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Why South Carolina Should Eliminate the Personal Income Tax

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WHY SOUTH CAROLINA SHOULD ELIMINATE THE PERSONAL INCOME TAX

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I. INTRODUCTION

South Carolina is known for its success in economic development. When a state is successful on any given front, it begs the question, what else can be done to increase the competitiveness of the state? The idea of eliminating the personal income tax in South Carolina has been discussed in recent years, and it appears to be gaining more focus.[1] By eliminating the personal income tax in South Carolina, the state could have the opportunity to establish itself as the premier destination for economic development in the southeastern United States and increase its strength as a location to do business nationwide. South Carolina already enjoys a competitive economic development environment. It now has the opportunity to cultivate a top tier economic development tax policy environment as well. South Carolina has enjoyed great success in its economic development efforts in recent years, largely due to the aggressive business nature and acumen of its Governor Nikki Haley, the leadership and project management of the South Carolina Department of Commerce led by Secretary Bobby Hitt, and the tight-knit, hard-working economic development community in South Carolina. States such as Georgia and Texas are also having great success in this area, indicating that South Carolina leaders cannot become complacent despite the state's success.

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1. *See* Adam Beam, *State House: Sen. Katrina Shealy Wants to End the State Income Tax*, THE BUZZ (Dec. 17, 2013, 10:24 AM), http://www.thestate.com/news/politics-government/politics-columns-blogs/the-buzz/article13832084.html; *see also infra* note 54 (describing Governor Haley's plan to significantly cut the state income-tax rate over the next decade).

Texas, for example, does not have a statewide personal income tax.[2] If South Carolina were to adopt a similar approach toward personal income tax, would it make South Carolina more competitive? How does one measure and analyze what effect, if any, the lack of a state income tax would have on a state's economic development success? Which factors are important in measuring a state's tax policy and the impact on economic development?

What is apparent is that a state's tax policies are a significant determinant of its growth rate.[3] Eliminating the personal income tax, however, would not come without a cost. If South Carolina were to eliminate its personal income tax, where would it make up the revenue? How do other states compensate for this lack of tax revenue when eliminating the personal income tax? Finally— and most importantly—do lower taxes actually lead to greater economic growth? Many states are considering eliminating the personal income tax, often citing Texas as the example of how it can be done.[4] To garner support for the elimination of a personal income tax in a state, the states often tout how successful business recruitment and retention can be for a state as a result of the elimination of the income tax.[5] Governor Sam Brownback of Kansas described his plan for eliminating the income tax in Kansas by stating, "Look out, Texas. Here comes Kansas."[6]

Regardless of the reason, it is clear that Texas is a strong competitor when it comes to economic development. I have a unique perspective since I attended and graduated from law school in Texas. I moved there from Charleston, South Carolina, and it was a rapid education in culture alone. I quickly learned, as I was often told, that I had moved to the "great nation of Texas." The strength of the business climate in Texas is immediately noticeable. There is a palatable feeling of immense pride in the history, culture, education, and the success of the businesses that call Texas home. Texas is serious—serious about its culture, its love of football, its fondness of the many ranches where its residents spend their weekends, about the consumption of its abundant fine steaks, and about almost anything affiliated with Texas. I, on the other hand, showed up in Texas in my Patagonia shirt, jeans, and Rainbow flip flops and felt like I may as well have

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2. *See, e.g.*, Brian Chappatta, *States Lacking Income Tax Get No Boost in Growth: BGOV Barometer*, BLOOMBERG NEWS (June 25, 2012), http://www.bloomberg.com/news/2012-06-25/states-lacking-income-tax-get-no-boost-in-growth-bgov-barometer.html (describing the different states that do not have personal income tax).

3. *See* Barry W. Poulson and Jules Gordon Kaplan, *State Income Taxes and Economic Growth*, 28 CATO J. 53, 68 (2008).

4. *See* Aman Batheja, *The Joys of No Income Tax, the Agonies of Other Kinds*, N.Y. TIMES, May 24, 2013, at A19A, *available at* http://www.nytimes.com/2013/05/24/us/in-texas-the-joys-of-no-income-tax-the-agonies-of-the-other-kinds.html?pagewanted=all&_r=0.

5. *See, e.g.*, Ben Wilterdink, *It's Very Simple, States Should Cut Taxes to Boost Economic Growth*, FORBES (Nov. 22, 2013, 8:00 AM), http://www.forbes.com/sites/realspin/2013/11/22/its-very-simple-states-should-cut-taxes-to-boost-economic-growth/print/ (describing how states can increase economic growth through tax reform).

6. Batheja, *supra* note 4.

moved there from another planet. If my new friends and neighbors were not originally from Texas, they were more often than not from California. Back in Charleston, if friends and neighbors were not from South Carolina, they were more often than not from Georgia or North Carolina. Texas is serious, and it is different.

