. If other companies are paying much higher bills, policymakers should know this as well. Corporate tax disclosure is the best means available for knowing whether each corporation is treated fairly—and that corporations as a group are paying their fair share of taxes.

Corporate Tax Disclosure on the Federal Level

At the federal level, lawmakers have the ability to at least partially diagnose the ailments of the corporate tax. This is because federal law requires all publicly held corporations to file annual reports with the Securities and Exchange Commission (SEC). These reports include data on corporate profits and federal taxes paid, and often include information on specific tax breaks claimed by each corporation. This information is available on the SEC's website.

Corporate Tax Disclosure Helps Inform Tax Reform Efforts

These SEC filings allow analysts to determine how much the nation's largest corporations have paid in federal taxes and compare this to their reported profits. In a series of reports spanning three decades, ITEP and Citizens for Tax Justice (CTJ) have shown that many profitable corporations pay little or no federal income tax. A 1985 CTJ report, for example, surveyed 250 of the nation's most profitable corporations and found that more than half of these companies paid absolutely nothing in federal income taxes in at least one year between 1981 and 1985. CTJ's report also documented the extent to which these zero-tax corporations were benefitting from special tax breaks—and showed that these loopholes often treated direct competitors in the same industry very differently, putting some companies at an unfair competitive disadvantage.

Largely because of outrage arising from the release of information like this, Congress passed—and President Reagan signed—federal tax reform legislation in 1986 that eliminated many of the tax breaks that made these "zero-tax corporations" possible. Congress toughened the federal Alternative Minimum Tax (which most states still lack) and repealed various wasteful tax loopholes.

The most compelling argument for corporate tax reform in 1986 was that corporations were not paying their fair share in taxes. But this argument could never have been made convincingly if the disclosure of corporations' taxable profits and tax payments was not required. Thanks to these same federal disclosure requirements, we now know that the widespread tax avoidance of the early 1980s has resurfaced. A February 2014 CTJ/ITEP report found that 288 of the most consistently profitable Fortune 500 corporations collectively paid an effective federal income tax rate of just 19.4 percent over the five-year period between 2008 and 2012—far less than the statutory 35 percent tax rate. One in three (93) of these companies paid an effective tax rate of less than ten percent over that period.

Corporate Tax Disclosure in the States

Unfortunately, neither the SEC nor most state governments require corporations to release detailed information on their state corporate tax payments. As a result, it is difficult to identify which corporations are not paying their fair share in specific states—though there is indirect evidence that significant state-level tax avoidance is taking place.

In March 2014, ITEP and CTJ found that 269 profitable, Fortune 500 companies paid a nationwide effective state corporate income tax rate of less than 3.1 percent between 2008 and 2012. Since the average statutory state tax rate is 6.25 percent (weighted by Gross State Product), this suggests that more than half of corporate profits escaped state taxation over this period—costing state governments roughly $73.1 billion in lost revenue over those five years.

A few states have now implemented some form of corporate tax disclosure that makes it possible to examine this issue within a specific state, rather than having to rely on more generalized national averages. For example, Massachusetts requires disclosure of basic information about profits, taxes paid, and tax credits received. But most states still have no such requirements.

False Arguments Against Corporate Tax Disclosure

Opponents of state corporate tax disclosure contend that it violates corporate privacy and will hurt businesses, but publicly traded corporations have little basis for saying that their financial affairs should be kept private. Moreover, much of the necessary information is already available on the national level for publicly-traded companies, thanks to SEC filing requirements. No one has seriously argued that existing federal reporting requirements have hurt businesses, and there is little reason to expect that implementing similar requirements on a state-specific basis would produce a different result.

The real basis for corporate complaints about disclosure is that corporations not paying their fair share are afraid they will be found out. When ITEP and CTJ's studies of federal tax avoidance made it clear that many profitable corporations were paying no taxes, while others were paying at relatively high rates, the high-tax segment of the business community showed considerable support for federal reforms. Disclosure of similar discrepancies in state taxes is likely to prompt calls for a level playing field on the state level as well.