

Who Pays Corporate Income Tax in Florida?

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Recent data shows that less than 1 percent of businesses in Florida pay a state corporate income tax. Enacting “combined reporting” would help make the state tax code more equitable and generate hundreds of millions in new revenue that could be invested in affordable health care, public schools, and other crucial programs and services.

Introduction

On March 24, 2022, Rep. Angela “Angie” Nixon submitted a request for Corporate Income Tax (CIT) information from Florida’s Department of Revenue (DOR). The request included questions to learn about the CIT base in the state. On May 5, 2022, Jim Zingale, the executive director of Florida’s DOR, responded with data for tax year 2020¹ — the most recent year for which data was available — and addressed most of Rep. Nixon’s questions. The data underscores the need to ensure that all businesses, including wealthy corporations, who reap the benefits of operating in Florida contribute to the state’s shared prosperity.

Critical Takeaways from State’s Response Regarding Corporate Income Taxes (CIT)

A Small Portion of Corporations in Florida Owe CIT

According to DOR, most corporations in Florida report federal taxable income of \$500,000 or less. These corporations reported a negative income of \$599 billion in aggregate, meaning many had more losses than profits. Only a tiny fraction of these filers paid CIT and, overall, only one out of ten corporations in the state pays anything. At the same time, this does not include the 564,000 S-Corps and 2.1 million

More on Florida’s CIT

To calculate CIT due, businesses in the Sunshine State use federal taxable income as a starting point and then modify it by applying state-based tax expenditures. The state does this by “piggybacking” the internal revenue code (IRC) as it exists on January 1 of the year. Since the IRC exempts S-Corporations (S-Corps) and Limited Liability Companies (LLCs) from CITs, so does Florida. However, the IRC considers these businesses “pass-through entities” because they pass through their profits to their owners, who, in turn, pay federal income taxes on these profits. (Florida does not collect personal income taxes.)

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LLCs exempt from taxation. Therefore, in considering the entire business landscape in Florida, less than one percent of Florida businesses pay a state CIT. (See callout for more information.)

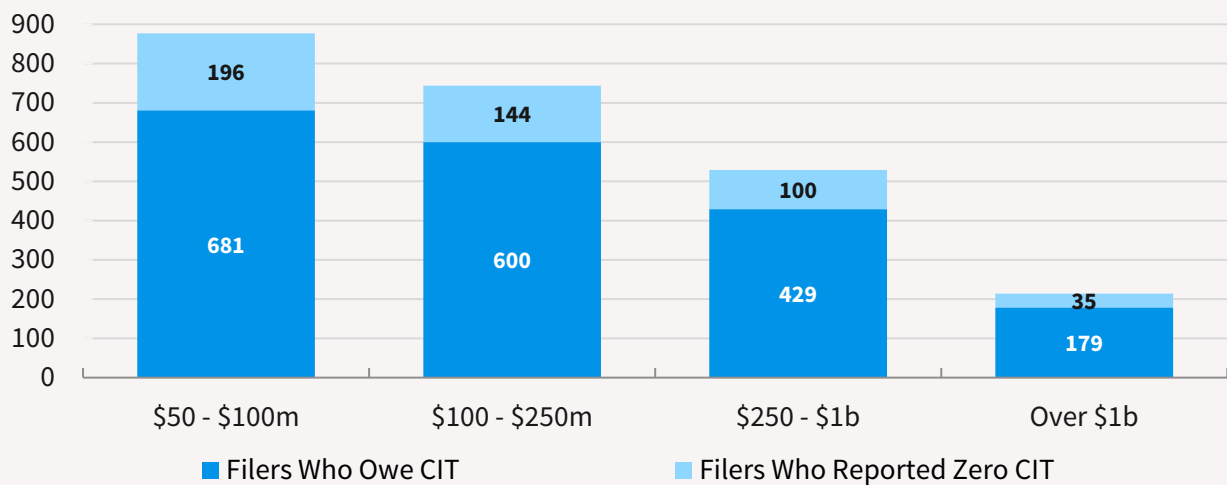
Twenty Percent of Ultra-Wealthy Corporations Owe Zero State CIT in Florida

According to DOR, the more corporations that earn federal taxable income of \$1 million or more (before adjustments), the greater the number that owe CIT.

