

Sowing ideas for revising the corporate tax

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Tyler Young, a farmer in Little Compton, says taxing farms and other small businesses fairly, based on their ability to pay, will help ensure their survival.

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LITTLE COMPTON

Tyler Young's family farm is spread across 180 acres off West Main Road, just east of the Sakonnet River.

His income is mainly from the sale of potatoes, butternut squash, sweet corn and other crops.

The land itself generates no income. But he holds it in a separate company — a limited liability company, or LLC — to help protect his family from potential legal claims that may arise in the ordinary course of business.

Young is frustrated that he must pay to Rhode Island a minimum corporate tax of \$500 a year on that LLC — even though it generates no income and exists solely to hold his land.

And he is not alone. Across Rhode Island, tens of thousands of businesses — restaurants and bakeries, machine shops and beauty salons — have placed some assets, such as buildings or land, into separate LLCs, upon the advice of their lawyers and accountants.

Profits from the businesses themselves are taxed, either at the corporate level or at the individual shareholder level, depending on how the business is organized, said John C. Simmons, executive director of the Rhode Island Public Expenditure Council, of Providence, a business-backed group that monitors state finances.

But if the business generates little or no profit — or suffers a loss — it must still pay the \$500 annual minimum tax (also known as the corporate minimum tax).

That rankles a lot of business owners, said Bill Vernon, the Rhode Island director of the National Federation of Independent Business, which represents small businesses.

Their concerns are being heard. At a Greater Providence Chamber of Commerce meeting last month, legislative leaders discussed reducing or even repealing the tax.

If the tax were cut in half, the state would miss out on about \$11.5 million in revenue a year. Scrapping it altogether would mean giving up about \$23 million in revenue a year, said House Speaker Gordon D. Fox, D-Providence.

But Fox shared the frustration of business owners, saying that the \$500 corporate minimum tax is due even in a year in which a small business is just starting up or has otherwise suffered a loss and does not have the means to pay. Such a requirement is “almost un-American,” he said.

The House Finance Committee heard bills on Wednesday that would end, reduce or somehow restructure the tax. And Governor Chafee’s proposed state budget currently includes a provision that would alter the tax. (Final budget details are to emerge next week.)

Many states that have a corporate income tax also have a corporate minimum tax, said Meg Wiehe, state tax policy director for the Institute on Taxation and Economic Policy, of Washington, D.C., a nonprofit tax research organization. The idea is that businesses, like citizens, receive a benefit from what the state provides — such as an educated work force and roads — and should pay something for it, she said.

Paul L. Dion, chief of the state Office of Revenue Analysis, put it this way: “The state’s conferring a benefit on those businesses that choose to operate under a certain business structure.” For an LLC, a chief benefit is “protecting your personal assets from lawsuits in case you’re brought into court,” he said. That is an important benefit, but a business should pay at least something for it each year, just as the business pays for an insurance policy, Dion said. “The debate ... is always about what the amount should be,” he said. “That’s a fair question.”

At the family farm run by Young, his wife, Karla, and their three daughters, Young said he has no problem paying a minimum amount. “If I’m getting a service out of it, I don’t mind paying something,” he said. But that something may be closer to \$50 than to \$500 a year, especially for a business that merely holds land and does not generate income, he said.

As for the LLC that holds the farm's business operations, he said he does not mind paying a business tax — but it should be calculated based on the business's net profit each year, not on the "gross receipts" (which generally means the overall revenue the business takes in each year).

The sale of crops can generate large sums, but the cost of raising them is high too, leaving farmers to operate on profit margins that can be razor-thin, he indicated. Taxing farms and other small businesses fairly, based on their ability to pay, will help ensure their survival, he said.

Young walks down a road covered with crushed white seashells, past a newly pruned orchard, and points to the acres of his own farmland before him, and to the acres beyond that.

The land is worth a lot; farmland with a water view is especially valuable to developers, he said. But to farmers, the land is how they make their living, year after year, generation after generation, Young said, gesturing across the fields. "All this land here is in families, and people want to keep it that way — and want to keep it in agriculture," he said.

KEY POINTS Minimum tax

Many businesses that are organized as S corporations or limited liability companies (LLCs) must pay a \$500 minimum corporate tax to Rhode Island each year.

A profitable C corporation must pay the state's corporate income tax, at rates as high as 9 percent. But if it has little profit, or suffers a loss, it must pay the \$500 minimum.

The corporate minimum tax was \$250, but a law enacted in 2004 raised it to \$500.

Under a bill (H 5060) sponsored chiefly by state Rep. Donna M. Walsh, D-Charlestown, (and to be amended), businesses with less than \$250,000 in gross receipts would be exempt from the corporate minimum tax; those with gross receipts of between \$250,000 and \$1 million would pay \$2,500; those with gross receipts of \$1 million or more would pay \$10,000.

Under the bill, similar to a plan developed by the Poverty Institute, of Providence, 92 percent of filers would no longer pay the tax; 8 percent — those with comparatively high gross receipts — would pay more than they do now, said Russell Dannecker, Poverty Institute fiscal policy analyst.

Out of 45,063 businesses that pay the corporate minimum tax, 38,515 — about 85 percent — have gross annual receipts of less than \$25,000 apiece, according to state Division of Taxation figures for 2008, the latest available.

Some businesses with high gross receipts but high expenses say the tax should be calculated based on net income to more fairly reflect their ability to pay.

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