II. RELEVANCY OF ECONOMIC DEVELOPMENT

Before delving too deeply into what has made Texas so successful in economic development, and if the lack of a personal income tax is a critical part of that equation, let's take a step back and consider why economic development is relevant at all? Why do states, and particularly my state—South Carolina—have such a passion for economic development? I imagine that question is a personal one, unique to the citizens of each state. I know why economic development matters to me. I grew up in a small town in the middle of Georgia, although we vacationed in Charleston every summer. In my hometown, there were just a couple of large businesses that basically kept the entire town employed, either directly or indirectly. We had less than 10,000 people in our town, no movie theater, and the traffic lights started flashing after dinner (i.e. supper) time. Families did not travel much. We had enough, and nothing seemed to be missing. My fond childhood memories include riding my bike to the neighborhood pool and buying a candy bar in warm weather. I vividly remember being grateful for that treat, and I felt that sitting in the grass by the pool with my friends eating a candy bar that had partially melted in the heat of the Georgia summer was pretty much everything. There is something very comforting and good about the simplicity. I knew the importance of a "good job" from a very young age. I learned early in life that education is of critical importance, and that good jobs are vital for the health of our communities and the health and well-being of our families. Good jobs create solid opportunities for education. Education fosters open-minded people, as well as acceptance and exposure to other ways of thought, other people, other cultures, and hopefully an ability to grow as a result. A good education and opportunities to obtain a solid job creates healthier communities, well-educated children, and upward mobility in all things including health, sustenance, enlightened thinking, and a commitment to the betterment of our communities and families. To me, this is economic development. Economic development encompasses the desire to better our state by providing the platform for good, solid jobs for our citizens. In turn, that will lead to better educational opportunities and broader options for the advancement of our children. That is what I see every single day in South Carolina—a commitment to doing better, working harder, and growth.

Texans—at least many of the ones I had the pleasure of getting to know—work hard, play hard, and celebrate their success. I learned that Texans do not consider themselves southern; instead they proudly refer to themselves as southwestern. They like working hard, succeeding in business, taking care of their families, and celebrating their culture. They are proud of their state and

deeply loyal. When I told my new friends in Texas that I moved there from South Carolina, you would have thought I said I moved from Tristan da Cunha. Like Texas, South Carolina has the same desire to succeed and provide its families with a better life.

There is a tremendous amount of pride in South Carolina. This state is committed to economic development, to success for our businesses, to the recruitment of other strong businesses that will have great success here, and to the improvement of educational opportunities for our children. I see great similarities between Texas and South Carolina, and believe that we can borrow an idea or two from the southwestern state to sharpen the tools in our toolbox when it comes to business recruitment. South Carolina has the desire to do better, to be better, and to be more successful so that our families have wonderful educational and professional opportunities. That desire to succeed is also felt in Texas, and that desire will continue to propel South Carolina into constantly striving to look for ways to be better, to be more competitive, and to win the biggest and best economic development projects. Texas is large, and it is easy to travel around Texas in a day's work by boarding a Southwest Airlines plane in the morning, attending a meeting across the state around lunch, and returning to the office midafternoon. For a single state, albeit a very large one, Texas is home to many very large cities such as Austin, Houston, Dallas, and San Antonio, that each house very different cultures. South Carolina does not have the landmass that Texas has, nor does it have the numerous large cities that can be found in Texas. Nevertheless, Texas provides an interesting case study in economic development success. A key question is whether the lack of a personal income tax is a large factor in Texas' successful and strong business climate? Further, is it something South Carolina should replicate, and if so, at what cost?

III. STATES WITHOUT A PERSONAL INCOME TAX

Currently, seven states in the United States do not levy personal income tax; those states are Alaska, Florida, Nevada, South Dakota, Texas, Washington, and Wyoming.[7] Two other states, Tennessee and New Hampshire, do not levy personal income tax, but do tax interest and dividends.[8] Retirees will find it important to consider whether or not a state with no personal income tax will levy taxes on interest and dividends.[9] The sales tax in Texas is 6.25%.[10] It also taxes fuel at twenty cents per gallon, as well as taxing motor vehicle sales.[11] It

7. Dan Dzombak, *These States Have No Income Tax*, USA TODAY (Apr. 26, 2014, 8:04 AM), http://www.usatoday.com/story/money/personalfinance/2014/04/26/these-states-have-no-income-tax/8116161/.

8. *See id.*

9. *See id.*

10. *Id.*

11. *Id.*; SCOTT DRENKARD & JOSEPH HENCHMAN, 2015 STATE BUSINESS TAX CLIMATE INDEX 65 (Tax Foundation 2014).

was common to hear someone in Texas say that they were driving to Oklahoma over the weekend to purchase a new car. Texas, in addition to having no personal income tax, also has no corporate income tax.[12] South Carolina has a 5% corporate income tax, as well as a personal income tax.[13] In comparison, South Carolina's sales tax rate is 6%.[14] South Carolina taxes fuel at sixteen cents per gallon.[15] Unlike South Carolina, however, Texas receives significant tax revenue from its oil and gas production.[16]

An important question to consider for those states with no personal income tax is where they make up the loss in tax revenue? By studying this issue, we can then determine if South Carolina would be able to tap into those same areas to cover the loss of personal income tax revenue. Both New Hampshire and Texas make up for the loss of revenue from the personal income tax with revenue from higher property taxes.[17] In Alaska, the additional revenue comes from royalties on oil and gas production.[18] In Nevada, the tourism and gambling industry make up for the lack of personal income tax.[19] In Florida, the 6% sales tax combined with high property taxes provide revenue in the absence of ~~it's~~ a personal income tax.[20] The sales tax is high in Washington at 6.5%, in order to make up for a lack of personal income tax.[21] Local municipalities can also add to that sales tax, so the sales tax can end up being as high as 9.5% in some parts of Washington.[22] In Washington, the higher sales tax rate accounts for more than 60% of the state's revenue.[23] Washington also does not have a corporate income tax, yet it does have a gross receipts tax, which is often significant to businesses.[24] South Dakota has a 4% sales tax and also has various use taxes.[25] To illustrate the significance of the sales and use tax on South Dakota's budget, in 2013, the sales and use tax accounted for 71% of its revenue.[26] In Wyoming, the state's property tax rate of 9.5% combined with its natural resource tax yields significant funds to the state, which makes up for the loss of funds derived from

