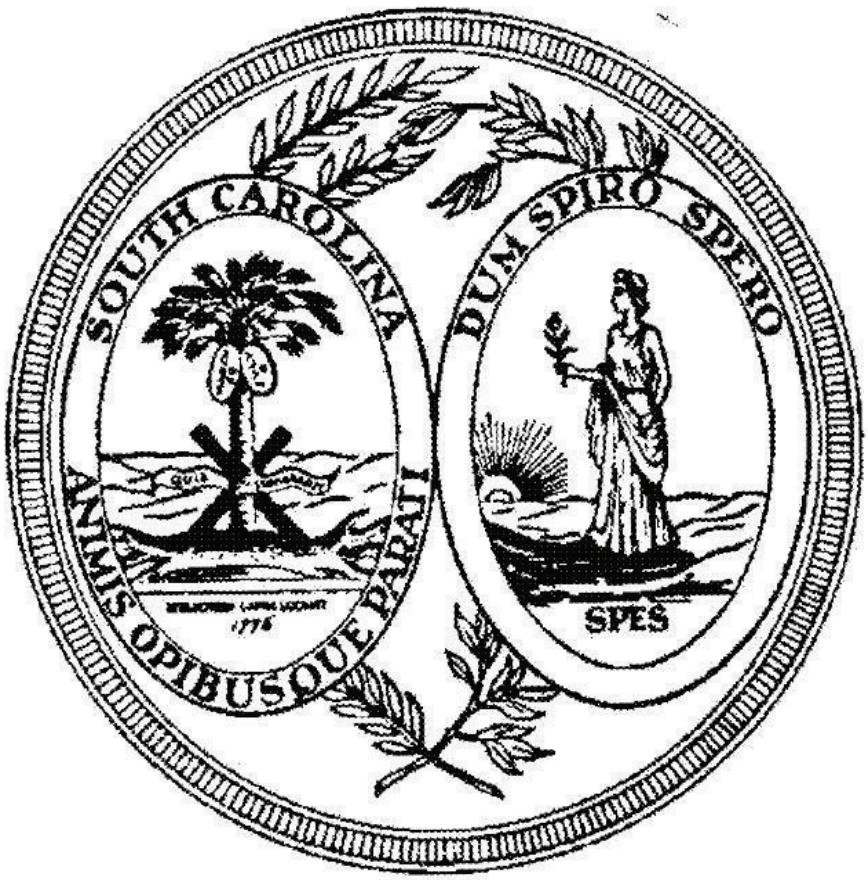
Executive Summary



South Carolina Taxation Realignment Commission

Executive Summary

Created by Act 81 of 2009, the South Carolina Taxation Realignment Commission (TRAC) was charged by the General Assembly to undertake a thorough assessment of the State's current tax structure to determine its "adequacy, fairness, and efficiency" (or lack thereof) to ensure the State remains an "optimum competitor in its efforts to attract business and individuals to locate, live, work, and invest" in South Carolina.

Between late September 2009 and October 2010, TRAC met seventeen separate times as a full commission and numerous times at the subcommittee level studying various tax related topics such as sales and use exemptions, services and intangibles, streamlined sales taxes, individual income taxes, corporate income taxes, fuel taxes, and tourism related taxes. Matters related to e-commerce, the "Fair Tax", tax conformity, property taxes, other funds, and tax administration, just to name a few, were addressed directly at the full commission level.

After careful analysis of issues and concerns related to the above, in addition to other matters, and consideration of important input from dozens of citizens, trade associations, and local, state, regional, and even national experts on a variety of tax related matters, TRAC produced a comprehensive and holistic study of the State's tax structure.

With few exceptions, TRAC found that South Carolina is a low tax state (compared to its neighbors, the region, and nationally) by almost any honest measure. However, that otherwise positive finding does not mean that South Carolina's current tax structure is not significantly hindered by structural deficiencies that will continue to challenge the system's ability to produce stable revenues over time.

And those structural deficiencies, if not addressed, will continue to negatively impact not only the State's ability to provide a tax structure that is adequate in its ability to produce stable revenues for even the most basic of government services, but as important, its ability to produce a system that is fair in its treatment of all taxpayers, not just a growingly select few.

TRAC's recommendations are revenue neutral, and like its name suggests, and in keeping with the clear mission given it by the General Assembly, TRAC "re-aligns" much of the State's

tax structure so that, with little exception, tax bases are "broadened" so that overall tax rates may be "lowered", bringing greater fairness and stability to the State's current tax system. And while "broad bases" and "low rates" are not a novel concept in public finance theory, what differentiates TRAC's recommendations from previous studies is the level of detail and specificity to which TRAC went in not only explaining the "what" and the "why", but the "how" as well.

