SILENT SPENDING:

Florida’s Shadow Budget Needs Greater Scrutiny

Esteban Leonardo Santis, PhD

August 2022
Executive Summary

Silent spending, in the form of numerous types of tax expenditures, continues to drain billions of dollars in potential state revenue each year. Total tax expenditures cost Floridians $23.6 billion in Fiscal Year (FY) 2021-22. Since FY 2009-10, the cost of silent spending has increased by $5 billion, with an average annual growth rate of 2 percent.

Unlike money spent through the state budget process, this shadow budget reflects resources that are “spent” through Florida’s tax laws. While spending through the state budget takes the form of collecting revenue and appropriating these dollars to be expended, spending through the tax code takes the form of revenue the state forfeits. In either case, the result is the same: public resources are designated for a specific purpose.

Stronger evaluation and routine monitoring of such silent spending would give policymakers and the public a better understanding of whether foregone revenue truly benefits Floridians. Evaluation provides the evidence necessary to determine which tax expenditures are serving a public purpose and which are unproductive or waste public resources.

Tax expenditures that are not serving a public purpose or are unproductive should be modified or eliminated. Such action would increase the revenue available for investing in critical services to meet the state’s growing population needs and fund investments that are important for future economic growth. The elimination of unproductive tax expenditures also simplifies the state tax code, makes the tax system fairer, and eliminates unfair business competition.
Introduction

Fair tax codes have the potential to reduce centuries of economic, race, and ethnic inequity. Throughout the country, state and local governments typically choose from three broad categories of taxes to finance public services: property, consumption, and income taxes. These taxes should support a horizontally equitable system such that people in similar economic circumstances owe an equal amount of taxes. The system should also be vertically equitable such that those earning higher income owe more taxes based on their ability to pay. (See callout box.) Finally, the system ought to be intergenerationally equitable so that present and future generations share the tax burden for and benefit from public improvements and services.

Unfortunately, Florida’s tax code falls short of its potential to uphold equity. Florida has the third most inequitable tax code in the United States due to its dependence on consumption taxes that overburden Floridians earning low to moderate wages. Due to decades of inequitable tax laws in the Sunshine State, it is difficult for people of color to build intergenerational wealth. The state does not have a personal income tax to offset the impact of sales taxes. Additionally, in 2018, legislators proposed a constitutional amendment calling for a two-thirds supermajority to impose new taxes or fees, raise existing ones, or decrease or eliminate tax expenditures (i.e., credits, exemptions, or deductions written into the state’s tax code). Voters approved the amendment in November 2018. Requiring a two-thirds supermajority vote to reform Florida’s tax code means that a minority of state legislators (one-third) can effectively block any efforts to raise revenue for things like K-12 education, mental health care, and workforce development.

Tax codes are never neutral: just as Florida’s tax code has exacerbated or perpetuated economic, race, and ethnic inequity, it also presents an opportunity to create shared prosperity for present and future generations. State lawmakers can fix the tax code by turning to policies that consider a person’s ability to pay and intergenerational inequity, built into Florida’s current tax system, which disproportionately benefits wealthy white residents. Also, it is essential to consider whose public interests tax policies help and the economic consequences of passing tax expenditures, which tend to receive little to no attention and cost Floridians billions of dollars every fiscal year. While the state’s supermajority requirement makes it extremely difficult to adjust the tax code, this should not be an excuse for complacency, or for maintaining tax laws that do nothing to support shared prosperity.

What is “ability to pay”?

As a matter of taxation, the ability to pay refers to the idea that a tax should be based on the level of burden that it will create relative to an individual’s wealth or income; in turn, those who earn more income or have more wealth can pay more in taxes.
The Congressional Budget and Impoundment Control Act of 1974 (simply the “Budget Act”) defines tax expenditures as: “revenue losses attributable to provisions of the Federal tax laws which allow a special exclusion, exemption, or deduction from gross income or which provides a special credit, a preferential rate of tax, or a deferral of tax liability.” Whether at the federal, state, or local administration level, tax expenditures include any reduction in tax liabilities resulting from special tax provisions or regulations that offer benefits to particular taxpayers. Policymakers call these special tax provisions “expenditures” because they function as direct spending programs that benefit some in exchange for lost tax revenue. Tax expenditures, as a whole, represent silent spending (i.e., all forgone revenue due to tax expenditures) that policymakers rarely examine during regular legislative sessions and exclude from the state budget or General Appropriations Act (GAA).

Although there are legitimate reasons for silent spending, the issue is that unchecked tax expenditures can easily exacerbate race and class inequity or fail to address intergenerational inequity. In an ideal world, Florida policymakers would only use tax expenditures when they have a strategic plan to promote a positive and equitable public outcome paired with a commitment to evaluate their impact. In this scenario, if a tax expenditure fails to deliver or meet expectations, policymakers would quickly act to fix or remove it. Unfortunately, this is not the case under current state policies. Instead, policymakers write tax expenditures into the tax code without an expiration date or evaluation plans.

