FAST FACTS

In 1979, corporate income tax accounted for 10 percent of the Wisconsin state budget. In 2005, corporate income tax accounted for only 5.8 percent of the budget.

Two-thirds of all corporations in the state paid no income tax in 2003 or 2004, including 62 percent of those with over $100 million in sales.

Wisconsin is one of just five states with a corporate tax disclosure laws.

Wisconsin is the only state where citizens can obtain tax information on specific corporations. But accessing such information is onerous and can be expensive.

# Corporate Taxes

## Stronger Corporate Tax Disclosure

As a share of the total state budget, corporate income taxes are on the decline, leaving a more significant burden on the state's individual taxpayers. According to Census Bureau data, in 1979, corporate income taxes accounted for 10 percent of all tax revenue generated in Wisconsin; by 2005, corporations' share had dropped to 5.8 percent. According to Wisconsin Department of Revenue data, two-thirds of corporations in the state paid no income tax in 2003 or 2004, including 62 percent of those with over $100 million in sales.Some have greeted these results with surprise and concern that Wisconsin corporations may not be paying their fair share. Others have countered that these data are outdated and misleading, as subsidiaries may be paying taxes even when parent corporations are not.

Unfortunately, it is difficult to know exactly how corporations are contributing, because the data are not publicly available. For policymakers to get tax policy right, clear information on which corporations are paying, and how much they are paying, is required. Wisconsin is one of only five states in the nation that has a corporate tax disclosure law on the books, and the only state allowing the public to find out how much specific corporations pay in income taxes each year. Despite this distinction, Wisconsin's disclosure law is limited in its ability to shed light on corporate taxation. It is both too narrow in the information it requires corporations to provide, and it places too heavy a burden on citizens seeking that information.

Citizens would be better able to access and analyze information about corporate income taxes in the state if we pursue the following:

1. **Require corporations to disclose greater tax-related detail.** Wisconsin's corporate tax disclosure law does not provide policymakers and other citizens with sufficient information to motivate and inform tax reform. The statute only requires the disclosure of "bottom-line liability" – that is, "net income tax as paid or payable." Without additional information, such as the amount of business done in the state or the number of employees in the state, we are limited in our ability to assess the costs and benefits of particular tax policies and structures. Moreover, the bottom-line net tax information provided gives little clue as to why some corporations fail to pay taxes in a given year – whether it is due to a decline in profits, use of state tax credits, use of a tax loophole, or some other reason. The reason for not paying income tax may be perfectly legitimate; the problem is that under Wisconsin's system, no explanation is required. To remedy this, we could:

    - Require disclosure from all publicly traded corporations ("C" corporations) and their subsidiaries doing business in the state. Also, publicly traded corporations with sales in the state should be required to file an explanation if they do not file a tax return here.

    - Require all disclosure to be based on the corporation's tax forms filed two years prior. Making public this historic data would avoid competitive disadvantage through disclosure of proprietary information.

Building a Stronger Wisconsin
Center on Wisconsin Strategy

**Resources on Corporate Tax Disclosure:**

*State Corporate Tax Disclosure: The Next Step in Corporate Tax Reform*, by Michael Mazerov, Center on Budget and Policy Priorities, February 2007. Available at: www.cbpp.org/2-13-07sfp.pdf

*Wisconsin Tax Haven: The Corporate Contribution to State and Local Tax Revenue*, a presentation by Jack Norman, Institute for Wisconsin's Future. Available at: www.wisconsinsfutureorg/taxes/CorpTaxCompWithNumbers.ppt.

- Require that covered corporations disclose more precise information. This information, all of which is already compiled on corporate tax forms, includes:
  - the corporation's name, headquarters address, the name and address of any parent corporation, and the corporate ID number;
  - the corporation's bottom line tax liability in the state;
  - any tax credits or exemptions claimed from the state, or any other state subsidies (grants, loans, etc.) that affect the corporation's taxable income;
  - any operating losses or deductions claimed for the previous year that affects the corporation's stated taxable income; and
  - the share of total income earned that is taxable in the state.
- Require information related to other commonly owned corporations, such as subsidiaries or parent corporations, whose tax situation has an effect on the corporation doing business in the state. This information includes profits reported by any other entity with which the corporation might have combined its profits for tax reporting purposes, and, if the corporation is a subsidiary, a disclosure of the overall profit reported to the Securities and Exchange Commission by the parent corporation.
- Require information to discern loopholes corporations might be using to lower state tax payments. This information includes whether the corporation has made royalty or rent payments to any subsidiary companies in the past year, and what the corporation's tax liability would have been in absence of Wisconsin's "single sales factor apportionment rule," which uses sales, without regard to payroll or location of property held, to determine Wisconsin's share of income taxes for multistate companies. This information would allow policymakers to determine effects of the rule.