Nevertheless, some corporations still do not pay a CIT: 22 percent of those who made between \$50 million and \$100 million; 19 percent of those who made between \$100 million and \$250 million; 19 percent of those who made between \$250 million and \$1 billion; and 16 percent of those who made over \$1 billion owed zero CIT in 2020. (See *Figure 1*.) To put it into perspective, in 2020, the 743 corporations who reported federal taxable income of over \$250 million, on average, made \$656,000 every working hour (that is \$10,925 each minute). Still, one of every five of these multimillion-dollar corporations paid nothing in Florida CITs.^{2,3}

Figure 1. Roughly 1 in 5 Ultra-Wealthy Corporations in Florida Owe Zero Corporate Income Tax

Number of filers with income of \$50 million or more that reported owing zero CIT in tax year 2020



Source: Public records request made by Rep. Angela Nixon to the Florida Department of Revenue, May 5, 2022.

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Only a Small Percentage of Corporations Reaped the Benefits of a 2018 State Law Providing CIT Refunds

In 2018, policymakers created an automatic downward adjustment to the CIT rate and refund when net collections exceeded forecasts. Although this policy expired in 2022, the DOR response shows it only helped a small percentage of corporations.⁴ According to DOR, before May 1 of this year, the state had to refund \$624 million to 18,726 C-Corps and 2,627 LLCs taxed as corporations on a proportional basis. Of the 21,343 refunds, 500 corporations received the bulk of the money (just over 70 percent). Due to strict limitations on DOR's ability to share confidential taxpayer information, FPI does not know which corporations received a refund. Ultimately, less than one percent of corporations received the refund.⁵

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As of April 2022, there are 2,051,233 domestic LLCs active in Florida. At the same time, the 2021 Tax Handbook estimates the number of S-Corps to be around 563,500. While the state does require all businesses to file an annual report for \$150 to maintain an “active status” with the Department of State, these entities, domestic LLs and S-Corps, do not pay CIT. As a result, 254,372 C-Corps, including some LLCs taxed as corporations, make up the Florida CIT base.

Sources: Florida Department of State Division of Corporations Yearly Statistics, <https://bit.ly/3lQLif7>; 2021 Florida Tax Handbook, Florida Revenue Estimating Conference, <https://bit.ly/3PPNe5g>.

More Needs to Be Done to Close CIT Loopholes and Create an Equitable Tax Code

The DOR data shows that one of every five corporations making over \$250 million (before adjustments) pay zero CIT. Unlike most other states,⁶ Florida does not require corporations to report their total domestic profits, including all their subsidiaries, to determine how much of that profit is attributable to Florida-based operations (known as “combined reporting”). If policymakers were to adopt combined reporting, they would help corporations who do pay CITs by making it harder for multi-state corporations to shift their profits elsewhere to avoid paying Florida CIT. At the same time, combined reporting would generate about \$500 million in general revenue annually and make the CIT code much more equitable by cracking down on those corporations who reap all the benefits of operating in Florida without contributing to the state's shared prosperity.⁷

Roughly 60 percent of Americans say that they are bothered “a lot” that some corporations do not pay their fair share; the same percentage report that they are bothered a lot by the fact that some wealthy people do not pay their fair share.⁸ According to the Institute on Taxation and Economic Policy, Florida has the third most unfair state and local tax system in the country: incomes are more unequal in Florida after state and local taxes are collected than before.⁹ This imbalance in Florida's tax code suppresses the prosperity of a diverse group of families making low to moderate income while benefiting the state's more affluent and predominantly white Floridians with high income.¹⁰ Relatedly, the U.S. Census Bureau affirms that Florida is the fifth most inequitable state in the nation.¹¹ Reforming Florida's CIT code through combined reporting, which most Floridians support,¹² is not only an opportunity to

ensure wealthy corporations pay what they owe — it is also a critical step in addressing widespread inequity.

The Value of Corporate Income Taxes

Across the United States, Americans overwhelmingly agree that it is everyone’s civic duty to pay what they owe in taxes and that everyone who cheats on their taxes should be held accountable.¹³ Many also feel that some corporations do not pay their fair share.¹⁴ Taxes help the state and local governments pay for crucial public schools, safe neighborhoods, roads, veterans’ services, health care, pristine water, and clean parks. These public goods are vital to the prosperity and well-being of Floridians and Florida-based businesses. According to Ernst & Young, the State Tax Research Institute, and the Council on State Taxation,¹⁵ businesses are taxed \$1.3 to \$1.8 per dollar of government services they receive. In other words, businesses recover between 56 to 77 percent of the taxes they pay as they benefit from quality public goods.