The purpose of this report is to illuminate Florida’s tax expenditures, pose critical questions about silent spending, and offer recommendations to inform equitable tax policies. To this end, the report begins with an overview of Florida’s silent spending and its impact on state coffers. Then, the report explores three case studies concerning sales tax, property tax, and corporate income tax expenditures. The report ends with recommendations.

**Silent Spending Can Lead to Unchecked Spending**

Like the federal government, the Sunshine State offers an extensive list of tax expenditures that cost billions in silent spending because these special tax rules reduce the amount of taxes collected. To benefit from a tax expenditure, Floridians must undertake actions or meet certain criteria. For example, when someone owns property in the state and makes it their permanent residence, they are eligible to receive a homestead exemption that reduces their tax liability. This situation is akin to collecting the tax revenue (e.g., from property taxes) and then paying homeowners a corresponding subsidy.

There is nothing inherently positive or negative about a tax expenditure. It is simply a tool to promote specific public policy goals. For example, in Florida, sales and local taxes worsen economic, race, and ethnic inequity. On average, Floridians who make less than $18,700 annually must set aside nearly $6
out of every $100 earned to pay sales and excise taxes; in contrast, an individual making more than half a million annually only sets aside $1 out of every $100 earned. (See p. 12, Table 1.) When someone buys groceries or medicine in Florida, they do not have to pay sales taxes for those items. In this example, the tax expenditure helps individuals and families meet their basic needs by exempting groceries and household medications from taxation. The critical issue with silent spending is that policymakers do not routinely evaluate tax expenditures to determine if they efficiently, effectively, and equitably meet public goals.

Silent spending is not cheap. For example, a corporate tax deduction projected to cost Floridians a certain amount can cost exponentially more as corporations take advantage of it year after year. In 1981, policymakers passed a corporate income tax (CIT) deduction for international banking facility income to entice more banks to establish international lending operations in Florida. What started as a relatively small leak – less than $22 million in 1981 – grew 34 times bigger over the next 41 years – to a total combined impact of $756 million – because policymakers did not work together to plug the hole. Today, due to federal changes made in the 1990s, the hole has become a notorious loophole as a “national bank could get the Florida tax break even if it was doing its international banking in New York, San Francisco, or some other part of the country.”

<table>
<thead>
<tr>
<th>Credits</th>
<th>Exemptions</th>
<th>Deductions</th>
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<tbody>
<tr>
<td>Reduce the amount of taxes owed to the government</td>
<td>Reduce taxable income for taxpayers because of their status or circumstances</td>
<td>Reduce taxable income due to expenses taxpayers incur</td>
</tr>
<tr>
<td>Example: Insurance companies can reduce their taxes by receiving credit for wages paid to Florida employees.</td>
<td>Example: Rent charges paid by permanent residents are exempted from sales &amp; use taxes.</td>
<td>Example: Businesses can reduce their taxes by deducting university research &amp; development expenses.</td>
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</table>
Fundamentally, policymakers use tax expenditures to offer tax incentives or hardship relief, all of which distorts economic choices, on behalf of the public interest. In 1981, policymakers wanted to change where international banking facilities opened offices by offering a corporate income tax (CIT) deduction. By enacting a tax expenditure, policymakers hoped to encourage banks to hire more accountants, loan officers, and other white-collar workers in Florida. By the 1990s, while the tax expenditure had become obsolete — it was no longer a tool to attract international banking facilities since the federal government allowed banks to start doing business across state lines — it remained in the tax code.

In 1981, policymakers passed a corporate income tax (CIT) deduction for international banking facility income to entice more banks to establish international lending operations in Florida. What started as a relatively small leak – less than $22 million in 1981 – grew 34 times bigger over the next 41 years. Now, the total combined impact is $756 million, because policymakers did not work together to plug the hole.

This is a common occurrence: once adopted, tax preferences often receive less scrutiny than appropriations, which policymakers must debate, negotiate, and enact each year. Moreover, whereas policymakers set a ceiling on appropriations for the fiscal year, silent spending is open-ended because eligible tax beneficiaries determine whether to take advantage of a tax expenditure or not. Conclusively, since most tax expenditures receive (1) little to no attention, (2) have open-ended price tags, and (3) remain effective until positive action is taken to change them, it is not at all surprising to find ones (like the CIT deduction for international banking facilities) that no longer meet their initial purpose yet continue to leak tax collections.