The issues, concerns, and findings (e.g. the "what" and the "why") reported by TRAC will, frankly, be subject to little debate. What will no doubt be subject of considerable debate, and a fact of no surprise to TRAC, will be the "how"; that is, TRAC's specific recommendations regarding the requisite "fixes" the commission believes are necessary to rectify the very real (and growing) structural deficiencies of the current system.

Indeed, with little exception, all those who provided meaningful input to TRAC agreed that the sustainability of the current tax system was dependent upon a substantial broadening (realigning) of the tax base (and commensurate lowering of the rate), but often many of those same groups did not see wisdom in including their particular interest in that "broadening". To paraphrase the classic phrase, TRAC heard ample testimony that can be boiled down to "don't tax you, don't tax me, tax the man behind that tree". While not completely certain, TRAC believes it may have heard from the man behind the tree as well.

TRAC realizes the difference (and important interplay) between policy and politics. It has already been suggested by some that TRAC should have produced a report that would be completely "politically palatable". But that begs the question, if such a report could be devised, why create a "TRAC" in the first place? TRAC's focus was, as we believe was the intent of the General Assembly, a thorough vetting of sound tax policy, void, to the extent possible, of the customary political pressures that naturally arise when such weighty issues are debated (see the lobbyist protocols put in place by the General Assembly regarding TRAC's work as evidence of their intent).

That is not to suggest that TRAC's recommendations are not, or will not be, palatable. In fact, TRAC is hopeful that the General Assembly will receive this report with great foresight, recognizing that TRAC's recommendations are not only comprehensive, but fair, designed to

ensure South Carolina either remains (or becomes) competitive both regionally and nationally, and are ones that produce a tax system that is more stable than the increasingly narrow and volatile system that exists today.

While we strongly encourage the reader to study this report in its entirety, highlights of but a few of TRAC's findings and recommendations include:

Sales and Use Taxes. One of the few areas where South Carolina does not rank as a low tax state is sales tax. At 6 percent, South Carolina is tied for 13th highest nationally. Due in large part to a tremendous narrowing of the tax base (only 38 percent of gross sales are subject to tax in South Carolina), TRAC recommends a broadening of the base by repealing or amending more than 60 of the State's 80 plus sales and use tax exemptions, exclusions, "max" taxes, and/or discounts. Initial (and unofficial) estimates by TRAC staff indicate these actions impact more than $600 Million of the State's $2.7 Billion of sales tax exemptions. In addition, TRAC recommends expanding taxation to additional services reflecting the definitive shift from a goods to a service based economy, and similar recommendations regarding e-commerce vs. brick and mortar, just to name a few. In turn, revenue generated by these reforms should be used for a revenue neutral and commensurate lowering of the overall sales tax rate. TRAC staff unofficially estimates the overall sales and use tax rate could drop to at least 5 percent, and potentially to as low as between 4 and 4.5 percent once its recommendations are fully costed out by the Board of Economic Advisors. It should be noted that a reduction of the sales tax rate to just 5 percent will improve South Carolina's competitive position nationally by a full 18 spots; transitioning the State from one of the highest sales tax states, to one of the lowest, and bringing much needed stability to an otherwise unstable sales and use tax base that continues to narrow. Note: TRAC studied the so-named "Fair Tax", which would replace at least six tax types with a singular sales tax, but did not recommend its adoption in South Carolina. No state has adopted a "Fair Tax" and only four states have, or are, considering its implementation. While no-doubt well intended, TRAC recommends careful consideration by the General Assembly before substituting the relative balance offered by the current system for a pure (and singular) consumption tax.

Individual Income Taxes. South Carolina is a low income tax state by almost every measure. But like the State's sales tax structure, South Carolina's individual income tax system is growing narrower by the year, meaning that fewer and fewer tax "filers" are actually tax "payers",

increasing the overall tax burden on a smaller number of filers each year. TRAC makes a series of revenue neutral recommendations to promote enhanced stability and fairness. Areas include creation of a minimum (and nominal) fee or tax based on size of adjusted gross income, examination of, and recommendations related to, the State's generous level of standard deductions and personal exemptions, adjustments to the capital gains tax exclusion, ensuring South Carolina remains competitive regionally and nationally while offering a greater incentive than currently allowed for investing in South Carolina based companies, a thorough review of the magnitude and impact of the State's "elderly preferences", and for State tax purposes, decoupling from the preferential federal tax treatment of personal injury awards, just to name a few. Any revenue generated by the broadening of the individual income tax structure would be offset by providing broad based tax savings through a combination of expanding the 6 percent tax bracket and lowering of the State's top marginal income tax rate of 7 percent to a commensurately lower rate.

