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THE EVOLUTION OF LOUISIANA TAX REFORM

A Deep Dive Into the History of Louisiana's State and Local Tax Structure

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February 16, 2023
Vermillion Chamber

HOW DID WE GET HERE?

2015

Revenue Estimating Conference meets and recognizes a **$103.5 million deficit**, mainly due to a sharp decline in oil prices. **Temporary revenue measures pass for the next three years.**

2016

Governor John Bel Edwards assumes office and announces the **estimated budget deficit is $750 million for FY16 and $2 billion for FY17.**

Louisiana governor: Budget crisis threatens future of college sports

ESPN

Should LSU Worry About Football Comments from the Louisiana Governor? B/R

LSU **Louisiana governor: College football in jeopardy in midst of budget crisis**

Louisiana's governor said no college football in the state of Louisiana is a possibility this fall in the face of a budget crisis.

CBS | NCAA FB

2015

- 2015 Regular Session (Convenes: April 13; Adjourns: June 11)

2016

- 2016 First Extraordinary Session (Convenes: Feb. 14; Adjourns: March 9)
- 2016 Regular Session (Convenes: March 14; Adjourns: June 6)
- 2016 Second Extraordinary Session (Convenes: June 6; Adjourns: June 23)

2017

- 2017 First Extraordinary Session (Convenes: Feb. 13; Adjourns: February 22)
- 2017 Regular Session (Convenes: April 10; Adjourns: June 8)
- 2017 Second Extraordinary Session (Convenes: June 8; Adjourns: June 16)

2018

- 2018 First Extraordinary Session (Convenes: Feb. 19; Adjourns: March 5)
- 2018 Regular Session (Convenes: March 12; Adjourns: May 18)
- 2018 Second Extraordinary Session (Convenes: May 22; Adjourns: June 4)
- 2018 Third Extraordinary Session (Convenes: June 18; Adjourns: June 24)

11 REGULAR & SPECIAL SESSIONS

38 TAX INCREASE BILLS PASSED

9 TEMPORARY TAX BILLS PASSED

ESTIMATED $7.9 BILLION OF NEW TAX REVENUE OVER 8 YEARS

KEY TAX INCREASES ON BUSINESS

- REDUCED INVENTORY TAX CREDIT
- EXPANDED CORPORATE FRANCHISE TAX BASE
- LIMITED NET OPERATING LOSS DEDUCTION
- REDUCED CERTAIN CREDIT & INCENTIVE PROGRAMS
- REMOVED REFUNDABLE CREDITS FOR INVENTORY TAX WITH ITEP CONTRACTS

2016

JBE 2016-26

CONDITIONS FOR PARTICIPATION IN THE **INDUSTRIAL TAX EXEMPTION PROGRAM**

- Required applicants to enter into a **CEA with the state and LED** so that job creation and retention could be contractually tracked and taken into consideration for renewals.

- Additionally **gave local government entities a say in the approval process**.

- Decreased exemption from 100% of the assessed value to **80%** of the assessed value for the initial five years, with the potential of a renewal period of five years at 80% of the assessed value.
  - Companies are granted an **80%** property tax abatement on their capital investment and the **20%** they pay goes to local government.

STUDYING LOUISIANA'S TAX STRUCTURE

SCR 6 Task force to study ad valorem taxes that are offset by state tax credits.

HCR 11 Task Force on Structural Changes in Budget and Tax Policy

HR 242 Department of Transportation and Development to study levying additional taxes on gasoline

HR 31 Requests study of centralized sales and use tax collection system in the state

SR 259 Requests the Department of Economic Development to develop uniform local review and approval standards for the Industrial Tax Exemption Program.

SCR 4 Requests the LSU Center for Energy Studies, LSU Public Administration Institute, and the Louisiana Tax Institute to analyze mineral revenues, taxes, and exemptions and to submit a written report of its findings to the legislature.

SR 27 Requests study of tax structure and policy in Louisiana.

