Special Council on Tax Reform and Fairness for Georgians

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Overview

Technology is critical to every sector of our state's economy. Technology companies - including information technology, telecommunications and healthcare technology companies - provide over 180,000 jobs in Georgia. Most importantly, there are over 1 million jobs in the state in which technology plays a key role. These are typically high-paying jobs that draw the best and the brightest. As the committee considers changes to the existing tax structure, it is paramount to our success as a state that special consideration be given to do everything possible to promote recruitment, retention, and growth of the state's technology companies. That Georgia boasts a world-class business climate, an abundance of top universities, a large Fortune 500 presence, an exceptional workforce, a world class airport and seaport, and a robust quality of life is incontrovertible. Combined with the right tax structure, these attributes could create an even stronger magnet for the world's most sought-after companies and individuals. The suggestions outlined below reflect the converged opinion from the knowledge base that is the Technology Association of Georgia's executive leadership, board of directors, government relations committee, our partners in the community who are also dedicated to supporting entrepreneurs, and our 10,700 person membership.

TAG believes that through a lower marginal income and sales tax rate that spread across a broad tax base, that businesses and individuals will have the opportunity to thrive. When businesses are faced with an overbearing tax code that forces them to spend as much as 50% of their income on taxes, they will always be limited in their growth and ability to create new jobs, invest in new capital or see the benefits from their work. While healthy tax credits that are available to all businesses in Georgia can be helpful and should exist where needed, a much more economically sustainable tax code is one with lower taxes across the board. Tax credits are generally seen as a small incentive for businesses to hire or expand, as they do not translate into direct cash equity. A combination of certain tax credits that can be used to incentivize businesses to move to the state can be helpful, but ultimately businesses will look at the state's income and sales tax rates when determining the economic feasibility to relocate, continue operations or expand. Through the expansion of the taxable base, overall state income and sales taxes can be lowered and still be revenue neutral for the state.

It is important that Georgia focus on sectors where potential growth and opportunities for new markets exists. If Georgia's new tax code is attractive to our nation's growing industries, like technology, and allows for competition on both a national and international level, then businesses will move here, stay here and expand here. In 2010, the average employee salary within Georgia's tech sector was $79, 117, which is more than $30,000 higher than the average private sector employee. This is a clear indicator that technology companies, if given the opportunities to succeed, can improve the overall economy of a given region through their ability to create quality jobs. Our new tax code must reflect a system of equality and transparency, while giving them an economic edge over neighboring states.

This white paper is designed to offer a few suggestions on our tax code that we believe will help grow our technology community and economic impact. We look forward to working with the Special Council on Tax Reform and Fairness for Georgians, in partnership with our member companies and individuals, to develop a tax system that will not only bring about strong economic growth, but ensure the State has enough revenue to operate effectively. We hope that we can continue to be a leader and knowledge base for the Council as they prepare their recommendations for the General Assembly.

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Recruitment

Bringing new jobs to Georgia is crucial for the State's continued economic success. Through a distinct incentive plan, Georgia will be able to bring new companies to the State. Recent successes in recruitment such as the NCR headquarters, manufacturing plant and customer service center of excellence, the Sony Ericsson Americas headquarters, First Data and many other examples emphasize the importance of competitive recruitment tools. TAG supports the addition of the Mega Tax Credit and would like to see the dedicated and talented professionals within the Georgia Department of Economic Development be given additional tools and flexibility to utilize those tools for recruitment purposes when doing so is in the best interest of the State.

1. **Economic Tier Adjustments (Guiding Principles: Growth Enhancing; Fair & Equitable)**

   Currently in Georgia, the level of job tax credits is available based on the tier category of the county. The Department of Economic Development designates which tier each of Georgia's 159 counties are placed in at the end of every calendar year. While they may change a specific county from year to year, they do not have the flexibility to change a county's tier during the middle of the year if extenuating circumstance, such as massive layoffs, arise. Giving counties the ability to change tiers if there has been a significant job loss would enable that county the flexibility to give specific employers job tax credits to other employers that want to locate or significantly increase employment within the county. This process could be done, and there is infrastructure for it to be done, by the Dept. of Community Affairs. It would only be applied when an employer was looking at Georgia or another state to locate or enlarge their business and could not be applied when there is intra-state county competition for that employer.