Corporate Income Taxes. South Carolina is one of the lowest corporate income tax states in the region and nation, both in terms of its tax rate and actual tax burden, and is annually ranked by numerous publications as one of the country's most "friendly" states for both large and small companies to "do business". However, these otherwise positive findings do not mean the General Assembly should not undertake other necessary reforms related to the equity, or lack thereof, of the tax treatment between the financial and non-financial sectors, and significant issues surrounding so called "combined reporting" vs. the "separate reporting" that South Carolina follows now. Combined reporting is a way to avoid discrimination against certain businesses, to tax income that would otherwise be shifted out of state, and to deal with the growing complexities of the current corporate climate. If the General Assembly does not adopt combined reporting, TRAC also makes recommendations regarding improvements to the current separate reporting method. TRAC also expresses concern over the growing magnitude of corporate tax credits, particularly the massive amount of credits that are "carried forward" each year, and as such, makes corresponding recommendations. Note: TRAC did not recommend an adjustment to the State's current corporate income tax rate.

Property Taxes. The property tax system in South Carolina is unique compared to the property tax systems in many other states and is, in many cases, a product of extremes. The State has the highest taxes in the nation on manufacturers (not in a fee-in-lieu), a low tax burden on urban

primary residences, very high tax levies on boats and planes, one of the lowest in the country for primary residents over the age of 65 that live in an urban county, and some of the highest national tax rates on commercial and industrial property, and the lowest tax rates on residential property. These extremes are a product of several factors: (1) numerous assessment ratios, (2) a large number of very generous credits and exemptions granted only for primary residences, particularly those owned by persons 65 and over (and more than 60 exemptions overall); and (3) preferential status given to agricultural use properties, just to name a few. Where able, TRAC makes recommendations regarding many of its findings including: manufacturing property, ag-use, legal residence, aircraft, dealer tags, financial institutions and primary vs. secondary residences, just to name a few.

Fuel Taxes. South Carolina has the lowest "gas tax" in the entire Southeast, and the third lowest in the entire country. It is therefore no surprise that South Carolina's level of road funding (support) per mile is also one of the country's lowest. Well maintained roads are important not only for the safe mobility of the State's citizens and visitors, but for commerce and economic development as well. The current 16 cent per gallon flat excise tax is found by TRAC to hinder the stability of revenues requisite to meet these important goals, and that the current "structure" of the tax (flat excise) may be ill-equipped for the long-term to produce stable revenues that keep pace with technological advances in transportation, where cars are more fuel efficient, and in growing cases, rely less and less on fuels that are actually subject to taxation. As such, TRAC recommends two separate options for the General Assembly to consider that would begin to address these issues; a 5 cent per gallon increase, or a revenue neutral structural change, moving our current flat excise tax to a hybrid tax based on one part flat excise, and one part price.

Tourism Taxes. "Tourism taxes" include the state accommodations tax, the local accommodations tax, the local hospitality tax, the local option tourism development fee, and the admissions Tax. TRAC thoroughly reviewed each of the State's various tourism taxes and made specific recommendations related to extension of the "Tourism Expenditure Review Committee's (TERC) oversight authority to local tourism taxes, requirement of a "uniform" form relative to both State and local tourism taxes, issues surrounding the preferential tax treatment of time shares, admissions tax exemptions, and film incentives.

Other Funds. TRAC's enabling legislation required it (TRAC) to review "other funds". As General Fund revenue has continued to decline, due in part to issues surrounding the State's tax structure as highlighted throughout TRAC's report, the use of "other funds" has continued to grow. A common misperception is that "other funds" are malleable; that is, that a "dollar is a dollar". However, with little exception, "other funds" are generated for a narrow and/or specific purpose and cannot be "moved" in and between different functional areas of government. That said, the growth in "other funds" demands continual review. TRAC applauds the creation by the General Assembly of the "Other Funds Oversight Committee" (OFOC) and provides specific recommendations to the General Assembly as to parameters it (TRAC) believes OFOC should work within and a process under which it (OFOC) should work.

Tax Administration. Regardless of the types of taxes utilized in any state's revenue system, taxpayers deserve fair, efficient and customer-focused tax administration. While South Carolina scores well in many respects regarding tax administration, TRAC nevertheless makes a series of recommendations to the General Assembly that it believes will improve the laws governing tax administration in South Carolina. These recommendations are detailed in the "Tax Administration" section of this report.