HR 7 Urges and requests the secretary of the Dept. of Revenue to report certain aggregated data concerning sales and use tax collections on transactions involving remote dealers to the legislature

HR 178 Authorizes the House Ways and Means Committee to study the state's tax structure, including state tax exemptions and credits, and to make recommendations concerning eliminating the state tax levied on individual and corporate income and reforming state tax exemptions and credits

2017

TASK FORCE ON STRUCTURAL CHANGES IN BUDGET &TAX POLICY

HCR 11 - Creates the Task Force on Structural Changes in Budget and Tax Policy to continue the budget and tax reform evaluations begun in the 2016 First Extraordinary Session and urges and requests the governor to support and implement initiatives for structural change introduced in upcoming sessions that will lead to savings through more efficient and effective state operations

- **Final Report: January 27, 2017**
- **Recommendations:**
  - Expand individual income tax base with narrowed brackets and reduced rates
  - Eliminate the deduction for federal taxes paid for the corporate income tax
  - Restructure, phase out or eliminate the corporate franchise tax
  - Centralize sales tax collections
  - Reduce state sales tax to a minimum of 4%
  - Expand sales tax base to include new services
  - Reduce local government reliance on state funds
  - Provide local governmental authorities with a role in granting ITEP and create a statutory framework
  - Gradual elimination of the inventory tax

2017

HCR11 FINAL RECOMMENDATIONS

JANUARY 27, 2017

"The first step in dealing with the state and local division is to create a fiscal structure for local governments that will allow local governments an opportunity to financially handle their responsibilities. Sales tax reform and property tax reform are essential if local governments are to have the capacity to raise sufficient revenues to provide for themselves and not have to depend on the state. The State should allow local governments to increase their sales tax rate without a vote of the Legislature; instead, only require a vote of the people in the area that will be subject to the new tax rate. ***The State should also consider reducing some of its commitment to local government as locals are given more authority to raise revenues and those revenues are collected."***

STATE FUNDING OF LOCALS

Art. VII, §4	SEVERANCE TAX AND ROYALTIES
Art. VII, §26	REVENUE SHARING
Art. VIII, §13	MFP
State Sales Tax	STATE SALES TAX DEDICATIONS
Art. VII, §18(B) & R.S. 47:6006	AD VALOREM TAX ON INVENTORY & INVENTORY TAX CREDIT
HB1 & HB2	APPROPRIATIONS THROUGH THE EXECUTIVE BUDGET & CAPITAL OUTLAY PROJECTS