12. Dzombak, *supra* note 7.
13. *See* DRENKARD & HENCHMAN, *supra* note 11, at 20, 55.
14. *Id.* at 65.
15. *Id.*
16. Dzombak, *supra* note 7.
17. Tonya Moreno, *States Without an Income Tax*, ABOUT.COM, http://taxes.about.com/od/statetaxes/a/tax-free-states.htm (last visited Jan. 31, 2015) (citing Tonya Moreno, *Best and Worst States for Property Taxes*, ABOUT.COM, http://taxes.about.com/od/statetaxes/a/property-taxes-best-and-worst-states.htm (last visited Feb. 07, 2015)).
18. Dzombak, *supra* note 7.
19. *Id.*
20. *Id.*
21. *Id.*
22. *Id.*
23. *Id.*
24. *Id.*
25. *Id.*
26. *Id.*

a personal income tax.[27] Tennessee does have a 6% tax on interest and dividends, although it does not have a personal income tax.[28] This approach may make Tennessee less attractive to retirees.[29] Likewise, New Hampshire also has no personal income tax but does have a 5% tax on interest and dividends.[30]

IV. HOW THE TEXAS MODEL CAN POSITIVELY IMPACT SOUTH CAROLINA

Governor Rick Perry of Texas often touts Texas' economic success, and regularly points out the positive impact that having no personal income tax has had for its residents. Governor Perry calls it the "Texas miracle."[31] The evidence supports the idea that a personal income tax "creates a disincentive to earning taxable income."[32] An interesting policy discussion ensues. If residents perceive that the level of government services offered are too low for the amount of taxes paid, then residents are likely to relocate.[33] Similarly, if government services are not viewed as worth the money, then businesses will not locate in that state.[34] This relocation of businesses is where the states' "courting games" begin. When competing against each other for businesses, states must tout the advantages of their state against other states.[35] A state's tax structure is a key component of the courting game, as it plays a major role in the company's analysis when deciding where to locate its business.[36]

The *Dallas Morning News* recently ran a story on Governor Perry of Texas, saying that much of his success as governor lies in the fact that it is hard for most people to remember a time when he was not governor.[37] Governor Perry often cites the relocation of Toyota Motor Corporation's United States headquarters, which brought 3,000 jobs to Plano, Texas, as an example of Texas' recent economic development success.[38] Governor Perry is the longest serving governor in Texas history.[39] He proudly states, "You can stop trying to figure out how to pay the state income tax, because we don't have one."[40] Other states

27. *Id.*
28. *Id.*
29. *See id.*
30. *See id.*
31. Batheja, *supra* note 4.
32. *See* Poulson & Kaplan, *supra* note 3, at 54.
33. *See id.*
34. *Id.*
35. *See* DRENKARD & HENCHMAN, *supra* note 11, at 7.
36. *See id.* at 7–8.
37. Christy Hoppe, *Analysts: Perry will be Known for Strong Economy, Shortsightedness*, DALLAS MORNING NEWS, (Jan. 3, 2015, 10:48 PM), http://www.dallasnews.com/news/politics/headlines/20150103-perry-made-growth-his-business.ece.
38. Marc Lifsher, *Texas Gov. Rick Perry Tries to Woo Tesla in Sacramento*, L.A. TIMES (Jun. 10, 2014), http://www.latimes.com/business/la-fi-tesla-texas-perry-20140611-story.html.
39. Hoppe, *supra* note 37.
40. Batheja, *supra* note 4 (internal quotation marks omitted).

watch the economic success of Texas with some envy, and often try to replicate its success by exploring the effects of eliminating the income tax.[41]

Phil Berger, President Pro Tempore of the North Carolina Senate said, "I wouldn't say we're in a position to replicate everything in Texas. . . . We don't have much tumbleweed here."[42] It may be impossible for other states to replicate the revenue production system in place in Texas. Texas benefits from taxes and royalties on oil and natural gas production while South Carolina does not.[43] Dale Craymer, President of the Texas Taxpayers and Research Association, commented on how Texas manages to stay financially strong while not levying a state income tax by stating, "There's no question that it's a positive to not have a personal income tax. . . . But that has to be balanced out in some manner, and the way Texas has balanced it out is with lower-than-average spending, higher-than-average property taxes and higher-than-average sales taxes."[44] The Tax Foundation, a research group with a conservative bend, ranks Texas in the bottom twenty states on sales tax, property taxes, and corporate taxes.[45]

On the other hand, it ranks Texas eleventh of all states on its State Business Tax Climate Index, due in large part to the lack of an income tax.[46] Texas also has a way to bring in significant revenue, which South Carolina cannot replicate. Texas' oil and gas severance tax and the funds generated from these taxes are deposited into Texas' Rainy Day Fund.[47] As a law student in Texas, I recall the availability and popularity of the law classes dealing with oil and gas law and related topics. That subject matter is essentially inapplicable in South Carolina.