2. **Tier Minimum Job Creation Adjustment (Guiding Principles: Growth Enhancing & Fair & Equitable)**

   Currently, Georgia places each of its' 159 counties in a specific tier that designates the amount of tax credits an employer may receive for each job they create. For each tier there are certain requirements that must be met, such as the number of jobs created, to be eligible for tax credits that may be claimed on a company's state income liability. These credits may be claimed for five (5) years from the point of creation. However, due to the current economic climate, many companies are not reaching their required minimum number of jobs created, and thus are not eligible for a tax credit. TAG would recommend that the minimum job creation level be lowered for each tier for a three (3) period, so that during these challenging times companies that are hiring can still be rewarded.

3. **Lower Marginal Tax Rates – Making Georgia Competitive (Guiding Principles: Fair & Equitable; Stable)**

   By reducing the marginal tax rate of employers and individuals through the elimination of certain tax exemptions that are not longer economically productive we can expand our tax base, lower everyone's income and sales taxes and still be revenue neutral. Businesses will look at their ability to grow when deciding to relocate. If businesses see our tax code as one that fosters profitability and competition, and reduces the barriers to entry, they will move to Georgia. For many companies, they pay nearly .50 on every $1.00 they make in taxes. Georgia can attract new companies to the state if they offer a lower marginal tax rate that will increase their ability to keep more of their revenue for investments or job creation.

4. **Selling or Transferring of Excess Tax Credits (Guiding Principle: Growth Enhancing)**

   Currently, Georgia only allows excess tax credits offered under the Entertainment Investment Industry Act of 2008 to be sold or transferred. Other industries are not allowed this same opportunity and should be eligible for a similar tax credit sale or transfer. By allowing companies to sell their excess tax credits they can receive payment for their remaining tax liability through the private sector in the same year. This may encourage them to make more or larger investments in jobs, capital, research or other areas. Additionally, by allowing tax credits to be sold, a new market will be created and Georgia will become more appealing to investment banking firms, venture capitalist and angel investors.

5. **Entertainment Tax Credit Expansion (Guiding Principle: Growth Enhancing)**

   Currently, Georgia offers a 20 percent state income tax credit to production companies that invest at least $500,000 into Georgia's economy. The minimum investment is calculated by investment on production related items from Georgia based companies. Additionally, an extra 10 percent credit is allowed if the final production uses an approved Georgia promotional logo. This tax credit is available for the production of feature films, television series or movies, commercials, music videos and video game development. The minimum investment can be met by cost associated with pre-production, production and/or post-production. However, cost associated with the marketing and distribution is not eligible expenditures when determining if the $500,000 minimum has been met. TAG suggest that if a production company uses a Georgia based company for marketing or distribution of the production then the cost associated with those be eligible for calculating whether the minimum has been met.

Retention

Keeping Georgia's technology community active is important step to ensuring a stable economy. We must work to ensure that those companies that operate in the State and employ Georgians, remain in Georgia. Too often tax incentives are offered only to new companies, and not to the existing businesses. TAG supports a tax plan that will continue to make Georgia an economically viable place for companies to stay, once they are here.

1. **Lower Marginal Tax Rates – Maintain or Increase Workforce (Guiding Principles: Fair & Equitable; Stable; Growth Enhancing)**

   Acquisitions of small technology companies by large technology companies are prevalent and there are a number of examples that have occurred recently in Georgia. The same is true for non-technology companies. For example, North Caroline-based Smith Glaxo Kline recently acquired Georgia-based Stiefel Laboratories, which resulted in significant loss of employees in Georgia. If we expand our tax base through the elimination of sales tax exemptions that are no longer economical, and lower the marginal tax rate across the board, then we can encourage businesses to stay in Georgia. Companies that acquire or merge will reside in the state where they can remain the most competitive during the transitional stages. A lower tax rate makes Georgia a great place to stay.

   Additionally, for companies that currently operate in Georgia, they will want to stay here so long as it is profitable for them. A lower tax rate spread across the entire economy will increase consumer spending and raise business revenues. With a lower tax rate and increase revenues, Georgia companies will become more profitable.

2. **Expansion of Eligible Cost for Video Game Developers (Guiding Principles: Growth Enhancing; Fair & Equitable)**

   Video game developers are eligible for a tax credit of 20 percent under the Entertainment Investment Act of 2008, as well as the 10 percent uplift if they use a Georgia promotion logo. However, a large number of restrictions currently exist on the types of eligible expenditures that may be calculated when determining if the minimum investment has been made. For example custom game platforms developed by studios for sale are not eligible for the tax credit. TAG supports allowing the cost associated with developing the custom game platform to be eligible for the tax credit.