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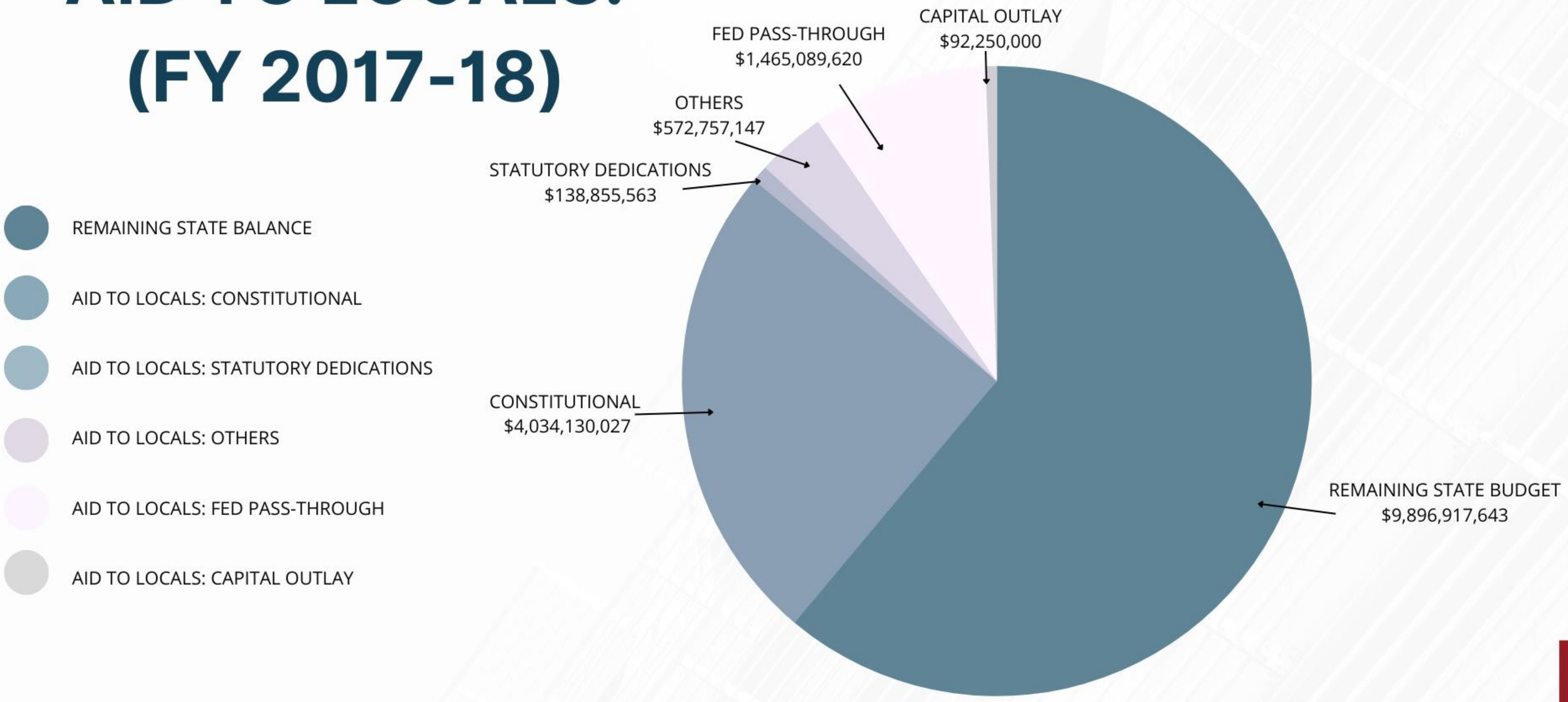