To demonstrate the vastness of this industry in Texas and its related economic benefit to the state, in 2013, then-Texas Comptroller Susan Combs announced that the severance tax receipts in Texas exceeded prior estimates by $900 million for the 2013 fiscal year.[48] That significant increase in 2013 meant that $675 million would be dedicated to the Rainy Day Fund in 2013, and an additional $225 million would be available for "general purpose spending" for items such as school and infrastructure funding.[49] Not only is the oil and gas industry and the related severance tax a significant revenue generator for Texas, it is also a growing industry.[50]

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41. *See id.*
42. *Id.* (internal quotation marks omitted).
43. Dzombak, *supra* note 7.
44. Batheja, *supra* note 4 (internal quotation marks omitted).
45. TAX FOUNDATION, FACTS & FIGURES: HOW DOES YOUR STATE COMPARE? tbl. 17, 20, & 32 (Lyman Stone ed., 2014) [hereinafter TAX FOUNDATION].
46. *Id.* at tbl. 3.
47. Megan Baker, *Texas Oil and Gas Generates $900 Million in New Tax Revenue*, ENERGY IN DEPTH: TEXAS, (Aug. 6, 2013, 3:03 P.M.), http://energyindepth.org/texas/texas-oil-and-gas-generate-900-million-in-new-tax-revenue/.
48. *Id.*
49. *Id.*
50. *See id.*

Moreover, "Texas is producing at record high levels, the best showing in more than 31 years."[51] When one looks at Texas and its oil and gas production in comparison with the rest of the United States, it is impressive how solid this industry is and how fortunate Texas is to call it home. Texas is home to approximately forty-seven percent of all of the oil rigs in the United States, and twenty-five percent of the rigs in the entire world.[52] South Carolina is clearly not home to a comparable oil and gas industry, but it is home to a thriving tourism industry that could possibly generate greater tax revenue to the state.[53] It has also successfully avoided a gas tax for years, although this may be the time to implement a gas tax with increasingly lower gas rates—a portion of which could be used to offset the loss of revenue if South Carolina eliminated the personal income tax.[54]

With the success of the oil industry in Texas and the rewards in terms of revenue from the severance tax on this industry, falling oil prices will surely impact the state's budget.[55] While Texas residents, like all of us, enjoy having more money in their pockets after filling up their car with a tank of gas, this is not necessarily a good development for Texas' bottom line. Texas, however, is not yet realizing an enormous setback as a result of falling oil prices. One reason for this is that Texas budgeted for conservative oil prices. "The Texas estimate is still high compared to current market prices of around $50 a barrel. But . . . consider the trouble other states like Alaska are in after budgeting with the assumption of oil at $100 a barrel."[56] Texas' Rainy Day Fund has been well funded for quite some time, and it is projected to have approximately eight billion dollars in the fund for 2015.[57] By estimating oil prices conservatively, Texas may be better positioned to weather this recent development than some of the other oil producing states.

Texas receives criticism for not adequately funding infrastructure needs at the state level.[58] Governor Perry proposed an idea for a magnificent and complex infrastructure overhaul for Texas, but he later pulled the proposal in the

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51. *Id.*

52. *Id.*

53. *See, e.g.*, RESEARCH DEP'T, U.S. TRAVEL ASS'N, THE ECONOMIC IMPACT OF TRAVEL ON SOUTH CAROLINA COUNTIES 2013 11–19 (2014), *available at* https://www.scprt.com/files/Research/SC%202013%20TEIM%20Report.pdf (discussing the various benefits of domestic travel on the state of South Carolina).

54. *See, e.g.*, Andrew Shain, *S.C. Governor Calls for Gas Tax Hike Tied to Income Tax Cut*, THE STATE (Jan. 21, 2015), http://www.thestate.com/2015/01/21/3941885/sc-gov-haley-calls-for-gas-tax.html (showing that an increased gas tax would offset the cost of lowering the income tax rate).

55. *See* Ben Philpott, *How Will Falling Oil Prices Affect the State Budget?*, KUT (Jan. 12, 2015), http://kut.org/post/how-will-falling-oil-prices-affect-state-budget.

56. *Id.*

57. *Id.*

58. *See, e.g.*, Hoppe, *supra* note 37 (discussing how transportation experts in Texas warn that government is not doing enough to combat the increasingly developing traffic congestion problem).

midst of criticism for the vastness of its scale.[59] The *New York Times* reported that the endeavor, if successful, would have amounted to a project "that would have been visible from Mars."[60] Governor Perry's proposed infrastructure improvement project was named the Trans-Texas Corridor.[61] The project encompassed massive improvements to rails, road, pipelines, and wires.[62]

While Governor Perry's plan to improve Texas' infrastructure failed, others argue that the state is not giving adequate attention or funding to its growing infrastructure needs.[63] Texas is seen as pushing costs for infrastructure away from the state level and onto the local level.[64] The *Dallas Morning News* reported that although Governor Perry is known for his success in economic development, people need to contemplate the result of the tax policies that lure businesses to Texas.[65] The paper said that, "While growth was the . . . golden child, the state's infrastructure and public education systems were its stepchildren, left to shoulder the brunt with hardly a nod to the increasing burden of a booming, changing population."[66] Bennett Sandlin, Executive Director of the Texas Municipal League said, "The State is doing less building of highways and roads and pushing that funding down to cities and counties."[67] Similarly, South Carolina faces its own infrastructure challenges, and different ideas about how to fund needed infrastructure improvements are debated at the local and state level.[68]

Texas also receives criticism for not adequately funding its schools at the state level.[69] Recently, more than 500 school districts in Texas filed lawsuits alleging that the Texas does not adequately finance public.[70] Many others argue that Texas does not adequately fund education, and that much of the burden is

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59. *Id.*

60. Ross Ramsey, *Like Him or Not, There is No Denying That Rick Perry has Texas Chutzpah*, N.Y. TIMES, Dec. 28, 2014, at A27 [hereinafter Ramsey, *Chutzpah*], *available at* http://www.nytimes.com/2014/12/28/us/like-him-or-not-there-is-no-denying-that-rick-perry-has-texas-chutzpah.html?emc=eta1.