This is not to say that evaluation is non-existent. In 2013, policymakers instructed Florida’s Office of Economic and Demographic Research and the Office of Program Policy Analysis and Government Accountability to develop and present evaluations for 18 tax expenditure categories related to economic development on a three-year cycle. As of the latest return-on-investment rankings, most of Florida’s economic development tax expenditures do not break even, meaning that the state recovers only a portion of the cost of the tax expenditures. Unfortunately, while economic development tax expenditures undergo review, these expenditures make up less than 1 percent of all silent spending. The state spends billions each year without knowing whether these expenditures help or hurt taxpayers, the public good, or the economy.
Silent Spending Costs Billions in Forgone Revenue

Overall, policymakers choose to forfeit billions of tax dollars each year by maintaining and adding to a list of just under 400 tax expenditures left in the tax code mostly unexamined since their passage. State economists predict the cost of silent spending for FY 2021-22 will be around $23.6 billion – not counting the local ad valorem exemptions (See table in About Property Ad Valorem Tax Expenditures at the Local Level). This amount is greater than the entire state budget of West Virginia, Delaware, Oklahoma, Mississippi, and 16 other states. Historically, since FY 2010, the cost of silent spending has increased by $330 per resident, enough to pay for almost two weeks of child care, each year. And, in terms of total inflation-adjusted silent spending, since FY 2010, the cost of tax expenditures has increased by $5 billion, with an average annual growth rate of 2 percent. (See Figure 2.)

![Figure 2. Since FY 2010, Tax Expenditures Have Increased by 2% Annually](chart.png)

Source: Florida Tax Handbook

Furthermore, for every $1 of tax revenue, the state pays a subsidy — either through a tax deduction, credit, preferential rate, deferral, or exemption — equal to $0.29, meaning that anticipated tax collections will be 29 percent less than what they would have been without silent spending. In principle, policymakers distort behavior through tax expenditures to obtain a benefit (e.g., increased economic activity or a reduction of economic hardship). However, it is uncertain if sacrificing $23.6 billion leads to more socially desirable outcomes than simply collecting the forgone amount and financing better-
quality public schools, safe and affordable housing, reliable transportation infrastructure, clean water and energy, and robust safety.

Indeed, it is important to ask critical questions about the utility of silent spending. For example, the Sunshine State collects a tax on beer, wine, and liquor at the wholesale level. Almost all beverage tax revenue goes directly to the General Revenue Fund (GRF), which policymakers can use to finance any public purpose. Although the state’s beverage tax generated an estimated $337 million in FY 2021-22, $495 million remain uncollected mainly due to one tax expenditure established in 2001: the Florida Tax Credit (FTC) Scholarship Program.

The FTC Scholarship Program is a dollar-for-dollar credit, capped at $873 million for FY 2021-22, against specific taxes (including beverage taxes) meant to “encourage private, voluntary contributions from corporate donors to non-profit scholarship funding organizations (SFOs) that award scholarships to children from low-income families.”13 For the 2020-21 school year, the bulk of FTC scholarships were awarded to a total of 106,112 students enrolled in 1,945 Florida private schools, 66 percent of which are religious institutions.14 Although the FTC Scholarship Program undergoes quarterly evaluation and seems to have a positive effect on college-going and graduation rates,15 the question remains as to whether revenue that would otherwise be used for general public purposes ought to finance private school education. Lastly, due to Florida Statutes, in FY 2022-23, the tax credit cap amount will increase to $1.1 billion.16
About Property Ad Valorem Tax Expenditures at the Local Level

Per the Florida Constitution, the state has the power to levy all forms of taxation other than property taxes except as provided by law. As a result, local governments across Florida (i.e., counties, school districts, municipalities, and special districts) rely primarily on property taxes, self-imposed fees (including utility fees), and, if approved via local referenda, local option sales surtaxes. On the other hand, the state depends primarily on sales and excise taxes, other miscellaneous general revenue sources, corporate income taxes, and charges.

Property taxes in Florida are a stable source of revenue that promote the political and financial autonomy of local governments. Broadly, property taxes are a collection of taxes on real and personal property. Whereas real property is immobile and includes land, natural resources, and fixed improvements to the land, personal property is mobile and includes tangible property (furniture, equipment, inventory, and vehicles) and intangible property (stocks, taxable bonds, and bank accounts). Today, Florida’s property tax base is mostly dependent on real property, which accounts for 90 percent of all taxed property in the state.

Although local governments have the authority to collect property taxes, Florida legislators and voters can enact tax expenditures that impact local tax collections. For example, the current Florida Constitution, adopted in 1968, codified several tax expenditures, including exemptions for (i) municipal property used exclusively for public purposes, (ii) property used predominantly for educational, literary, scientific, religious, or charitable purposes, (iii) widows, blind, or totally or permanently disabled persons, and (iv) homesteads. Since then, policymakers and voters have amended the constitution to add more tax expenditures – notably, in 1992, voters approved the “Save Our Homes” amendment. (Continued on following page.)
For the 2021-22 fiscal year, silent spending is set to cost local governments just over $19 billion, mostly driven by Florida’s property tax rate limits, exemptions for local government property, and homestead exemption. (See Table A.)

Finally, when compared to the enacted budget in FY 2022-23, the cost of silent spending represents 21 percent of the $110 billion budget, making it the third largest spending area, behind education and human services. (See Figure 3.) Each year, policymakers return to Tallahassee and, by law, must pass a balanced budget. They negotiate and finally agree upon a balanced GAA. They send it to the governor and that gets signed. The entire process demands serious scrutiny because, ultimately, policymakers are not making decisions about their personal or private finances; rather, they are making decisions on behalf of Floridians about what to do with public dollars. While the state constitution requires policymakers to pass a balanced GAA, they seldom address whether forfeiting billions of dollars due to past and present silent spending is the best use of public funds.  