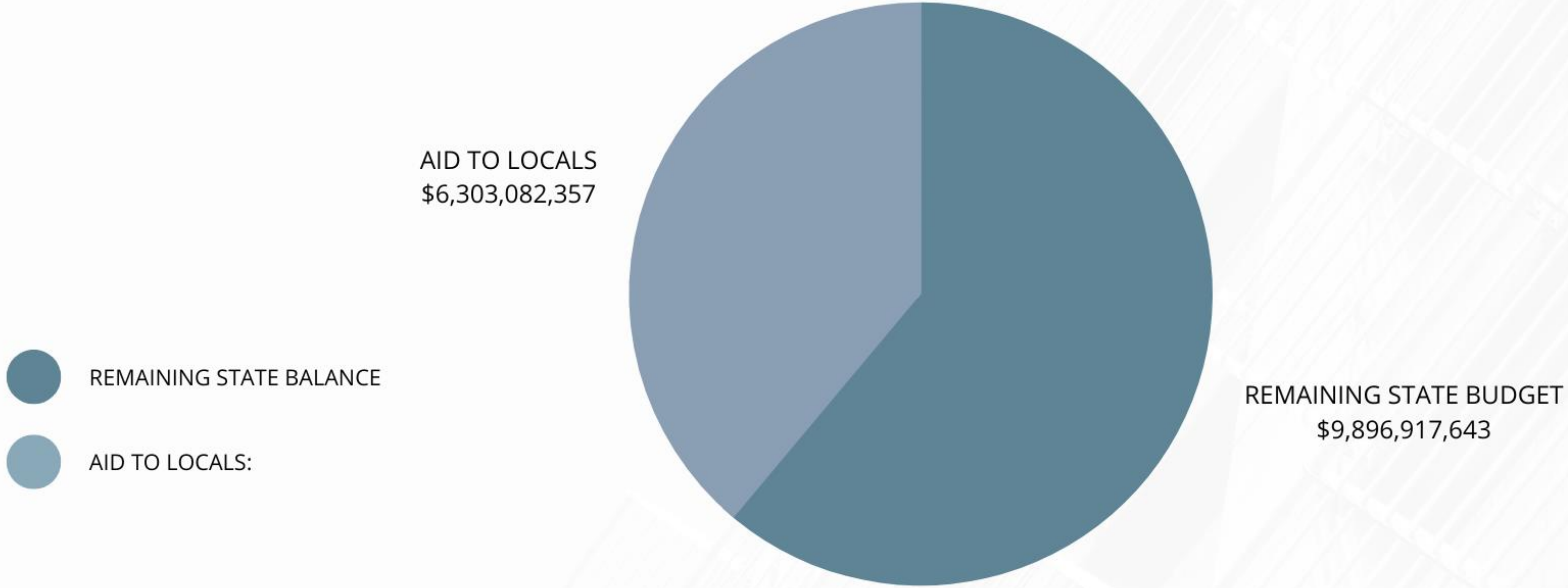
LIMITATIONS ON LOCAL TAX STRUCTURE