61. *Id.*

62. *See* Hoppe, supra note 37.

63. *See id.*

64. *See generally* State Budget Crisis Task Force, *Report of the State Budget Crisis Task Force: Texas Report,* STATE BUDGET CRISIS (Nov. 2012), http://www.statebudgetcrisis.org/wpcms/wp-content/images/Texas-Report.pdf (describing the differences between state and local governments and the roles carried out by local government).

65. *See, e.g.*, Hoppe, *supra* note 37 (stating that at least one economist notes Texas Governor Perry's ability to bring economic development to the state, but feels that the Governor's efforts will not lead to long-term growth).

66. *Id.*

67. Batheja, *supra* note 4 (internal quotation marks omitted).

68. *See, e.g.*, *Greenville County Special Sales and Use Tax Referendum*, THE GREENVILLE NEWS, Nov. 2, 2014, at 6A (stating that Greenville County voters had the opportunity to vote on a referendum that would put in place a one percent special sales and use tax that would last for eight years or until a total of $673,193,630 is collected).

69. Hoppe, *supra* note 37.

70. Batheja, *supra* note 4.

pushed away from the state level and down to the local level, which is already experiencing a great strain because of the lack of standing funding for infrastructure needs that also gets pushed down to the local level.[71] Moreover, "cities and school districts argue that the state falls short on the financing end, particularly considering its surging population growth. Local debt has shot up over the past decade, in a large part to cover the costs for new schools and public maintenance projects."[72]

Sometimes a state can appear to do quite well in economic development matters, yet the reported results can be misleading. Oregon is an example of a state that does well when measured by its high tech and export successes, although it has a very high unemployment rate statewide.[73] However, unemployment rates may not be the best metric by which to judge the how a state's no income tax policy impacts economic development because workers often move to states where there is no income tax. Some states appear to be rich in natural resources, yet appear to lose significant economic development projects.[74]

For example, why does California with its abundance of energy resources routinely lose economic development projects to other states—and increasingly losing projects to Texas? Tesla found itself at the center of a multistate competition for its massive manufacturing facility this year.[75] In fact, many in economic development circles considered the Tesla recruitment an all- out war. Tesla's United States headquarters are located in Palo Alto, and California wanted to keep this latest expansion project in its own backyard.[76] Tesla did a multistate search when deciding where to locate its new battery factory, considering California, Texas, Nevada, Arizona, and New Mexico for its new facility. Governor Perry visited California, driving a Tesla and joking that the Tesla would have been better "if it had a made-in-Texas bumper sticker."[77]

Governor Brown of California did not comment directly on Governor Perry's comments, but California passed a new $750 million economic development incentive program to entice companies such as Tesla with its Palo

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71. *See, e.g.*, *id.* (suggesting that local debt has substantially risen over the past decade due to the costs of funding new schools and public maintenance projects).

72. *Id.*

73. *See* Oregon Secretary of State, *Oregon's Economy: Overview*, OREGON BLUE BOOK, (Jan. 24, 2015), http://bluebook.state.or.us/facts/economy/economy01.htm.

74. *See, e.g.*, Bryce Gerard, *A Natural Resource Curse: Does It Exist Within the United States?*, CMC SENIOR THESES (2011), http://scholarship.claremont.edu/cmc_theses/158 (suggesting that perhaps some states' overdependence on natural resources actually encumbers economic growth and activity).

75. Mike Ramsey, *Tesla Picks Reno Site for Battery Gigafactory*, WALL ST. J., Sept. 3, 2014, at B6 [hereinafter Ramsey, *Tesla*], *available at* http://www.wsj.com/articles/tesla-to-choose-nevada-for-battery-factory-1409773118.

76. *See id.*

77. Lifsher, *supra* note 38.

Alto headquarters to stay put in California.[78] California has the nation's third highest proven oil reserves, yet it has policies which "keep the oil in the ground depressing production to 1/10th that of Texas."[79] In the end, Tesla chose Nevada as the site of its mega project, said to potentially employ 6,500 employees and have a five billion dollar capital investment.[80] The plant is expected to be approximately ten million square feet in size.[81] The *Wall Street Journal* reported that Nevada is said to have offered Tesla one of the largest incentive packages in the history of the United States auto industry in order to lure the factory to a state with relatively little presence in automotive manufacturing.[82]

The principal of The Boyd Company, a site selection firm that forecasted Nevada as the likely winner, speculated that "the single most important factor is the [site's] low-cost green power."[83] The *Wall Street Journal* reported that Reno, Nevada, offered Tesla choices among solar, wind, and geothermal energy for the plant.[84] The *Wall Street Journal* also reported that consultants speculated that Nevada's lack of corporate and personal income tax aided Tesla's selection.[85]

At the end of the day, businesses need to feel wanted. A reasonable incentive package is one way to do that, but as one of my colleagues always says, "A good incentive package will not make a bad deal good." Texas, like South Carolina, seems to do a very good job of letting businesses know they are wanted. The President of the Los Angeles Chamber of Commerce said, "Rick Perry is doing what Rick Perry does well. He makes it clear he wants business to locate in Texas."[86] That outlook goes a long way, and that desire to land significant and numerous economic development projects is what sets some states apart from the others.