Contrary to the theory that business taxes dampen economic activity, “since World War II, productivity and wage growth in the U.S. economy has been significantly greater in periods with higher corporate tax rates.”¹⁶ As the Center on Budget and Policy Priorities adds, this “doesn’t mean that higher corporate tax rates *caused* the wage growth, but it is strong evidence that tax rates didn’t unduly impede wage growth either.”¹⁷ In short, business taxes, including the CIT, help strengthen public services, which benefit Floridians and businesses, and, at the same time, do not obstruct economic activity.¹⁸

¹ Response from DOR: <https://bit.ly/3t4w8a2>.

² DOR reports that 743 corporations had over \$250 million in federal taxable income (before adjustments). Together, these filers had an aggregate taxable income of \$1,016,961,116,514. For an average, I divided 1.02 trillion by 743, which equated to \$1,368,722,902 per corporation. Assuming that there are 2,088 working hours in a year and 60 times as many minutes (125,280), I divided \$1.4 billion (the presumed average for a corporation with an income of over \$250 million) accordingly and derived \$655,519 per hour/\$10,925 per minute.

³ It is feasible that some of these corporations experienced significant losses during the tax year and, as a result, owed zero CIT. While it is not possible to discern how many reported negative incomes (if any), we do know that, as a group, these corporations reported federal taxable income of over \$250 million – this is before adjustments. Assuming these corporations made all of their income in Florida, if we take the CIT rate in 2020 (4.5 percent) and multiply it by \$249,950,000 (since the state exempts the first \$50k), the tax due is 11.2 million per wealthy corporation. This is a rough estimate since the CIT due would also change due to applicable credits, deductions, and any apportionment factor (if a corporation has a multi-state operation). Relatedly, DOR’s response to Question 6 does indicate that at least 8,182 corporations reported zero or less adjusted Florida income but still made profits elsewhere (enough to warrant federal taxes). The information does not reveal whether these corporations made over \$250 million. However, it at least shows

that some corporations presumably active in the state end up paying taxes elsewhere, just not in Florida. The response does not clarify if those who owed zero CIT suffered critical losses, had significant income adjustments, made their profits elsewhere, or shifted their profits outside of Florida via loopholes to avoid state CITs.

⁴ In 2018, policymakers passed House Bill (HB) 7093 to update the Florida CIT code in response to a significant 2017 federal tax reform legislation known as the Tax Cuts and Jobs Act (TCJA). The TCJA made significant and broad changes to the IRC, with critical CIT implications. While the act eliminated or limited several income tax deductions — e.g., limits on deductions for business interest expenses — it also reduced the top corporate tax rate from 35 percent to 21 percent. It also increased bonus depreciation by allowing businesses to immediately deduct 100 percent of the value of certain property assets. Florida policymakers decided to adopt the IRC without accelerated bonus depreciation in response to these changes. Policymakers also sought to counter TCJA measures (which would have generated more CIT revenue for the state) by creating an automatic downward adjustment to the CIT rate triggered when net collections for the fiscal year exceeded the Revenue Estimating Conference’s (REC’s) expectations by 7 percent. Furthermore, HB 7093 specified that DOR had to refund excess collections to corporate taxpayers. Although the bill was initially supposed to sunset on December 31, 2019, during the 2019 legislative session, policymakers passed HB 7127, which extended the automatic downward adjustment and refund mechanism through December 31, 2021.

⁵ DOR specifies that the \$624 million refunds had to be paid on a proportional basis to 21,343 corporations (including 2,627 LLCs taxed as corporations) that paid CIT beginning between April 1, 2019, and March 31, 2020. From the response, we know that there were 254,372 corporate filers in the tax year 2020. The 21,343 corporations represent 8.39 percent of the total pool of tax filers. However, 72.25 percent of the refund (\$450,745,402.46) went to 500 corporations. These 500 represent .2 percent of the total pool of tax filers. Also, if we consider the 564 thousand S-Corps and 2.1 million LLCs exempt from CIT alongside the 254,372 corporate filers, the main beneficiaries of the refund account for .02 percent of businesses in Florida.

⁶ Center on Budget and Policy Priorities, “28 States Plus D.C. Require Combined Reporting for State Corporate Income Tax,” 2020, <https://www.cbpp.org/28-states-plus-dc-require-combined-reporting-for-the-state-corporate-income-tax>.