Art. VII, §4	A POLITICAL SUBDIVISION OF THE STATE SHALL NOT LEVY A SEVERANCE TAX, INCOME TAX, INHERITANCE TAX, OR TAX ON MOTOR FUEL.
Art. VI, §26	CAP ON PARISH AD VALOREM MILLAGE RATE
Art. VI, §27	CAP ON MUNICIPAL AD VALOREM MILLAGE RATE
Art. VI, §29	CAP ON LOCAL SALES AND USE TAX
Art. VII, §20	HOMESTEAD EXEMPTION
Art. VII, §21	ITEP
Art. VII, §27	PROHIBITION ON LOCAL TAX ON GASOLINE

AID TO LOCALS: (FY 2017-18)



TOTAL STATE-LOCAL REVENUE SHARING (FY 2017-18)

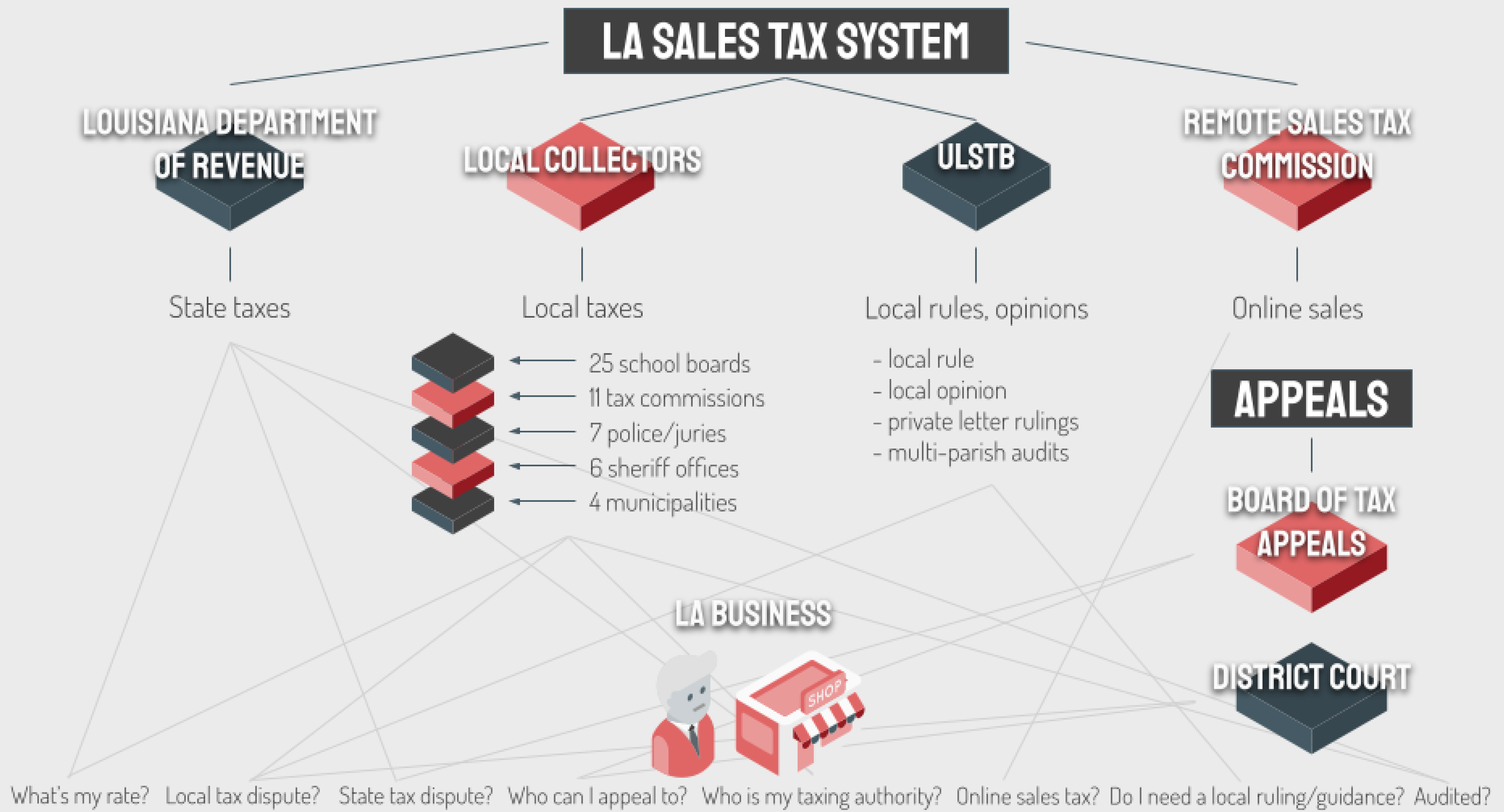


2020

CENTRALIZED SALES AND USE TAX STUDY GROUP

HR 31 - Urges and requests that a study group comprised of nineteen members with sales and use tax expertise form to make recommendations to the legislature regarding the creation of a centralized sales and use tax collection system.

- First Meeting: August 7, 2020
- Final Meeting: November 17, 2020
- **Final recommendations:**
    - By a unanimous vote, the CSUTA proposed a constitutional amendment authorizing the legislature to **create a single sales and use tax collection board** that would:
        - Be permitted to collect state and local sales and use tax.
        - Function as a statewide political subdivision.
        - Be funded with state and local sources of revenue.



LA SALES TAX SYSTEM
LOUISIANA DEPARTMENT OF REVENUE
LOCAL COLLECTORS
ULSTB
REMOTE SALES TAX COMMISSION
State taxes
Local taxes
Local rules, opinions
Online sales
25 school boards
11 tax commissions
7 police/juries
6 sheriff offices
4 municipalities
- local rule
- local opinion
- private letter rulings
- multi-parish audits
APPEALS
BOARD OF TAX APPEALS
DISTRICT COURT
LA BUSINESS
SHOP
What's my rate?
Local tax dispute?
State tax dispute?
Who can I appeal to?
Who is my taxing authority?
Online sales tax?
Do I need a local ruling/guidance?
Audited?

SOUTH DAKOTA V. WAYFAIR, INC.

- On June 21, 2018, the U.S. Supreme Court issued its opinion in ***South Dakota v. Wayfair, Inc.***, 138 S.Ct. 2080 (2018).

- In Wayfair, the court **nullified the physical-presence substantial-nexus standard** applicable to sales and use tax nexus by providing states a roadmap by which they could constitutionally subject sellers with **no in-state physical presence** to the legal obligation of collecting and remitting sales tax.