3. Expansion of Research and Development Tax Credit (Guiding Principle: Growth Enhancing)

Georgia offers a research and development (R&D) tax credit of 10 percent of the additional research expense over the base amount. The base amount is calculated by using the ratios of aggregate qualified research to Georgia gross receipts. The credits may only be used up to 50 percent of the company's Georgia state income tax liability. Additionally, companies in their first five years of operation may use an excess tax credits over the 50 percent maximum towards their state withholding tax liabilities. TAG is encouraged by the current R&D tax credits, but feels as though the State should consider expanding the limitations to allow all companies, regardless of their age, the ability to use excess tax credits against their withholding tax liabilities.

4. Continuation of Sales Tax Exemption for Professional Services (Guiding Principles: Clear, Growth Enhancing; Stable)

Many of Georgia's leading technology companies are consulting firms that offer years of experience in business and technology to small and mid-sized companies. In order for these firms to continue operations and provide expertise to the Georgia technology sector, we must continue to offer a sale tax exemption on their services. Many of these firms are set up as LLCs and the business owners pay their individual income taxes based upon their business' income. A increase in a sales tax on their services of 3-6% would destroy their company or drive them to another state. Georgia would lose a significant number of businesses, jobs and potential job growth opportunities if professional services, like consulting firms, were taxed. It is paramount that if we want to keep experts in technology and other sectors of our economy in Georgia, we do not pass a sales tax on professional services.

Growth

High tech startups are the key to Georgia's continued success and are an integral part of surviving changes in the economy. TAG supports tax legislation and structures that support and encourage healthy startups. The Angel Investor Tax Credit, which tax worked to pass during the previous legislative session, is one example of a tax credit that both encourages investment into this critical segment as well as conveys the right message that technology startups are important to Georgia.

One of the most important things about tax credits aimed at helping startups is that they be simple to understand and utilize. Even the most beneficial tax credit, if cumbersome to apply for, would likely be underutilized by a cash and time strapped entrepreneur. Simplifying tax credits that target startups is imperative.

1. **Expansion of Employee Retraining Tax Credit (Guiding Principle: Growth Enhancing)**

   Georgia offers employers the ability to claim tax credits for qualified training of their employees in the amount of 50 percent of the cost of the training or $500 per employee, per training session, whichever is less. A company may claim up to $1,250 in training credits per employee in a single taxable year. Having a qualified and highly skilled workforce is imperative for companies that want to grow. Due to the technical nature and constant advancement in technology, Georgia's technology based companies have the most to gain through training and retraining. TAG supports expanding the limits on qualified tax credits per employee from $500 to $1000 per employee, per session, and from $1,250 to $2,500 per employee, per year. Additionally, TAG believe the technology community and business environment at-large would benefit from a 100 percent tax credit on all training sessions for newly hired employees in their first two (2) years of employment, not to exceed $3,000 per employee per year.

2. **Lower Marginal Tax Rates – Growing Georgia's Economy (Guiding Principles: Fair & Equitable; Growth Enhancing)**

   A reduced tax rate that is spread across the economy will allow businesses to grow. When they can keep more of the money their business earns, they will hire new employees, expand operations throughout the State and invest in new capital projects. Business cannot grow if their tax rates are overbearing. At best they will maintain the status quo, and in a worst case scenario, they will close or move to another state. If we want Georgia companies to thrive reduce their tax burden. TAG supports a tax codes that is fair, equitable and encourages economic growth.

3. High Tech Exemption (Guiding Principle: Growth Enhancing)

The purchase of computer equipment that amounts to $15 million or more is exempt from sales tax in Georgia. This exemption needs to be continued as it is vital to the technology community and general business environment. These large purchases should be seen as capital investments in a company’s future, their ability to compete on a global scale and in maintaining their Georgia workforce. TAG supports this exemption; however, this legislation needs to be clarified to ensure that electronically delivered software is included when calculating if the minimum purchase has been made. Recent court cases have affirmed that the exemption does include electronically delivered software, but legislation needs to be passed to ensure it will continue to be included.

4. Angel Investment Tax Credit (Guiding Principle: Growth Enhancing)

Recently Georgia passed an Angel Investment Tax Credit in an effort to encourage investment into Georgia's startup companies. The credit equals 35 percent of their qualified investments made in 2011, 2012 and/or 2013. The aggregate amount of credit an angel investor is able claim against their tax liability is $50,000 per taxable year. Georgia has budgeted for $10 million in available tax credits for Georgia's angel investors. The credit cannot be claimed until the second year after the investment. TAG is very supportive of this tax credit, as it provides immediate access to capital for Georgia's startup companies, many of which are technology based or technology enabled firms. This type of credit has had tremendous economic success in other states across the country, and will inevitably make Georgia a more attractive state for startup companies.