There is no question that Governor Perry wants businesses to locate and thrive in Texas. The *New York Times* recently described him by stating, "[l]ike him or not, do not underestimate him."[87] When a company is faced with making a decision regarding where to locate, the first step is identifying a region of the

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78. *See* Jonathan Horn, *State to Lure Businesses with Tax Breaks*, U-T SAN DIEGO, (June 27, 2013, 04:37 PM), http://www.utsandiego.com/news/2013/jun/27/enterprise-zone-taxes-california-jobs/

79. Chuck Devore, *State Tax Levels Do Impact Economic Growth*, TEXAS PUBLIC POLICY FOUNDATION (Aug. 28, 2012), http://www.texaspolicy.com/center/fiscal-policy/opinions/state-tax-levels-do-impact-economic-growth-0.

80. *See* Ramsey, *Telsa*, *supra* note 75, at B6.

81. *Id.*

82. *Id.*

83. *Id.* (internal quotation marks omitted).

84. *Id.*

85. *Id.*

86. Lifsher, *supra* note 38 (internal quotation marks omitted).

87. Ramsey, *Chutzpah*, *supra* note 60.

United States where the company believes it can be successful.[88] Many factors come into play in the earliest stages:[89]

1. the location of the company's customers;
2. where the product will be shipped;
3. where will the goods required to make the product arrive from;
4. what is the regulatory climate of a region (or a particular state);
5. what are the electrical costs in a state;
6. are there sites available in the state that meet the timing needs and site needs of the company;
7. what impact will the state's weather have on the company's production schedule;
8. is there an available workforce that will meet the needs of the company, what is the average pay for qualified employees in the state; and
9. are there union issues in the state that could impact the company's production schedule, etc.[90]

If a state survives all of those initial considerations incentive packages among varying states come into play at that time for competitive projects. In the end, it is whoever can put together the most complete package that will win the bid.

States with no personal income tax have greater economic growth.[91] Over the last ten years, the population growth in the nine states that do not have personal income tax grew at a rate that was 150% greater than population growth in other states that do have personal income tax.[92] States have options when choosing how to compile their budgets. A state can either raise taxes on individuals and businesses to compensate for budget shortfalls and needs of the state, or the state can choose to broaden its tax base by encouraging businesses and individuals to locate in the state.[93] By broadening the tax base instead of raising taxes on existing businesses and individuals, states can meet budgetary needs without putting an increased tax burden on existing residents and businesses.[94]

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88. *See* John Tozzi, *Where to Locate Your Business*, BUS. WK. (Dec. 29, 2008), http://www.businessweek.com/stories/2008-12-29/where-to-locate-your-businessbusinessweek-business-news-stock-market-and-financial-advice.

89. *See id.*

90. *See* Ben Wilterdink, *It's Very Simple, States Should Cut Taxes to Boost Economic Growth*, FORBES (Nov. 22, 2013), http://www.forbes.com/sites/realspin/2013/11/22/its-very-simple-states-should-cut-taxes-to-boost-economic-growth/.

91. *Id.*

92. *Id.*

93. *See id.*

94. *See, e.g.*, Eric Frazier, *3 Companies Bring At Least 3,900 Jobs to South Carolina*, CHARLOTTE OBSERVER (Jun. 16, 2014), http://www.charlotteobserver.com/2014/06/16/4981618/

South Carolina, particularly in recent years, has placed an increased emphasis on recruiting businesses to the state, as well as encouraging its existing businesses to expand.[95] This brings more workers and more jobs to South Carolina.

As South Carolina's population grows, the tax base grows:

> One more year, and South Carolina's population growth could make it the nation's 23rd largest state, bumping Alabama to 24th. South Carolina's population growth continued at a brisk pace through mid-2014, putting the state among the top 10 in the nation for both the pace of growth and the actual number of additional residents.[96]

People moving to South Carolina caused nearly two-thirds of the population grown in the state.[97] That is significant because South Carolina was the only growing state to see more of its rising population come from people moving into the state.[98] Other states' growth occurs from having more births than deaths, and is not merely an influx of people moving into the state.[99] "According to the Census Bureau, from the beginning of July 2013 to July 2014 the Palmetto State's population grew by 60,533—a larger gain than all but eight other states."[100] The chart included in Appendix A illustrates the correlation between the personal income tax and population growth:[101]

Texas, with no personal income tax, gained almost a million new residents—in other words, a million new taxpayers—over the last ten years.[102] Florida, another state with no personal income tax, also gained over a million new taxpayers in the last ten years.[103] When you compare the significant growth trends in both Texas and Florida, both states with no personal income tax, to a

giti-a-singapore-tire-company.html#.VMU01CvF98E (discussing three companies decision to move their production and headquarters to South Carolina); Andrew Shain, *Gov. Haley Hopes India Trip Brings Jobs, Tourists to SC*, The STATE (Nov. 19, 2014), http://www.thestate.com/2014/11/19/3823272_gov-haley-hopes-india-trip-brings.html?rh=1 ("Gov. Nikki Haley is hopeful her 10-day trip to India, the world's second-most populations nation, will bring jobs and tourists to South Carolina.").