- The roadmap consists of two main points:
  - Establishing an **"economic nexus"** threshold. The South Dakota law provided for $100k in sales or 200 transactions annually. LA enacted a similar statute.

  - A state's sales tax administration system must not be so complex that it creates an **undue burden** on interstate commerce.

HALSTEAD BEAD, INC. V. LOUISIANA

- In 2021, Halstead Bead, Inc., an Arizona-based craft and jewelry wholesaler filed a lawsuit against Louisiana Department of Revenue challenging the state's current sales tax system.

- Based on the ruling from *South Dakota v. Wayfair,* states can impose remote sales tax collection obligations as long as those obligations were **not overly complex or burdensome.**
  - *Halstead Bead, Inc. v. Louisiana* challenges that Louisiana's current sales tax system does not meet these requirements.

- After a federal judge dismissed the lawsuit, Halstead Bead appealed to the 5th Circuit of the US Court of Appeals

WHERE ARE WE TODAY?

2021 REGULAR SESSION: KEY TAX REFORM ITEMS

- STREAMLINE SALES TAX COLLECTION
- ELIMINATE THE FEDERAL INCOME TAX DEDUCTION (CORPORATE & INDIVIDUAL)
- LOWER INCOME TAX RATES
- CONTINUE TO PHASE OUT THE CORPORATE FRANCHISE TAX
- PHASE OUT THE INVENTORY TAX
- CENTRALIZE ITEP APPROVAL PROCESS
- SEVERANCE TAX REFORM

DID NOT ACCOMPLISH

ACCOMPLISHED

PERSONAL INCOME TAX RATES Beginning Jan. 1, 2022		
SINGLE	$0 - $12,500	1.85%
	$12,501 - $50,000	3.5%
	$50,000 +	4.25%

* PIT rate constitutionally capped at 4.75%

TRIGGER: Beginning April 1, 2024, if FY23 PIT collections exceed FY19 collections, then the PIT rate will be reduced for the following year.

CORPORATE INCOME TAX RATES Beginning Jan. 1, 2022	
$0 - $50,000	3.5%
$50,001 - $150,000	5.5%
$150,000 +	7.5%

CORPORATE FRANCHISE TAX RATES Beginning Jan. 1, 2023	
First Tier	No tax due on the first $300,000 of taxable capital
Second Tier	$2.75 for each $1,000 in excess of $300,000 of taxable capital

TRIGGER: Beginning April 1, 2024, if the state's corporation income and franchise tax collections for FY23 exceed the collections of FY19, then the franchise tax rate beginning Jan. 1, 2025 will be reduced if the following conditions are met:
(1) Total FY23 taxes, licenses and fees exceed total FY19 taxes, licenses and fees

(2) Budget Stabilization Fund balance equals 2.5% of total FY23 state revenue receipts.

2022 REGULAR SESSION: KEY TAX ITEMS

SALES & USE TAX

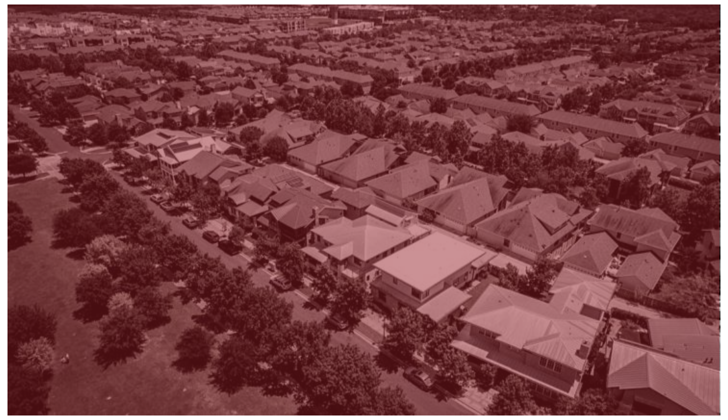
HB 681 (Schexnayder) - Streamline sales tax collections (CA)

