National Tax Recovery LLC

STATE & LOCAL TAX NEWSLETTER

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Programs & Services:

State & Local Tax Refund Program identifies and recovers overpaid state and local taxes paid directly to the State through use taxes or tax paid to vendors.

State & Local Tax Audit Assistance Program which helps clients to defend and lower their State tax audit assessment.

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Income Tax Advisory Service gives clients the proper knowledge and expertise needed to interpret the complex and ever changing IRS regulations and laws.

National Tax Recovery, LLC
1601 East Lamar Blvd, suite 106
Arlington, Texas 76011
(817) 795-5000 (Office)
(817) 795-5031 (Fax)
www.ntrecoveryllc.com

End franchise tax, online loopholes

Given its business-friendly environment, Texas has outpaced the rest of the nation over the past decade and is one of the few bright spots in a national economy still struggling to fully recover from the Great Recession.
Now, state leaders have an opportunity to take this success even further by slashing the much-reviled Texas Franchise Tax. But to achieve this, Congress needs to close the online sales tax loophole and give back the state's authority over its own tax code.

The Texas Franchise Tax, known colloquially as the "margins tax," places a levy of nearly 1 percent on business margin - the difference between revenue and the costs of goods sold. The Texas business community has been calling for its repeal for years now-and with good reason. The margins tax is a complex and costly burden on businesses of all sizes, and it has a significant drag on economic growth.
There is a solution. As I argued last year in a coauthored study, "Pro-Growth Tax Reform and E-fairness," Congress could equip fiscally responsible state leaders with the tools they need to implement pro-growth policies that truly engender economic expansion. Lawmakers could pass federal legislation allowing the collection of sales taxes for online purchases and using the resulting revenues to lower more-destructive taxes, such as the margins tax in Texas.

In a more recent addendum to the aforementioned study, we focus our attention on the margins tax, its impacts on Texas and how eliminating or greatly reducing this tax by collecting lost sales tax revenues could help stimulate significant growth in the Lone Star State, attracting new businesses and creating even more jobs in the coming decade.

Consumption taxes - such as a sales tax - have been proven time and again during decades of research to be less damaging than direct taxation, such as via personal income taxes or, in Texas, the margins tax, because they leverage the economic advantages inherent to flatter, lower-rate, broader-based tax structures. In short, while sales taxes are nobody's favorite policy, they have fewer loopholes and lower rates, and are therefore the least damaging taxes to state economies and state employment. They should at all times be preferred over more-damaging taxes like the margins tax.
That is precisely why e-fairness - collecting taxes already owed, but currently left uncollected, on Internet and remote sales - could have such a powerful impact in Texas. If Congress passes federal e-fairness legislation, Texas could use the increased revenues to provide substantial margins tax relief.
The Texas margins tax brings in roughly $4.8 billion to the state treasury each year. In our latest study, we found that collecting sales taxes on online and remote transactions would increase state revenues in Texas by $2.88 billion.

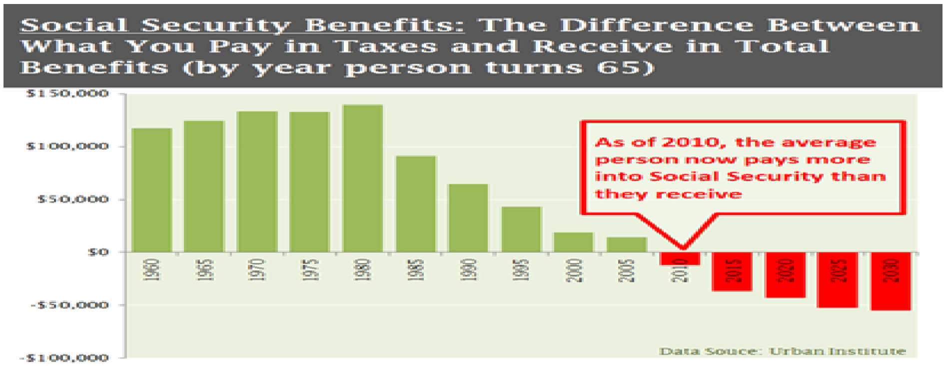
But this $2.88 billion is a static calculation - it does not account for the growth that would occur as a result of this pro-growth policy change. By our estimates, the state's economy would grow by an additional $76 billion by 2023, with an additional 139,000 jobs added during the same time period.
If we assume that total Texas taxes as a share of state GDP remains approximately 3.3 percent (as it was in 2013), Texas will thus take in an additional $2.5 billion in tax revenue in 2023 on account of this tax swap, more than offsetting the gap in revenue between the margins tax and online sales tax projections.