95. David Slade, *S.C. Really is Getting Crowded, Census Says*, POST & COURIER, Dec. 23, 2014, at A1.

96. *Id.* (citing CENSUS BUREAU, U.S. DEP'T OF COMMERCE, PUB. NO. CB14-232, FLORIDA PASSES NEW YORK TO BECOME THE NATION'S THIRD MOST POPULOUS STATE, CENSUS BUREAU REPORTS (2014)).

97. *Id.* at A5.

98. *Id.*

99. *See id.*

100. *Id.* (citing CENSUS BUREAU, *supra* note 96).

101. *See infra* Appendix A, at tbl.1 (citing ARTHUR B. LAFFER ET AL., THE ECONOMIC CONSEQUENCES OF TENNESSEE'S GIFT AND ESTATE TAX, 15 tbl.4 (2012)).

102. Wilterdink, *supra* note 90.

103. *Id.*

state like California that has a personal income tax, the difference is significant. California lost over 1.5 million taxpayers during the last ten years.[104]

South Carolina could increase its competitive edge, and perhaps surpass its competitive and successful neighbor Georgia if it eliminated the personal income tax. After all, states with no personal income tax are clearly "leading the nation . . . and [reaping] the rewards of increased economic growth."[105] In sum, taxes on income and capital are far more damaging to a state and its economy than taxes on consumption.[106]

Texas, does not have a statewide property tax.[107] It does, however, have local property taxes.[108] Similarly, South Carolina also does not have a statewide property tax.[109] Only local governments levy property taxes.[110] In South Carolina, property taxes are determined by a three factor formula composed of appraised value, applicable millage rate, and assessment ratio.[111] There is no state tax on real or personal property.[112] A local millage rate is applied to the assessed value to determine the total annual tax amount. Mileage rates are set annually by local governments.[113] The assessment rates used to calculate the local property taxes are as follows: (1) qualified, owner occupied residential real estate is assessed at 4%; (2) real property is assessed at 6%; (3) manufacturers' real and tangible personal property is assessed at 10.5%; and (4) all other tangible personal property is assessed at 6%.[114]

Texas has considered ways to lower its property taxes. One such state program that was recently considered in Texas would allow school districts to offer property tax breaks to companies as a way to incentivize a particular company to locate in its particular district.[115] Texas has a franchise tax that companies pay on gross receipts.[116] One criticism is that Texas businesses may have to pay this tax even in years when they have little to no profit.[117] Tax burdens for small businesses can be tough in Texas. When a small business is unprofitable, yet still has to pay its franchise tax in Texas, they use their

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104. *Id.*

105. *Id.*

106. *See id.*

107. Batheja, *supra* note 4.

108. *Id.*

109. *See, e.g.*, Cassie Cope, *SC-wide Property Tax Could Address School Inequalities*, THE STATE (Nov. 22. 2014), http://www.thestate.com/2014/11/22/3829656_exclusive-sc-wide-property-tax.html?rh=1 (suggesting that a proposed bill would establish a statewide property tax in order to provide uniformity amongst the South Carolina's school districts).

110. *See id.*

111. ANNE PEARCE ET AL., SOUTH CAROLINA DEPARTMENT OF REVENUE, SOUTH CAROLINA PROPERTY TAX 1–2 (JUNE 2014), *available at* http://www.sctax.org/publications/property-14-doc.

112. *Id.* at 1.

113. *Id.* at 2.

114. *See id.*

115. *See* Batheja, *supra* note 4.

116. *Id.*

117. *See id.*

"personal savings, mortgage their home or borrow money from their family to meet their obligation."[118] In Texas, the tax system is "not universally beloved. Although few are calling for Texas to impose its own income tax, the way the state employs property, sales and business taxes to finance services, particularly education, draws criticism and debate across the political spectrum."[119]

States without a personal income tax are significantly outperforming other states that do levy a personal income tax in just about every way.[120] *Forbes* magazine reported that, "[a]t a time of seemingly endless budget battles, the data shows that states that foster low taxes are far more likely to economically outperform the states that raise taxes to cover budget deficits."[121] Personal income taxes were instituted in the first place because states often use income tax as the primary source of revenue for the state.[122] The consequence of this is apparent, as states that "imposed an income tax to generate a [specific] level of revenue experienced lower rates of economic growth relative to jurisdictions that relied on alternative taxes to generate the same revenue."[123]

Texas, for example, has added approximately two million jobs and approximately six million people since Governor Perry came into office.[124] Before South Carolina eliminates its personal income tax, it must consider where it would look to regain the loss of revenue. By first exploring if a lack of a personal income tax does have a positive impact on the economic development successes of a state, we can then turn to a cursory examination of where those states who do not have a personal income tax look to make up for the loss of revenue typically derived from a personal income tax. The sources vary widely and consist of sales tax, property tax, tobacco tax, utility tax, motor vehicle tax, alcohol tax, gift tax, and other sources of revenue.[125]

It is commonly understood that a single change such as the elimination of the personal income tax will not suddenly open the floodgates and result in new businesses pouring into a state.[126] It is one factor among many that could increase the competitive nature of a particular state. The other attributes of the state such as cost of living, political climate, job opportunities, and environmental issues will continue to be of great importance as businesses

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118. *Id.* (internal quotation marks omitted).

