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Louisiana Governor Provides Draft of 2018 Tax & Budget Priorities to Address Looming Fiscal Cliff and Long-Term Tax Reform

Article By:

Matthew A. Mantle

Jesse (Jay) Adams

Louisiana Governor John Bel Edwards (D) recently met with leaders from the Louisiana Legislature to discuss his draft **2018 Tax & Budget Priorities**, including recommendations for how the State should address the long-term issue of its current taxing and spending structure, as well as the short-term issue of the $1 billion "fiscal cliff" looming in the upcoming fiscal year.

> The Governor has explained that his draft plan is "not calling for net new tax revenue," but rather is meant to replace the temporary revenue measures enacted in 2015 and 2016.

Currently, it is anticipated that Governor Edwards will indeed call a special legislative session in February 2018 to solve the fiscal cliff and again discuss long-term tax reform. The Governor cautioned, however, that he would not call a special session unless he felt that these issues could (and would) be resolved.

The 2018 regular session of the legislature is a non-fiscal session; thus, tax legislation is not germane. As a result, the Governor would need to call a special session either before or after the regular session if any new tax bills are to be entertained by the legislature in 2018. If no special session is called, then the legislature would be forced to address the upcoming fiscal cliff solely with budget cuts.

The fiscal cliff in next year's budget results from the scheduled roll-off of incoming revenue from the additional 1% "clean penny" state-level sales tax, as well as the sunset of several temporary haircuts to various exemptions and credits. These measures, which were put in place during the 2015 and 2016 legislative sessions, were considered "temporary" while the legislature worked toward longer-term taxing and spending reform.

The Governor has explained that he is not in favor of merely extending the "clean penny" sales tax increase past its current 2018 expiration date, ***unless*** it is a "bridge" to a more permanent solution.

This story may sound familiar, because it is.

Numerous long-term tax reform measures were proposed by the Governor's administration during the legislature's 2017 regular session. Ultimately, however, much of that proposed legislation was largely rejected by the legislature, leaving questions unanswered as to how the state would address its short-term and long-term fiscal issues.

As was the case during the 2017 regular session, in his new draft 2018 Tax & Budget Priorities, ***the Governor has again proposed taxing measures consistent with those previously recommended by the legislative Task Force on Structural Changes in Budget and Tax Policy.***

The Governor's self-described "aggressive but balanced approach" to address the upcoming fiscal cliff and enact long-term tax reform includes:

- Making permanent reductions to tax credits, deductions and rebates (Act 109, Act 123, and Act 126, of the 2015 regular session).
- Compressing individual income tax brackets and reducing excess itemized deduction to 50%.
- Cleaning all four pennies of the state-level sales tax based on the currently available "clean penny" exemptions.
- Taxing business utilities at 4% (full state-level permanent sales tax rate) and industrial utilities at 2% (50% state-level rate).
- Expanding the sales tax to certain services.

The Governor has explained that his draft plan is "not calling for net new tax revenue," but rather is meant to replace the temporary revenue measures enacted in 2015 and 2016.

Specifically, the Governor's draft 2018 Tax & Budget Priorities propose the following:

Make Permanent Reductions to Tax Credits, Deductions, and Rebates

- Act 109 of the 2015 regular session provided limitations on the credit for taxes paid to other states to those states that provide a similar tax credit for Louisiana income taxes paid on certain sources of income. These limitations would be made permanent.
- Act 123 of the 2015 regular session temporarily reduced the value of several corporate income tax exclusions and deductions, including depletion and dividend income. These would be made permanent.
- Act 126 of the 2015 regular session temporarily reduced the value of the following rebate programs: Quality Jobs Program, Corporate Headquarters Relocation Program, and the Competitive Projects Payroll Incentive Program. These reductions would be made permanent.

Compress Individual Income Tax Brackets and Reduce Excess Itemized Deductions to 50%

- Current law allows and individual income tax deduction for 100% of excess federal itemized personal deductions. Excess federal itemized personal deductions are defined as the amount by which the federal itemized personal deductions exceed the amount of the federal standard deduction.

- The Governor's proposal would reduce the amount of the deduction from 100% to 50%. The proposal would also compress individual income tax brackets.

Clean All Four Pennies of State-Level Permanent Sales Tax Based on Currently Available "Clean Penny" Exemptions

- The Governor's proposal would expand the sales tax base on the permanent 4% state-level sales tax (the "permanent pennies") by mirroring the current sales tax base of the temporary additional 1% "clean penny" state-level sales tax.

Tax Business Utilities at 4% and Industrial Utilities at 2%

- Under Act 25 of the 2016 first special session, business utilities are currently subject to state-level sales tax at the rate of 3% through June 30, 2018 and 1% through March 31, 2019.

- Business utilities are subject to the 1% "clean penny" state-level sales tax through June 30, 2018, pursuant to Act 26 of the 2016 first special session. The total state-level sales tax rate for business utilities through June 30, 2018 is 4% and then 1% through March 31, 2019.

- The proposal will tax business utilities at 4% and create a "special rate" for industrial users at 2%.

Expand Sales Tax to Services

- The Governor's plan would expand the sales tax base (likely the state ***and local*** sales tax base) to include services such as:

    - Debt collection services

    - Insurance services

    - Data processing services (similar to Texas)

    - Information services (similar to Texas)

    - Cable and satellite services

    - Repairs to real property (immovable)

As we move closer to a 2019 gubernatorial election year in Louisiana, budget issues, tax reform, and the raising of taxes will surely continue to be infused with a heavy dose of politics from all sides.

The Louisiana and multistate business community should continue to carefully follow the upcoming special session (if ultimately called) and be prepared to provide input or otherwise act with regard to any new legislation proposed this year by the legislature.

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