<table>
<thead>
<tr>
<th>Tax Expenditure</th>
<th>Estimated Cost FY 2022-23 (Billions)</th>
<th>Percentage of Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Homestead assessment limitation (Save Our Homes)</td>
<td>$6.56</td>
<td>34%</td>
</tr>
<tr>
<td>Government: local government property</td>
<td>$2.34</td>
<td>12%</td>
</tr>
<tr>
<td>$25,000 homestead exemption</td>
<td>$2.05</td>
<td>11%</td>
</tr>
<tr>
<td>Veterans’ discount</td>
<td>$1.52</td>
<td>8%</td>
</tr>
<tr>
<td>Discounts for early payments</td>
<td>$1.23</td>
<td>6%</td>
</tr>
<tr>
<td>$25,000 homestead exemption above $50,000 in value</td>
<td>$1.14</td>
<td>6%</td>
</tr>
<tr>
<td>Agricultural land</td>
<td>$1.00</td>
<td>5%</td>
</tr>
<tr>
<td>All other local ad valorem tax expenditures</td>
<td>$3.35</td>
<td>17%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$19.19</strong></td>
<td></td>
</tr>
</tbody>
</table>
Figure 3. When Compared to FY 2021-22 Appropriations, Silent Spending Accounts for the Third Largest Spending Area

- Education: 24%
- Human Services: 36%
- Judicial Branch: 0%
- Criminal Justice and Corrections: 4%
- Natural Resources/ Environment/ Growth Management/ Transportation: 12%
- General Government: 5%
- Silent Spending: 19%

Figure 4. What Tax Expenditures Cost Florida (billions)

- Agency for Health Care Administration: $23.6
- Education/Universities: $21.2
- Department of Children and Families
- Education/Florida Colleges
- Environmental Protection
- Agency for Persons With Disabilities
- Department of Health
- Education/Other
- Department of Elder Affairs
- Department of Veterans' Affairs
- Education/Early Learning
- Department of Elder Affairs
Case Study: Sales Tax Exemptions

While a flat rate general sales tax may appear on its face to be neither progressive nor regressive, that is not its practical impact. For example, suppose a high-earning Floridian and a low- to moderate-earning Floridian make taxable purchases worth $17,000. In effect, they both pay a 6 percent general sales tax on all those purchases, which comes out to about $1,000. Regardless of their income, family size, or marital status, both pay the same 6 percent general sales tax. Yet, the $1,000 sales tax imposes a heavier burden on the individual with low to moderate income than the person with high income, as a percentage of total household income. Furthermore, since low- to moderate-income Floridians spend more of their family budget paying sales taxes, they do not have the same opportunities to save when compared to wealthier individuals.

Although the state offers exemptions for groceries purchased for human consumption and prescription drugs, these tax expenditures are available to all taxpayers, regardless of their ability to pay (i.e., whether they can afford to pay the tax or not). Similarly, since 1998, policymakers have passed more than two dozen temporary sales tax holidays during which the Department of Revenue (DOR) has exempted specific household items — appliances, clothing, footwear, books, school supplies, tools, and recreational items from taxation — for all consumers. Unfortunately, these temporary sales tax expenditures are not targeted at families making low to moderate income, are burdensome for tax agencies and small businesses to administer, and can significantly affect state and local revenue. For example, since the passage of the first back-to-school sales tax holiday in 2000, policymakers have enacted the same holiday 18 other times, costing Floridians nearly $1 billion while doing nothing to permanently change Florida’s inequitable tax code. Policymakers cannot resolve the unfairness of Florida’s regressive tax system simply by offering a short break from paying sales taxes.

Not including temporary sales tax exemptions, there are 269 sales tax exemptions written into Florida’s tax code. They cost just over $16 billion annually. Nearly 70 percent of the costs are due to exemptions for household items, including groceries ($4.6 billion), rent charges paid by permanent residents ($2.4 billion), prescription drugs ($1.8 billion), and charges for hospital meals and rooms ($833 million). While most of these exemptions offer critical relief to residents, they are open to everyone, without regard for a person’s ability to pay.
Effectively, like sales tax holidays, these exemptions do not offer targeted relief for residents earning low to moderate income. More so, they help individuals who can afford to pay, and who already benefit from Florida’s tax structure.

Though not as costly in comparison to exemptions for groceries, rent charges, and prescription drugs, Florida also exempts admission to the Super Bowl, Daytona 500, World Cup, and Formula One Grand Prix races; gun club memberships; boat purchases worth more than $18,000; boat repairs worth more than $60,000; subscription newspapers, newsletters, and magazines delivered by mail; and more. Together, sales tax exemptions that serve an unclear public purpose cost Floridians about $60 million annually, money that could be used to pay for public services.

