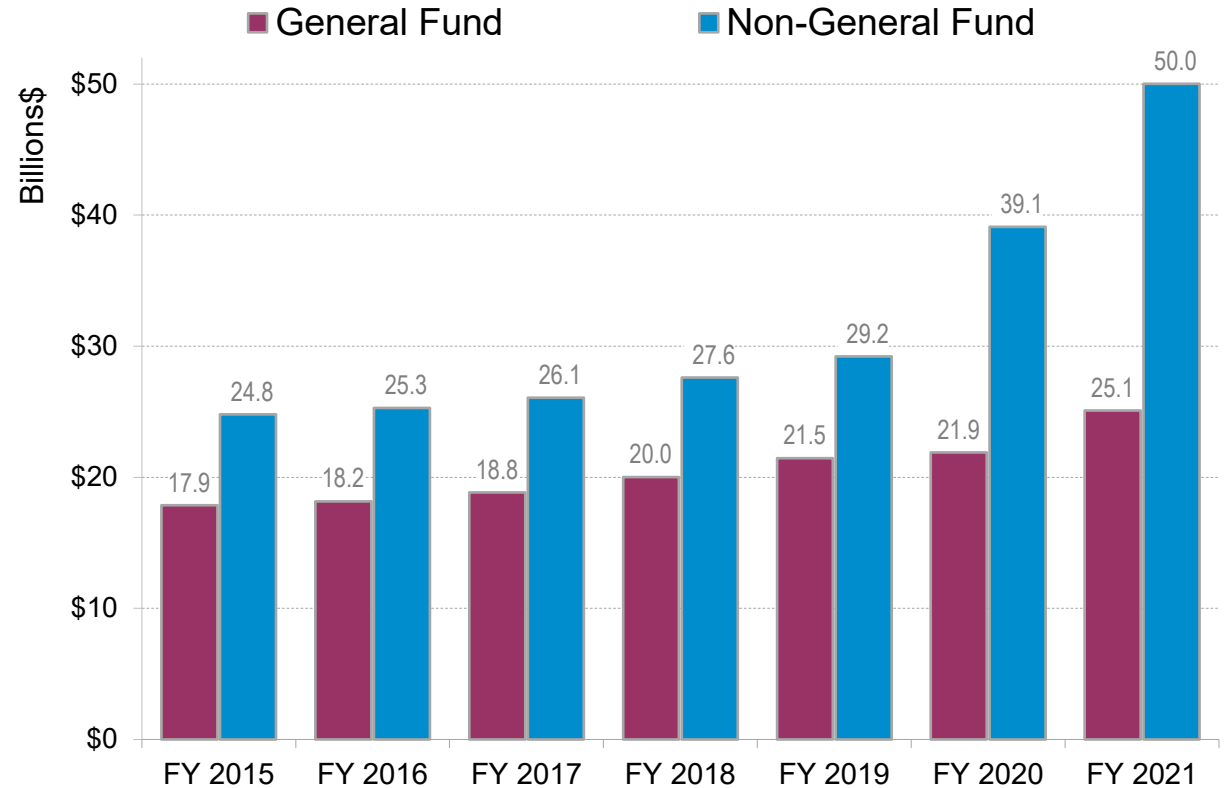
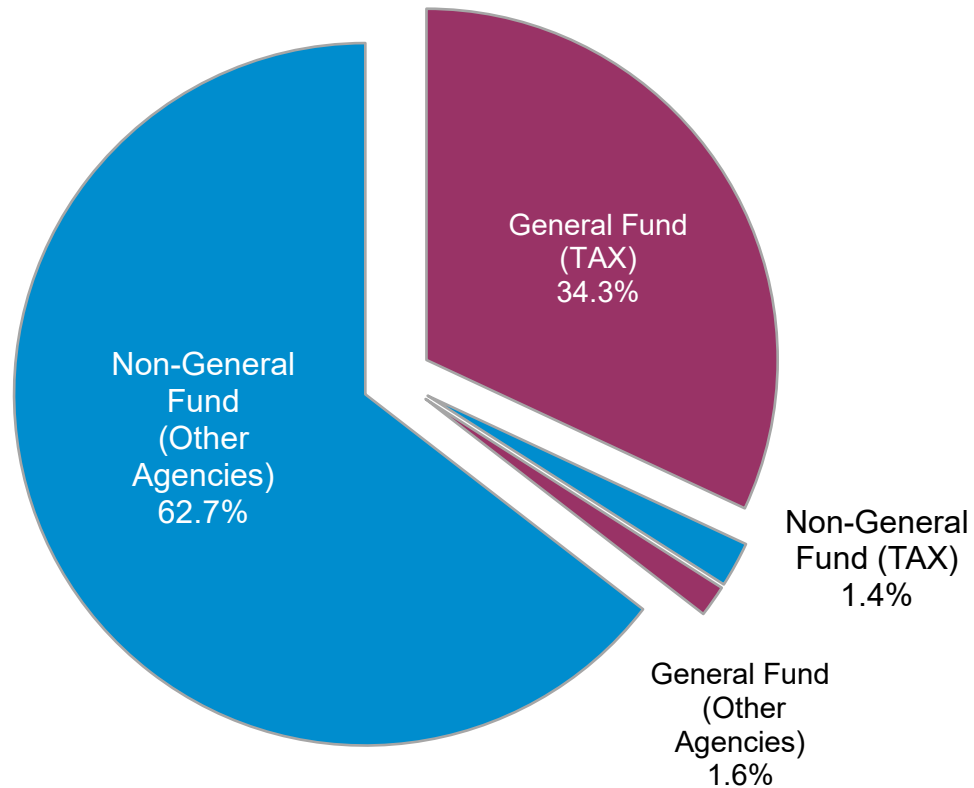