⁷ Richard Philips and SalesFactor.org, “A Simple Fix for a \$17 Billion Loophole: How States Can Reclaim Revenue Lost to Tax Havens,” Institute on Taxation and Economic Policy, January 17, 2019, https://itep.sfo2.digitaloceanspaces.com/A_Simple_Fix_for_a_17_Billion_Loophole_USPIRGEF ITEP.pdf. ITEP and SalesFactor explain in their methodology that, conservatively, the amount of revenue raised via domestic combined reporting would be a 20 percent increase over CIT revenue. Their research shows that across many states that adopted combined reporting, the increase was closer to 30 percent. With this in mind, the \$500 million figure I use assumes a 15 percent increase over \$3.27 billion CIT revenue projected for fiscal year 2021-22 (<http://edr.state.fl.us/Content/revenues/reports/fiscal-analysis-in-brief/FiscalAnalysisinBrief2021.pdf>). This assumes half the increase (compared to 30 percent) to account for any difficulties in implementation and uncertainty concerning how many corporations in Florida are using loopholes to avoid taxes.

⁸ Pew Research Center, “Top tax frustrations for Americans: The feeling that some corporations, wealthy people don’t pay fair share,” April 30, 2021, <https://www.pewresearch.org/fact-tank/2021/04/30/top-tax-frustrations-for-americans-the-feeling-that-some-corporations-wealthy-people-dont-pay-fair-share/>.

⁹ Meg Wiehe, Aidan Davis, Carl Davis, Matt Gardner, Lisa Christensen Gee, and Dylan Grundman, “Who Pays? A distributional analysis of the tax systems in all 50 states (6th edition),” Institute on Taxation and Economic Policy, October 2018, <https://itep.sfo2.digitaloceanspaces.com/whopays-ITEP-2018.pdf>

¹⁰ Esteban Leonardo Santis, “A Working Floridians Tax Rebate for a Stronger and More Equitable Florida,” Florida Policy Institute, September 15, 2021, <https://www.floridapolicy.org/posts/a-working-floridians-tax-rebate-for-a-stronger-and-more-equitable-florida>.

¹¹ U.S. Census Bureau, “Gini Index: Data,” Census, <https://www.census.gov/topics/income-poverty/income-inequality/about/metrics/gini-index.html>.

¹² Esteban Leonardo Santis, “3 reasons why Florida lawmakers should fix the Corporate Income Tax,” Florida Policy Institute, October 4, 2021, <https://www.floridapolicy.org/posts/3-reasons-why-florida-lawmakers-should-fix-the-corporate-income-tax>.

¹³ Internal Revenue Service (IRS), “Comprehensive Taxpayer Attitude Survey (CTAS) 2020,” IRS, November 11, 2020, <https://www.irs.gov/pub/irs-pdf/p5296.pdf?msclkid=eb420ee3d15c11eca3f70c50bf451e87>.

¹⁴ Amina Dunn and Ted Van Green, “Top tax frustration for Americans: The feeling that some corporations, wealthy people don’t pay their fair share,” Pew Research Center, April 30, 2021, <https://www.pewresearch.org/fact-tank/2021/04/30/top-tax-frustrations-for-americans-the-feeling-that-some-corporations-wealthy-people-dont-pay-fair-share/>.

¹⁵ Ernst & Young, the State Tax Research Institute, and the Council on State Taxation, “Total State and Local Business Taxes: State-by-State Estimates for FY20,” COST, October 2021, https://cost.org/globalassets/cost/state-tax-resources-pdf-pages/cost-studies-articles-reports/2108-3843085_50-state-tax-2021-final.pdf.

¹⁶ Josh Bivens, “Cutting corporate taxes will not boost American wages,” Economic Policy Institute, October 25, 2017, <https://www.epi.org/publication/cutting-corporate-taxes-will-not-boost-american-wages/>.

¹⁷ Chuck Marr, Samantha Jacoby, George Fenton, and Sam Washington, “Corporate Rate Increase Would Make Taxes Fairer, Help Fund Equitable Recovery: Would *Not* Undermine Strong Recovery,” Center on Budget and Policy Priorities, March 25, 2021, <https://www.cbpp.org/research/federal-tax/corporate-rate-increase-would-make-taxes-fairer-help-fund-equitable-recovery>.

¹⁸ A state’s business tax burden can be measured in many ways. One approach is to compare the level of business taxes with the level of economic activity subject to taxation. State and local business taxes are imposed on various tax bases, including net income, input purchases, payroll, and property. The most significant business tax in Florida is the property tax, which benefits local governments directly. As a whole, Florida’s total effective business tax rate (TEBTR) – i.e., the ratio of state and local business taxes or private-sector Gross State Product (GSP) – for the tax year 2020 was 4.6 percent (just .1 above the average in the United States). This means that the state relies less on business taxes than the other half of the country and generates a more significant share of general revenue from consumers (since Florida does not have a personal income tax). For the source, see endnote 14 (Ernst & Young, the State Tax Research Institute, and the Council on State Taxation).