In Florida, research shows that families earning low to middle incomes spend between $3 to $3.5 for every $100 earned on sales taxes. In contrast, wealthier Floridians spend between $1 to $1.6 for every $100 earned on sales taxes. (See Table 1.) And the impact on low- and middle-income earning families is even greater for excise taxes (gas, tobacco, alcohol).

Table 1. The Average Amount of Money a Family in Florida Has to Set Aside, For Every $100 Earned, to Pay Sales Taxes

<table>
<thead>
<tr>
<th>Income Range</th>
<th>General Sales</th>
<th>Other Sales &amp; Excise</th>
</tr>
</thead>
<tbody>
<tr>
<td>&lt; $18,700</td>
<td>$3.5</td>
<td>$2.3</td>
</tr>
<tr>
<td>$18,700 - $31,400</td>
<td>$3.1</td>
<td>$1.6</td>
</tr>
<tr>
<td>$31,400 - $49,500</td>
<td>$2.7</td>
<td>$1.2</td>
</tr>
<tr>
<td>$49,500 - $86,800</td>
<td>$2.1</td>
<td>80 cents</td>
</tr>
<tr>
<td>$86,800 - $197,700</td>
<td>$1.6</td>
<td>50 cents</td>
</tr>
<tr>
<td>$197,700 - $548,700</td>
<td>$1</td>
<td>30 cents</td>
</tr>
<tr>
<td>More than $548,700</td>
<td>$1</td>
<td>10 cents</td>
</tr>
</tbody>
</table>

Alongside income inequality, Florida’s sales and excise taxes also worsen racial and ethnic inequity. Black households pay the highest average effective sales and excise tax rate ($4 out of every $100 earned) and Latina/o households pay the second highest ($3.6 out of every $100 earned). In comparison, white households spend $3 out of every $100 earned. Florida’s lack of a progressive personal income tax means that the state has no robust solution to counter the inequitable effects of sales and excise taxes nor to address racial and ethnic income disparities in a meaningful way.

If policymakers designed tax expenditures to address the insidious legacy of racism and create more opportunities for people of color, Florida’s economy would be more equitable and prosperous, which in turn could benefit state residents of all backgrounds.
**Case Study: Property Tax Exemptions**

As the callout box on pages 7-8 shows, for FY 2021-22, silent spending is set to cost local governments just over $19 billion, mostly due to Florida’s property tax rate limits (through Save Our Homes) and homestead exemptions. When someone owns a property and makes it their permanent residence in the Sunshine State, the property owner may apply to receive a homestead exemption that decreases the property’s taxable value by as much as $50,000. Once an individual receives a homestead exemption, Florida’s Save Our Homes (SOH) kicks in and limits how much a person’s property assessment can increase to no more than 3 percent or the percent change in the Consumer Price Index, whichever is less.

Studies show that Florida’s homestead exemptions and Save Our Homes (SOH) help address the inequities in the property tax code. Typically, without the tax expenditures, counties over-assess less expensive homes compared to more expensive homes. Additionally, Black and Latina/o homeowners tend to owe higher property tax bills than white homeowners in nearby neighborhoods because counties over-assess their properties.\(^2^2\) According to researchers, some explanations as to why this happens include:

- owners of higher-priced properties are generally more successful when they appeal county assessments;
- relatedly, white homeowners receive preferential treatment during the appeal process;
- county assessors do not always have access to comparable sales (nor other methods or data) to establish the market value of higher-priced properties; and
- there is a long history of systemic racism in assessment practices.\(^2^3,2^4\)

If policymakers designed tax expenditures to address the insidious legacy of racism and create more opportunities for people of color, Florida’s economy would be more equitable and prosperous, which in turn could benefit state residents of all backgrounds.

Conclusively, without Florida’s homestead exemptions and SOH, Black homeowners, Latina/o homeowners, and owners of lower-priced properties would end up paying higher property taxes than wealthy and/or white homeowners as a direct consequence of higher assessments.\(^2^5\) At the same time, while Black and Latina/o homeowners receive higher assessments, a 2018 report found that a home in a majority Black neighborhood was likely to be worth — market value — 23 percent less than a similar
Owning a home in Florida opens the door to benefits like homestead exemptions and SOH — assuming a homeowner applies. These benefits help Floridians pay their property taxes and add vertical equity to the tax code. However, access to homeownership has never been equitable. The impact of property taxes on racial equity can be complex. Homeownership has been put out of reach for many families of color by long-running disparities in housing policies and mortgage lending. Vast differences in intergenerational wealth, meanwhile, have afforded many white families sizeable inheritances that they can put toward a down payment on a home — an advantage less often enjoyed by people of color. Also, these tax preferences favor an unfair tax system that makes it so first-time home buyers, new residents, seasonal residents, and local businesses are burdened with more than their fair share of property taxes.
**Case Study: Corporate Income Tax Exemptions**

Since 1986, to calculate corporate income tax (CIT) due, businesses in the Sunshine State have used federal taxable income as a starting point and then modified it by applying state-based tax expenditures. For this to work, Florida’s CIT code runs parallel to the federal Internal Revenue Code (IRC). The state does so by piggybacking on the IRC as it exists on January 1 of the year. As such, Florida does not have to build an entirely different tax code from scratch. Piggybacking leads to substantial administrative savings, uniformity, and reductions in compliance costs.