# Overview of Virginia Tax Policy

December 12, 2022

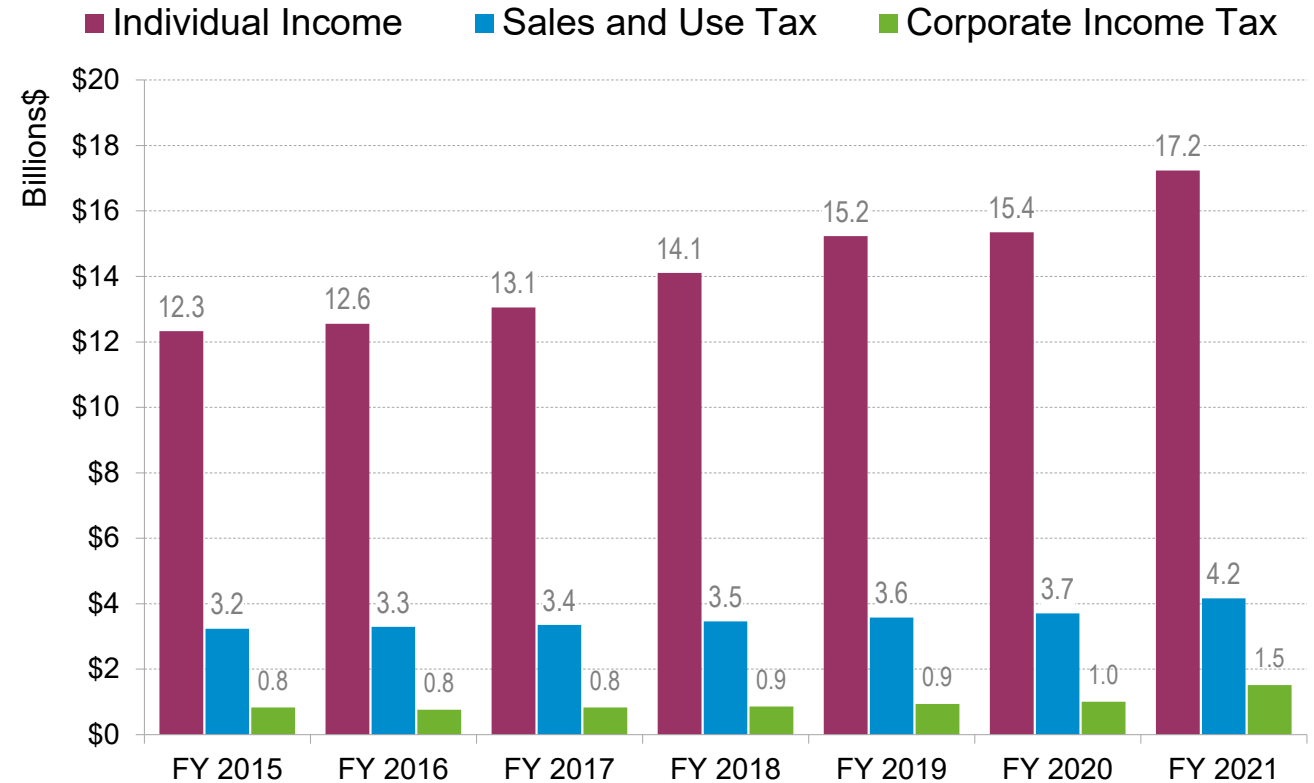
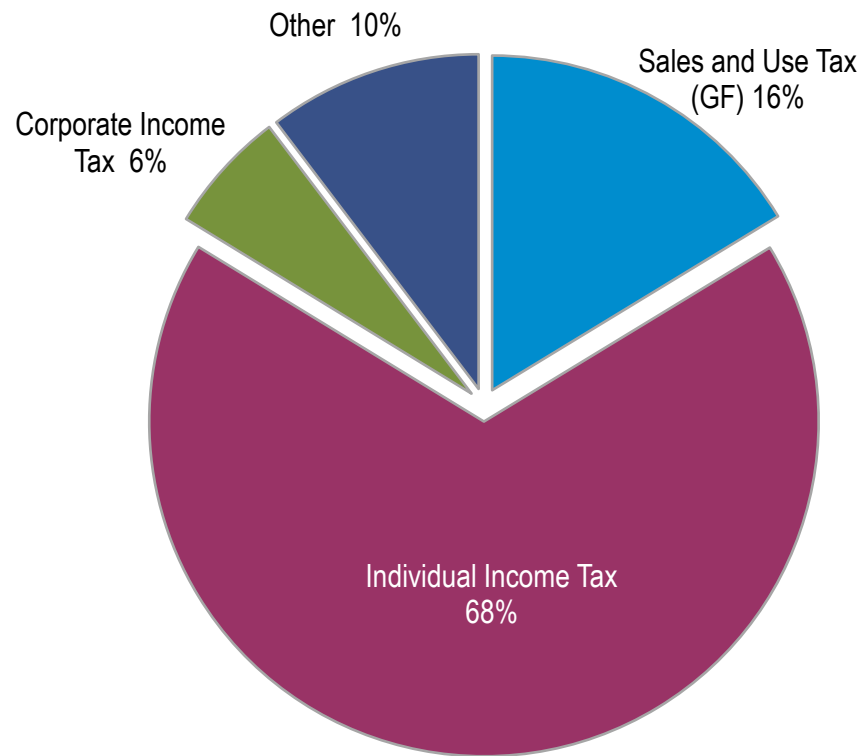
# Revenue Collections & Administration of Taxes

## Statewide Revenue Collections, FY 2021\*



\*Represents revenue collections by all agencies, excluding Virginia Retirement System (VRS) and some bond and bank transactions.

## Taxes Administered by Virginia Tax, FY 2021\*



\*These are General Fund tax sources of revenue, except for Other (which also includes non-General Fund sources of revenue).