### The Benefits of Disclosure: Measuring Corporate Tax Loopholes

One benefit of corporate tax disclosure is that it can shed light on tax loopholes that allow very profitable corporations to escape state taxes. Two particularly problematic loopholes have recently been identified at the state level, both of which might be addressed through good disclosure policy.

The first is the "Toys R Us-style loophole," in which multistate corporations shift taxable income from high tax states to "passive income" subsidiaries in states with low or zero corporate income tax. For years, until the practice was highlighted in a state supreme court case, South Carolina-based Toys R Us made royalty payments to Delaware-based Geoffrey Inc. for the use of Toys R Us trademarks and logos. Unlike South Carolina, Delaware does not tax companies whose only income comes from "intangible assets," such as trademarks. Thus Toys R Us was essentially moving income from taxing states to a non-taxing state. One way to expose this loophole is to require corporate disclosure of interest and royalty payments to subsidiaries. (For a summary of these loopholes, see "Tax Facts: Rhode Island's Disappearing Corporate Income Tax," Poverty Institute. Available at: www.povertyinstitute.org/matriarch/documents/CIT_composite.pdf.)

Multistate corporations also sometimes take advantage of lax state "nexus rules," which set the bar for how much of a "physical presence" a company must have in a state in order to be responsible for state taxes for in-state sales. One way to expose this loophole is to require out-of-state companies that believe they do not owe any taxes in a particular state to disclose why they should not have to file tax returns on in-state sales.

### Disclosure Helps Businesses by Leveling the Playing Field

Comprehensive tax disclosure that leads to a fairer tax structure can improve Wisconsin's business environment. Many businesses are attracted to states with transparent tax systems because the policies they inspire tend to result in a more equitable tax burden across corporations.

At the moment, it is nearly impossible for a business looking for opportunities in Wisconsin to know whether it will be competing with other businesses that enjoy unfair tax advantages. Better disclosure would give new entrants this information, and – more important – would help to close the loopholes leading to these tax advantages.

Further, corporate tax disclosure can lead to greater trust in corporations by the public. Disclosure inevitably reveals that many corporations in a state do pay their fair share of taxes, highlighting good corporate citizenship.

2. **Make information gathered under corporate tax disclosure law more accessible to the public.** Anyone hoping to access corporate tax information under Wisconsin's disclosure law faces onerous and expensive barriers. For example, it took IWF 14 months and thousands of dollars to complete its study. Corporate tax information must be requested one company at a time, and the requester must pay a $4 fee to learn the tax liability of any single company operating in the state. Taken alone this may be a modest fee, but for anyone seeking information on multiple firms, or on multiple subsidiaries of the same firm, it can become quite costly. Further, anyone making a request for information must include the exact name and address of the company as used on its tax forms (sometimes a difficult piece of information to determine, especially with large corporations that have multiple subsidiaries), and must give a reason for making the request – information that is then passed along to the corporation.

   The greatest restriction, however, is a corresponding statute prohibiting those who obtain tax information through this system from sharing it with anyone else, with two exceptions: The information can be published in a newspaper, or it can be disclosed in a "public address." This stipulation meant that IWF had to hold public forums to reveal its findings on corporate income tax payments. This is a bizarre feature of the Wisconsin statute, and one that severely restricts the general public and policy groups from making actual use of the limited information that is obtainable through the disclosure statute. To address these problems, Wisconsin could:

   - Create a public corporate income tax database. To promote transparency and make corporate tax information as useful as possible to the public and policymakers, disclosure statements could be made available online in a publicly available, searchable database.

   - Remove restrictions on sharing information. Anyone gleaning information under the corporate tax disclosure law should be able to share that information with others in the format they choose.

C O W S

center on wisconsin strategy

The Center on Wisconsin Strategy (COWS) is a non-profit, nonpartisan "think-and-do tank" dedicated to improving economic performance and living standards in the state of Wisconsin and nationally. Based at the University of Wisconsin-Madison, COWS works to promote "high road" strategies that support living wages, environmental sustainability, strong communities, and public accountability.

For more information visit: www.cows.org

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