Concerning tax expenditures, the IRC, along with Florida, exempts S-Corporations (S-Corps) and Limited Liability Companies (LLCs) from taxation. The IRC considers these businesses “pass-through entities” because they pass their profits to their owners each year who, in turn, pay federal income taxes — and, in other states, state income taxes — on these profits. While Florida requires all businesses to file an annual report for $150 to maintain an “active status” with the Department of State, the state does not collect personal income taxes. Consequently, an estimated 564,000 S-Corps and 1.9 million LLCs in the Sunshine State owe zero state CIT, even though many S-Corps and LLCs are not very small businesses. The cost of these tax expenditures for FY 2021-22 is about $1.5 billion. Finally, for those businesses who are required to file, the state exempts the first $50,000 of net income. In effect, most businesses in Florida do not pay CITs; even among businesses required to file, only 1 out 10 owes CITs.31

All businesses, including S-Corps and LLCs, benefit from numerous services provided by the Sunshine State and local governments — services like the court system’s enforcement of business contracts, or the public education system’s elevation of the skills and knowledge of Florida’s workforce. Currently, local businesses receive $0.55 to $0.77 worth of state and local benefits for every $1 of business taxes. Businesses receive these benefits even in years in which they are unprofitable. It is reasonable, accordingly, for states to impose modest taxes or fees on these entities to ensure that they help fund the public services they receive. Entity-level taxes are also justified by the fact that state governments grant these S-Corps and LLCs the privilege of doing business in a legal form that provides “limited liability” for their owners.33
Conclusion and Recommendations

Rigorous and systematic evaluation of tax expenditures is beneficial to the state's budget and taxpayers, as well as the economy. Evidence of the impact of each tax expenditure — both the cost and the benefit, including how well they are working — enables policymakers to craft informed tax and budget policies. Modifying or eliminating ineffective tax expenditures releases needed revenue to adequately fund investments, such as education, transportation, and research, that are important for future economic growth. Additionally, the resultant changes in policy could help strengthen the state taxation system — a source of economic competitiveness for workers and businesses.

Of note, the evaluation of tax expenditures and subsequent policy reforms could help:

- **Simplify the state tax code.** The many types of tax expenditures currently in statute add to the complexity of the state’s tax code. By evaluating tax expenditures and modifying or eliminating those that are not serving a public good, lawmakers could make the state’s tax system less cumbersome. This makes compliance easier for families and businesses, and it could reduce enforcement costs to the state.

- **Make the system of taxation fairer.** Many tax expenditures operate with special rules and formulas that provide benefits to a select group of people or businesses, resulting in unfair tax treatment and contributing to public dissent over the effectiveness of the state’s tax system. The elimination of tax expenditures that are not working nor benefiting everyone makes the tax system fairer by ensuring that everyone (both individuals and businesses) pays their fair share of taxes.

- **Eliminate unfair competition.** Business tax expenditures often provide large corporations, including out-of-state businesses operating in Florida, with the resources to take advantage of the complex tax code. This creates unfair competition, making it more difficult for Florida’s small businesses to compete and grow.

There are simple steps lawmakers can take to bring current tax expenditure laws under scrutiny, assess their impact, and adopt meaningful tax reforms. Florida Policy Institute (FPI) recommends that the state adopt legislation incorporating tax expenditure evaluation into its annual budget review process. Specifically, FPI recommends that the legislation:

- requires lawmakers to include in every future tax expenditure legislation a clear outline of the public policy goal and who it is meant to benefit;

- stipulates that each tax expenditure have an expiration and re-evaluation date;
• requires the Office of Economic and Demographic Research (EDR) and Office of Program Policy Analysis and Government Accountability (OPPAGA) to regularly evaluate tax expenditures to determine how successful they have been in achieving their objectives and include any recommendations for reform;

• include specific recommendations related to any tax expenditure that has been recently evaluated in the annual budget presentation for the governor, House, and Senate;

• requires the finance and tax committees of the Legislature to hold hearings on any tax expenditure that has been recently evaluated; and

• allows for the reauthorization of only those expired tax expenditures that have demonstrated public benefits in excess of their costs.

The extent to which these recommendations would improve the state’s tax policies depends on analysts having the resources needed to conduct rigorous evaluations and on lawmakers having a genuine interest in using the findings to inform their debate and policy decisions. If these conditions are met, the recommendations have the potential to enhance the quality of information needed for meaningful tax reforms, increased revenue, and increased investment in core public services.