## Taxes Administered by Virginia Tax – General Fund Revenue

- ▶ Individual and Corporate Income Taxes
- ▶ Retail Sales and Use Tax (portion to localities and non-General Funds)
- ▶ Insurance Premiums License Tax (portion transferred to CTF)
- ▶ Bank Franchise Tax (portion distributed to localities)
- ▶ Railroad Rolling Stock Tax
- ▶ Estate Tax (estates of persons who died before July 1, 2007)
- ▶ Recordation, Suits, and Probate Taxes (collected by clerks of the Circuit Courts)

## Taxes Administered by Virginia Tax – Non-General Fund Revenue

- ▶ Communications Sales Tax (distributed to localities)
- ▶ Aircraft Sales and Use Tax
- ▶ Watercraft Sales and Use Tax (collected by Game and Inland Fisheries)
- ▶ Cigarette and Other Tobacco Products Taxes
- ▶ Commodity Taxes: Apple, Corn, Cotton, Egg, Forest Products, Peanut, Sheep, Small Grains, Soybeans, Tires, Litter, Soft Drinks

## Examples of Taxes Administered by Other Agencies

- ▶ Public Utility License Tax (SCC)
- ▶ Beer and Beverage, Distilled Spirits, and License Taxes (ABC)
- ▶ Unemployment Compensation Tax (VEC)
- ▶ Premium Tax on Workers' Compensation Insurance (Workers' Compensation Commission)
- ▶ Motor Fuel, Motor Vehicle Sales, and Rental Taxes (DMV)
- ▶ Utility Consumer Taxes (SCC)

# Individual Income Tax



## Background

- ▶ Virginia generally conforms to federal definitions of income, as of a fixed date
- ▶ During the 2022 General Assembly session, the date was advanced from December 31, 2020 to December 31, 2021
- ▶ Reasons for conformity – simplicity, efficiency, and compliance:
  - ▶ Taxpayers do not have to recalculate their tax liability with different Virginia definitions and rules
  - ▶ The Department can rely on federal data and compliance measures for accuracy
    - ▶ Reduces potential revenue loss attributable to noncompliance
    - ▶ Reduces administrative compliance costs (e.g., audits)
  - ▶ Virginia forms and compliance focus on Virginia additions, subtractions and credits

## Deconformity Provisions

- ▶ Virginia deconforms from the following federal provisions:
  - ▶ Bonus depreciation allowed for certain assets under federal law
  - ▶ The five-year carryback of certain NOL deductions generated in 2008-9
  - ▶ The federal treatment of applicable high yield discount obligations
  - ▶ The federal treatment of cancellation of debt income realized in connection with certain business assets
  - ▶ The suspension of the federal overall limitation on itemized deductions
  - ▶ The reduction in the medical expense deduction floor
  - ▶ Certain business tax changes made by the CARES Act and Consolidated Appropriations Act, 2021

## Inflation Reduction Act

- ▶ On August 16, 2022, the Inflation Reduction Act of 2022 (“the IRA”) (H.R.5376) was signed into law
- ▶ Conforming to the IRA would slightly reduce General Fund revenues due to the following two provisions that would directly impact Virginia taxpayers:

Provision	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Enhancements to the Energy Efficient Commercial Buildings Deduction	(\$0.21)	(\$0.30)	(\$0.24)	(\$0.22)	(\$0.20)
Cost Recovery for Qualified Property, and Energy Storage Technology	-	-	-	-	(\$0.10)
<b>Total (Preliminary)</b>	<b>(\$0.21)</b>	<b>(\$0.30)</b>	<b>(\$0.24)</b>	<b>(\$0.22)</b>	<b>(\$0.29)*</b>

\* Totals may not sum due to rounding

## Computation of Tax

- ▶ Starting point is Federal Adjusted Gross Income (FAGI)
- ▶ Add specified items to the extent that they are excluded from FAGI
- ▶ Subtract specified items to the extent they are included in FAGI
- ▶ Deduct (whether or not included in FAGI):
  - ▶ Specified deductions, such as the \$12,000 age deduction;
  - ▶ Either the standard deduction or itemized deductions; and
  - ▶ Personal exemptions
- ▶ Apply tax rates
- ▶ Apply any tax credits to reduce tax liability

## Rate Structure

- ▶ Virginia applies a graduated income tax rate on the net income of individuals
- ▶ Current individual income tax rates:

Virginia Taxable Income	Rate
First \$3,000	2%
\$3,001-\$5,000	3%
\$5,001-\$17,000	5%
\$17,001 or more	5.75%