If Congress closes the online loophole and gives Texas back control over its own tax code, lawmakers in Austin could make a dramatic reduction, if not completely eliminate the margins tax. This would position Texas as one of only four states in the nation to have neither a personal nor a corporate income tax - solidifying Texas as a leader in pro-growth, pro-business policies nationwide.
It may be time for those who have been reluctant to embrace e-fairness thus far to rethink their position. A level playing field for all retailers and lower taxes across the board should be something all Texans embrace.

TAX POLICY NEWS

Social Security: Most Americans Now Pay More in Taxes Than They Receive in Benefits

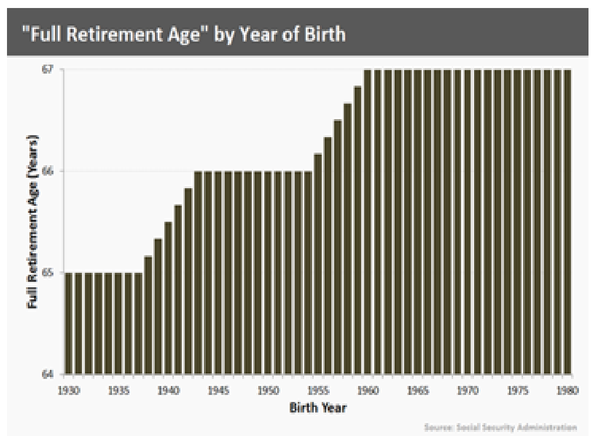
I have some bad news. Starting less than five years ago, the average American now pays more inSocial Security taxes than he or she is set to receive in benefits. And to make matters worse, this deficit is only getting bigger.
Check out the following chart, which shows the difference between what a typical retiree receives in total lifetime Social Security benefits minus the total amount of Social Security taxes the retiree paid during his or her working years. It's organized based on the year in which a person turns 65.



The average American who turned 65 in or before 2005 was likely to get more out of the system than he or she paid into it. This trend peaked for the retirement class of 1980, as the typical single male or female who reached full retirement age that year will draw an estimated $139,500 more in total benefits than he or she paid in lifetime Social Security taxes.

Starting with the retirement class of 2010, however, this relationship inverted. And it appears to have done so permanently.
From here on out, an unmarried American taxpayer earning an average income will pay more into the system than he or she draws out of it via retirement benefits. According to the Urban Institute's predictions, this trend will peak in 2030, when an average-earning individual will pay $55,000 more than he or she receives.

Taxpayers won't suffer equally
Not all segments of the population face the same dismal reality.
Single men are the hardest hit by this trend. It's estimated that the typical man turning 65 in 2030 will pay $70,000 more in Social Security taxes than he will take out in benefits.
By comparison, thanks to differences in life expectancy, a similarly situated woman will face a deficit of only $40,000.



The best off from this perspective are couples with a single breadwinner. A couple that falls under this category (and turns 65 in 2030) will pay a total of $411,000 in Social Security taxes over its lifetime but receive $570,000 in benefits.
The reason is simple: Even though there's only one taxpayer, the spouse is nevertheless entitled to his or her own spousal share, which maxes out at 50% of the wage earner's primary insurance amount.

Is this because Social Security is running out of money?
The growing deficit between what you pay and receive isn't because the Social Security system is running out of money. Given that it's a pay-as-you-go system, there will always be money coming in.

The issue stems rather from the fact that the retirement age is continuously increasing. Since the Social Security system's inception in the 1930s, the full retirement age has gradually increased from 65, to 66, and now to 67 for people born in 1960 or later.

The result is twofold. On one hand, by encouraging people to delay retirement, it increases the system's tax roll. And on the other, because retirement is delayed, the aggregate value of benefits paid is reduced.
The bottom line is that future generations will have to do more with the portion of their disposable income that isn't absorbed into the system. That means saving more over the course of their working years. It also means investing early and often, as time and the law of compounding returns are the surest ways to offset dismal trends like these.

State and Local Tax Policy news

Oklahoma restaurants, consumer activists continue fight over mixed drink tax

Most sued restaurants are fighting accusations they overcharged customers for mixed drinks. At stake in the dispute are millions of dollars. Around 100 restaurants have paid settlements.. The Legislature last year changed the law to prevent future lawsuits.

For six years or so, former attorney Tom Erbar traveled across the state, buying mixed drinks at more than 2,000 restaurants and bars.

Often, he took along his mother, Gladys Erbar.

An acquaintance, John Truel, was doing the same, along with eight others who call themselves consumer activists.

They claim they were charged too much for their alcohol hundreds of times.

In February 2011, Truel and his group sued more than 750 businesses and asked a judge to make their lawsuit a class-action case. Two weeks later, Tom Erbar and Gladys Erbar filed a separate lawsuit against many of the same businesses.

More than three years later, those lawsuits are still pending in Canadian County District Court.