4 Congressional Budget and Impoundment Control Act of 1974 (Pub. L. No. 93-344), sec. 3(3). The Budget Act requires the Congressional Budget Office (“CBO”) and the Department of the Treasury (“the Treasury”) to publish detailed lists of tax expenditures annually. The Joint Committee staff issued reports prior to the statutory obligation placed on the CBO and continued to do so thereafter. In light of this precedent and a subsequent statutory requirement that the CBO rely exclusively on Joint Committee staff estimates when considering the revenue effects of proposed legislation, the CBO has always relied on the Joint Committee staff for the production of its annual tax expenditure publication. See Pub. L. No. 99-177, sec. 273, codified at 2 USC 601(f).

Florida Department of Revenue, “Nontaxable Medical Items and General Grocery List,” DOR, January 2022, https://floridarevenue.com/Forms_library/current/dr46nt.pdf. Note: food products prepared and sold for immediate consumption (except food products prepared off the seller’s premises and sold in the original container or sliced into smaller portions), sold as part of a prepared meal (whether hot or cold), or sold for immediate consumption within a place where the entrance is subject to an admission charge are taxable. Sandwiches sold ready for immediate consumption are taxable.

To approximate the cost of the international banking loophole, I looked at the Florida Tax Handbook estimates from FY 2000 through FY 2022. With these estimates, I derived an annual rate of change and used that rate to approximate the cost of the tax expenditure back to FY 1981. Then, I adjusted the annual projections using the latest inflation figures (CPI-U; First Half of 2022) and added them. Since 1981, the combined cost of the expenditure has been close to $756 million.


Section 288.001, F.S.


The 2022 “Return on Investment Analyses” from EDR offers an overview of 29 tax incentives, including expenditures: Out of all 411 tax expenditures built into Florida’s tax code, as of the publication of the 2021 Florida Tax Handbook, the ROI analysis includes 6 credits: the Capital Investment Tax Credit (can be used to offset Insurance Premium Tax and Corporate Income Tax liability), New Markets Credit (can be used to offset Insurance Premium Tax and Corporate Income Tax liability), the Rehabilitation of Contaminated Sites Credit (Brownfield, used to offset Corporate Income Tax liability), and the Rural and Urban High-Crime Area Job Credit (used to offset Corporate Income Tax liability). Together, for FY 2021-22, these credits amounted to nearly $80 million (less than 1 percent of all silent spending).

List includes, Idaho (4.2b), West Virginia (4.5b), Delaware (4.8b), South Dakota (5.1b), New Hampshire (6.75b), Montana (7.3b), Vermont (7.4b), Iowa (8.1b), Maine (8.5b), North Dakota (8.5b), Oklahoma (9.1b), Wyoming (10.2b), Alaska (10.3b), Nebraska (12.6b), Hawaii (15.9b), Kansas (20.5b), Connecticut (22.7b), New Mexico (23.2b), Mississippi (23.3b), Utah (23.5b). Cross reference, https://higherlogicdownload.s3.amazonaws.com/NASBO/9d2d2db1-c943-4f1b-b750-0ca152d64c2/UploadedImages/Issue%20Briefs%20/Fiscal_2022_Proposed__Enacted__Budgets_-_Summary.pdf, and state websites.


17 For added perspective, when compared to the General Revenue Fund budget (i.e., Florida's main source of discretionary spending), silent spending covers over 54 percent of Florida’s general revenue spending.
20 Institute on Taxation and Economic Policy, correspondence with Florida Policy Institute, 2021.
21 Institute on Taxation and Economic Policy, correspondence with Florida Policy Institute, 2021.
24 Andrew W. Kahrl, “The power to destroy: Discriminatory property assessments and the struggle for tax justice in Mississippi,” Journal of Southern History, volume 83(no. 3), 2016, https://muse.jhu.edu/article/627004/pdf?casa_token=OxMgtY4AAAAA:F0W-XX4kLNo7Co_30XOoSe24-ReTeC2YzvTJ8lnWKJDQoxJ5HOU6wP7U1A9v4gNB8wwXzeY79S.
29 This is known as “static” or “fixed date” conformity and requires legislative action to incorporate any changes made to federal statutes since the last day of conformity. See 2021 Florida Statutes 220.03(2), www.flsenate.gov/Laws/Statutes/2021/0220.03.
All the owners of these businesses enjoy “limited liability” for the firm’s debts. This means that if the firm’s debts ever exceed its assets, the most that the owners can lose is their investment in the business; creditors cannot tap the owners’ personal financial resources to make themselves whole. Because the ability to do business in the form of a corporation or LLC that provides limited liability for owners is a privilege state governments grant, it has long been recognized that states have the right to impose “franchise” or “privilege” taxes on these entities in exchange.

APPENDIX: The 2022 Legislative Session and New Silent Spending

Beyond the $23.6 billion price-tag of silent spending for FY 2021-22, policymakers also passed new temporary and permanent tax expenditures during the 2022 regular session. In total, the first-year impact of the state-level tax expenditures passed during session (including temporary and permanent silent spending) is around $840 million, and the long-term recurring impact is about $63 million.