119. *Id.*

120. *See* Wilterdink, *supra* note 90.

121. *Id.*

122. Poulson & Kaplan, *supra* note 3, at 67.

123. *Id.*

124. Hoppe, *supra* note 37.

125. Selena Maranjian, *Do States with No Income Tax Really Save Residents Money?*, THE MOTLEY FOOL (Oct. 4, 2014), http://www.fool.com/personal-finance/taxes/2014/10/04/do-states-with-no-income-tax-really-save-residents.aspx.

126. *See, e.g.*, OKLA. COUNCIL OF PUB. AFFAIRS ET AL., ELIMINATING THE STATE INCOME TAX IN OKLAHOMA: AN ECONOMIC ASSESSMENT 1–2 (Nov. 2011), *available at* http://s3.amazonaws.com/assets.ocpa.com/assets/images/334/original/OCPA_ALME_Income_Tax_FINAL.pdf (explaining the likely impact that eliminating the personal income tax would have on Oklahoma).

analyze where to locate and–expand their business operations.[127] Other factors that are significant to the company are the availability of a skilled labor force and right to work laws.[128]

The tools by which to measure economic success in a state are income, employment, investment, company expansions, relocations, and births.[129] States have a tendency to promote the number of jobs created in the state as an indicator, often combined with capital investment figures, of its successful economic development efforts.[130] This in large part may be due to the importance that policymakers in states place on jobs and job growth among their constituencies.[131] Politically, job growth is often a key indicator touted by politicians to signify economic success.[132]

V. CONCLUSION

Eliminating the personal income tax in South Carolina could incentivize South Carolina residents to work, produce, and save in South Carolina. Tax policy is an area that policymakers can control, and, therefore, there is much emphasis placed on what impact controllable variables have on economic growth in a state.[133] Tax policy goes hand in hand with economic development as "the degree to which a specific state's tax rate will affect economic activity in the state depends on the degree to which the state's tax burden deviates from that in relevant comparison states."[134] It is clear that states without a personal income tax have greater economic growth than other states. Clearly, tax policy influences economic behavior. South Carolina is already poised to embrace even greater economic success, and this may be a tool to help South Carolina become the premier destination in the southeastern United States for economic freedom.

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127. Michael J. Wasylenko, *Taxation and Economic Development: The State of the Economic Literature*, NEW ENG. ECON. REV. 37, 39–40 (Mar./Apr. 1997).

128. *Id.* at 40.

129. *Id.* at 39.

130. *Id.*

131. *See id.*

132. *Id.*

133. *Id.* at 40.

134. *Id.* at 47–8.

APPENDIX

The Nine States with the Lowest and Highest Marginal Personal Earned Income Tax (PIT)
10-Year Economic Performance between 2001 and 2010[135]

State	Top Personal Income Tax Rate*	Gross State Product Growth	Nonfarm Payroll Employment Growth	Population Growth	Net Domestic In-Migration as a % of Population	State & Local Tax Revenue Growth***
Alaska	0.00%	77.0%	12.2%	12.1%	-2.0%	452.6%
Florida	0.00%	47.7%	0.2%	15.0%	6.5%	82.3%
Nevada	0.00%	58.9%	6.1%	28.9%	14.1%	100.1%
New Hampshire	0.00%	35.2%	-0.7%	4.7%	2.5%	59.6%
South Dakota	0.00%	58.5%	6.4%	7.3%	0.8%	51.2%
Tennessee	0.00%	38.6%	-2.8%	10.3%	4.2%	61.7%
Texas	0.00%	57.7%	8.7%	17.9%	3.4%	75.5%
Washington	0.00%	47.8%	3.0%	12.3%	3.4%	57.8%
Wyoming	0.00%	105.6%	15.2%	14.3%	4.3%	172.2%
9 States with no PIT**	**0.00%**	**58.54%**	**5.36%**	**13.65%**	**4.12%**	**123.66%**
Oklahoma	**5.25%**	**51.81%**	**2.14%**	**8.5%**	**1.05%**	**58.53%**
U.S. Average**	**5.47%**	**46.61%**	**0.51%**	**8.63%**	**0.86%**	**70.23%**
9 States with Highest	**9.92%**	**42.06%**	**-1.68%**	**5.49%**	**-1.91%**	**61.79%**

135. OKLA. COUNCIL OF PUB. AFFAIRS, *supra* note 126, at 4 tbl. 2.

PIT Rate***						
Ohio	8.24%	24.8%	-9.3%	1.2%	-3.1%	44.5%
Maine	8.50%	35.4%	-2.5%	3.4%	2.3%	45.3%
Maryland	9.30%	50.9%	1.7%	7.4%	-1.5%	67.0%
Vermont	9.40%	36.1%	-1.6%	2.2%	-0.1%	64.5%
New York	10.50%	43.1%	-0.4%	1.5%	-8.3%	68.3%
California	10.55%	42.1%	-4.8%	8.0%	-3.9%	77.2%
New Jersey	10.75%	33.7%	-3.6%	3.6%	-4.8%	70.4%
Hawaii	11.00%	57.4%	5.7%	11.7%	-2.2%	72.1%
Oregon	11.00%	55.0%	-0.3%	10.4%	4.5%	46.8%

*Highest marginal state and local personal income tax rate imposed as of 1/1/2011 (except Oklahoma, whose 5.25% rate becomes effective 1/1/2012) using the tax rate of each state's largest city as a proxy