At stake is a lot of money.

“This is a case of first impression,” said attorney Mark Henricksen, who represents Truel’s group. “If we are correct, then about a third of the licensees in Oklahoma overcharged the consumers by several millions of dollars.”

More than 80 of the defendants already have paid settlements in the Truel case. El Tapatio Inc., of Stillwater, for instance, agreed in June to pay a $2,245 settlement in the first case, records show. It did not admit liability.

About 100 defendants have settled separately with Tom Erbar whose mother died Feb. 13.

Many businesses are still fighting the accusations even if the most supposedly overcharged on a $10 drink, for example, is around $1.50.

The larger chains named in the first lawsuit stand to lose hundreds of thousands of dollars and possibly millions of dollars if they are forced to pay a class-action judgment covering every drink they sold in Oklahoma for years.

The restaurants’ attorneys claim the suing consumers are simply wrong — that the consumers were not overcharged and that their whole claim is based on a twisted interpretation of the law.

“You can’t just pull something out of context,” said Jim Larimore, an attorney for the Hal Smith Restaurant Group.

Even if they win in the end, the defendants will be out thousands of dollars in legal fees. Such costs could result in higher prices for Oklahoma diners.

At a hearing last week, about 40 attorneys representing restaurants and bars filled a Canadian County courtroom. Many waited their turns to speak in the section normally set aside for spectators. Others waited in the jury box.

Larimore told District Judge Gary Miller the case is like none other. The attorney said those suing really weren’t injured — that they voluntarily went to place after place to set up the litigation.

Attorneys were more blunt about the situation after the hearing ended Wednesday. “It’s a shakedown,” one attorney said to another as they left the courtroom.

Key to the claims

At issue in the dispute is the taxes charged on a drink.

The suing consumers rely on a single sentence in the liquor tax law about the “advertised price of a mixed beverage.”

The law had been on the books for years before it was amended in 2013.

The suing consumers claim the law — before the change — required the drink price on the menu to include the liquor tax.

Hospitality News

Quote of the Month:

"Sometimes you don't realize your own strength until you come face to face with your greatest weakness."

—Susan Gale

Is your Company Entitled to a State & Local Tax Refund?

Businesses have overpaid millions of dollars in state & local taxes witout even knowing it...our mission is to get it back for you!

—NTR LLC

HOTEL TAX NEWS:

San Francisco's hotel tax revenue at all-time high

It's a Golden Age for the San Francisco hotel industry. Revenue from city's hotel tax is at an all-time high.

The 14 percent tariff on hotel rooms in the city is expected to bring in $307 million for the fiscal year 2013-2014, a 60.8 percent increase from the previous fiscal year's $190.9 million, according to a report from the city controller.

A substantial portion of the revenue is dedicated to Moscone Convention Center, which is undergoing plans for a major expansion in the next few years, grants for the arts, museums and other visitor amenities, with the balance deposited into the city's general fund.

According to the controller's office, three factors contribute directly to the boost in tax revenue: average daily room rates, which are also on the rise, occupancy rates, and the overall supply of rooms.

Average hotel occupancy increased to about 83 percent in 2013, up from 79 percent two years ago. And the increasing demand for hotel rooms and the boom in hotel room renovations around the city are driving room rates up. The average price of a hotel room in San Francisco has risen by almost 40 percent in the past five years. Visitors can now expect to pay an average of $200 a night for a room in San Francisco — the highest average nightly rate in city history — up from $175 in 2012 and $123 five years ago.

With that booming demand, however, the supply of rooms isn't increasing rapidly. San Francisco has 215 hotels with a total of 33,750 rooms, according to the controller. About 20,000 of these rooms are within walking distance of Moscone Convention Center. Hotel Zetta was the only hotel to open in 2013, with 116 rooms on 5 th Street, and Hotel G opened in May 2014 with another 153 rooms.

There could be an end to the boom. Hotel room tax revenues are cyclical and dependent upon the city's economic activity, like convention bookings, business travel and tourism, city officials say. Hotel tax revenue grew rapidly in the 1990s during the city's financial boom. It's been growing at a fast clip in the last few years amid the city's booming tourism industry, convention business and overall growth in its tech and other professional sectors. Still, city budget planners expect the tax revenue to increase to $336 million a year by 2015, according to the mayor's budget office. The end to the hotel tax swell isn't yet in sight.

National Tax Recovery, LLC
1601 East Lamar Blvd. Suite 106
Arlington, Texas 76011
Phone: 817-795-5000 (office)
Phone: 817-795-5031 (fax)
Website: www.ntrecoveryllc.com

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Mike Williams

CEO/President

"Just once I'd like to seize the day before it seizes me!"

"Good actions give strength to ourselves and inspire good actions in others."

— Plato