Act 596 (Allain) - Streamline sales tax audits

Act 685 (Allain) - Statutory default for streamline collections

Act 669 (Allain) - Sales tax collector transparency

HB 438 (Bacala) - Sales tax rate reduction

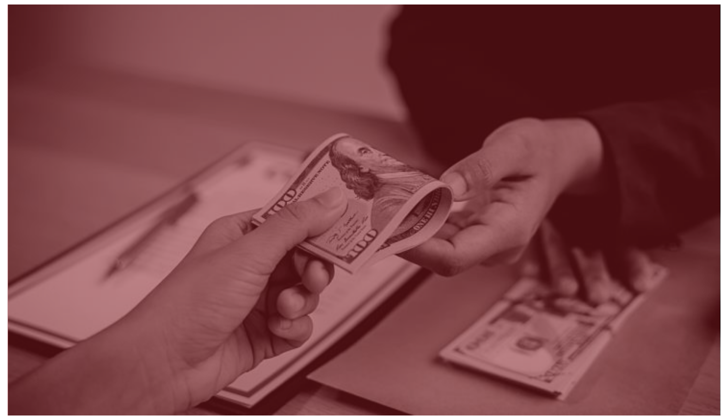


PROPERTY TAX

SB 246 (Allain) - Inventory tax/ITEP swap (CA)

SB 247 (Allain) - Statutory companion to SB 246

SB 151 (Pope) - ITEP approval (CA)



CREDITS & INCENTIVES

Act 254 (Reese) - Quality Jobs Program sunset extension

Act 249 (Reese) - Competitive Projects Payroll Incentive Program

SB 495 (White) - Oil and gas incentive rebates

Act 556 (Bagley) - Economic development organization grant program

SEVERANCE TAX

HB 246 (DeVillier) - Severance tax rate reduction

HB 716 (McCormick) - Severance tax phase out

SB 406 (Henry) - Severance tax rate reduction and phase out

LEGAL & PROCEDURAL

SB 241 (Allain) - Payment under protest alternatives for certain ad valorem taxes