Specifically, by way of new silent spending, policymakers passed:

- One-year exemption for baby and children’s clothing, shoes, and diapers;
- One-year exemption for certain ENERGY STAR certified appliances;
- Three-month exemption for children’s books; and
- Two-year exemption for impact-resistant windows, doors, and garage doors.

These temporary exemptions are meant to offset the sales tax burden for the specified items through 2022. However, they do not offer targeted relief to Floridians with low- to moderate-income who, as a percentage of personal income, bear a higher sales tax burden, since all consumers have access to the exemptions. Together, these exemptions will cost Floridians $391 million during the first year of implementation.¹

Alongside these exemptions, policymakers also passed a series of short-term sales tax holidays reminiscent of previous fiscal years, including:

- 14-day back-to-school exemption for school supplies;
- 14-day exemption for disaster preparedness supplies;
- Seven-day exemption for tools; and
- Seven-day exemption on purchases for certain recreational activities.

Although these exemptions run from one to two weeks, they will cost residents $209 million, and only one in five Floridians use them.²

Policymakers also:

- Created a permanent sales tax exemption for Daytona 500 admission, which will have a $6 million recurring cost.³
- Created a permanent sales tax exemption for Formula One Grand Prix admission, which will have a $6 million recurring cost.⁴
- Created an exemption for World Cup soccer matches whose impact would range between $7 million to $8 million.⁵
- Created a sales tax exemption for “green hydrogen,” i.e., hydrogen created using renewable energy sources (e.g., solar energy, wind energy, and geothermal energy). With “green
hydrogen,” it is possible to create electricity with zero carbon emissions. This exemption will cost $300,000 annually.⁶

- Clarified that all trailers purchased by a farmer for exclusive use in agricultural production or to transport, as well as hog wire and barbed wire fencing, are sales tax exempt. These exemptions will cost just over $16 million annually.⁷

The admissions-related exemptions are limited to those who can afford to attend these events. Average Daytona 500 ticket prices range from $99 to $200;⁸ average tickets for Formula One Grand Prix races in Miami range from $700 to $1,800;⁹ and the average ticket price for World Cup matches in Miami is about $210.¹⁰ Essentially, Floridians who cannot afford to travel to Daytona or Miami and pay for admission to these events will not benefit from the exemptions, although they will cost the state between $12 million to $20 million annually — funds that could be used to pay for other public services.

Finally, beyond sales tax exemptions, during the regular legislative session, policymakers also:

- **Created a credit for short-line rail investment.** This is a credit against corporate income tax for railroads that invest in maintaining or improving railroad tracks in Florida. The credit is for railroads whose annual operating revenue is under $900 million. The credit will benefit just two railroads (Florida East Coast Railway and Alabama Gulf Coast Railway) whose operating revenue is less than $900 million but more than $40.4 million and fewer than a dozen short line railroads whose revenue is less than $40.4 million. The goal of the tax expenditure is to help these railroads maintain and improve their tracks, which ought to help with managing highway congestion and assisting with supply chain issues. This expenditure will cost $7 million annually.¹¹

- **Increased the cap for the New World Reading Initiative Tax Credit** from $50 million per state fiscal year to $60 million beginning FY 2023-24, used against select taxes, including corporate income taxes and insurance premium taxes. The credit is for any business that makes monetary donations to the New World Reading Initiative, a program created using American Rescue Plan Act dollars that provides books to elementary school students who read below grade level.¹²

- **Increased the cap for the Community Contribution Tax Credit** from $10.5 million to $14.4 million for projects that provide homeownership opportunities for low-income households or housing opportunities for persons with special needs. The cap for all other projects (e.g., those to provide commercial, industrial, or public resources and facilities) increased from $3.5 million to $4.5 million. Businesses or individuals can use the tax credit against Florida’s corporate income tax, insurance premium tax, or as a refund against sales tax.¹³
• **Increased the cap for the Strong Families Tax Credit** from $5 million per fiscal year to $10 million for any business that makes monetary donations to certain charitable organizations that provide services focused on child welfare and wellbeing. Businesses can use the credit against their state corporate income tax.¹⁴

• Clarified that any **loans relating to a state of emergency** declared through either an executive order or a proclamation from the Governor of Florida are exempt from documentary stamp taxes.¹⁵

• Passed the “**Florida Motor Fuel Relief Act of 2022,” a one-month motor fuel tax exemption period**. This holiday will cost $200 million, which is funded in the budget through the American Rescue Plan Act (ARPA). However, the U.S. Department of the Treasury prohibits states from using ARPA dollars to “directly or indirectly offset a reduction in net tax revenue.”¹⁶ If a state fails to comply, it will have to return an amount equal to the revenue lost due to the tax cut. Since the budget includes the Florida Motor Fuel Relief Act alongside other ARPA appropriations, it is unclear if Florida will have to forfeit $200 million in ARPA funds or pay for the holiday through its own general revenue.

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¹ https://www.flsenate.gov/Session/Bill/2022/7071/Analyses/h7071z1.WMC.PDF.