Act 429 (Allain) - Tax administration and the BTA

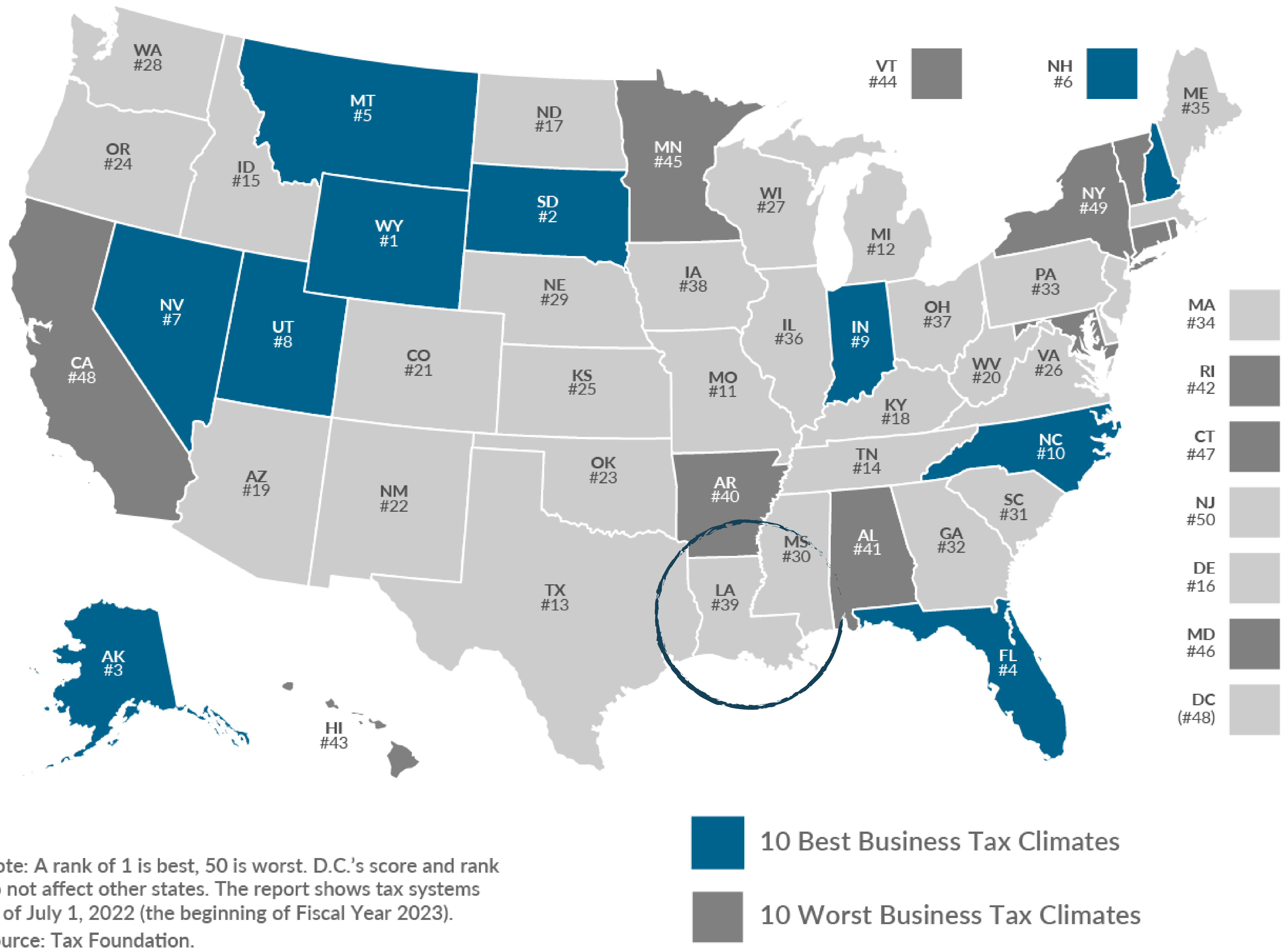
Act 564 (Zeringue) - Payment of certain BTA judgments for approved claims

DID NOT PASS

PASSED

LOOKING FORWARD

2023 State Business Tax Climate Index



Note: A rank of 1 is best, 50 is worst. D.C.'s score and rank do not affect other states. The report shows tax systems as of July 1, 2022 (the beginning of Fiscal Year 2023).

Source: Tax Foundation.

OVERALL RANK	39
CORPORATE TAX RANK	32
INDIVIDUAL INCOME TAX RANK	25
SALES TAX RANK	48
PROPERTY TAX RANK	23
UNEMPLOYMENT INSURANCE TAX RANK	6

WHAT'S ON THE 2023 AGENDA?

- MANAGE FISCAL CLIFF - REDUCE SALES TAX RATE
- STREAMLINE SALES TAX SYSTEM
- INVENTORY TAX PHASE OUT
- CARBON CAPTURE
- INCOME TAX PHASE OUT
- ITEP REFORM
- BUSINESS UTILITIES TAX PHASE OUT
- SEVERANCE TAX REFORM
- DIGITAL GOODS & SERVICES
- PROPERTY TAX REFORM

2023 TAX LEGISLATION…SO FAR

SB 1 (Allain) – Repeals the corporate franchise tax

SB 2 (Allain) – CA to phase out the tax on inventory and establish the maximum allowable exemption for industrial property tax exemption program

SB 3 (Allain) – Changes the month for the annual determination of the personal income tax and corporate franchise tax automatic rate reductions

SB 5 (Allain) – Provides for alternatives in lieu of payment under protest challenges to ad valorem tax assessments

SB 6 (Allain) – Reduces the rate of the Quality Jobs Program project facility expense rebate when certain conditions are met

SB 8 (Luneau) – Provides relative to interest applicable to local sales and use taxes paid under protest

SB 9 (Foil) – Exempts certain real estate investment trusts from the corporate franchise tax

THANK YOU

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