## Personal Exemptions

- ▶ The TCJA eliminated the federal personal exemption for TY 2018-TY 2025, which was \$4,050 prior to elimination
- ▶ History of Virginia's personal exemption amounts:

Year	Amount
1972—1985	\$600
1986	\$700
1986—2004	\$800
2005—2007	\$900
2008—present	\$930

## Standard Deduction Increases

- ▶ Under the TCJA, the federal standard deduction was increased to \$12,000 (\$24,000 for joint filers), indexed for inflation (set to expire in TY 2026)
- ▶ The 2019 and 2022 Virginia increases are also set to expire in TY 2026

Filing Status	1972—1986	1987	1988	1989-2004	2005-2019	2020-2021	2022*-2025
Single	The greater of 15% of AGI or \$1,300 not to exceed \$2,000	\$2,000	\$2,700	\$3,000	\$3,000	\$4,500	\$8,000
Married				\$5,000	\$6,000	\$9,000	\$16,000
Married Separate	The greater of 15% of AGI or \$650 not to exceed \$1,000	\$1,000	\$1,350	\$2,500	\$3,000	\$4,500	\$8,000

*\*For TY 2022 and TY 2023, if specified revenue targets are not met, the standard deduction amounts are \$7,500/\$15,000*

# Corporate Income Tax



## Computation of Tax

- ▶ Starting point is Federal Taxable Income (from federal tax return)
- ▶ Apply any additions, subtractions, and deductions to determine Virginia Taxable Income
- ▶ Multistate corporations must allocate and apportion income
- ▶ Apply 6% tax rate to the income subject to Virginia tax
- ▶ Apply any tax credits to reduce tax liability

## Apportionment

- ▶ Virginia's statutory method of apportionment consists of three factors: property, payroll, and sales (double-weighted)
- ▶ Of these three factors, sales can be the most difficult to determine
  - ▶ Sales of tangible property are assigned to Virginia if they are delivered to a location in Virginia
  - ▶ Sales of services or intangible property are assigned to Virginia if the greater portion of income producing activity (measured by "costs of performance") is in Virginia
- ▶ In certain situations, Virginia allows alternative sourcing methods, such as market-based sourcing

## Recent Trends in Other States

- ▶ Market-based sourcing of services/intangibles:
  - ▶ Prior studies have been unable to determine the revenue impact due to a lack of data
  - ▶ Virginia has adopted for specific industries – debt buyers (2018) and property analytics firms (2022)
- ▶ Single sales factor apportionment:
  - ▶ Virginia has adopted for specific industries - manufacturers (elective - 2009), retailers (2012), enterprise data centers (2015), and debt buyers (2018)
- ▶ Unitary combined reporting - A workgroup established pursuant to 2021 HJ 563 did not recommend adopting unitary combined reporting (report published [here](#))

# Retail Sales and Use Tax

## Overview

- ▶ Tax on the sale, lease or rental of tangible personal property (TPP) or the use or consumption of tangible personal property in Virginia
  - ▶ Consumers are responsible for paying sales tax at the time of purchase
  - ▶ Dealers are responsible for charging and collecting the tax at the time of purchase and for remitting the tax timely
- ▶ Although all sales taxes collected are remitted directly to Virginia Tax, a portion is distributed to the localities where the sales were made
- ▶ Out-of State Dealers Use Tax is collected by out-of-state businesses that collect the tax from Virginia customers and remit it to Virginia Tax (i.e., internet sales)
- ▶ Use tax also applies to TPP purchased outside of Virginia, but used, consumed or stored in Virginia that would have been subject to the tax had it been purchased in Virginia

## Food and Essential Personal Hygiene Products

- ▶ In 2000, the General Assembly enacted legislation that applied a reduced sales tax rate on food for home consumption, which was phased in over four years
- ▶ In 2005, the food tax provisions were accelerated to reduce the state rate to the current rate of 2.5%, comprised of a 1.5% state tax and a 1% local tax.
- ▶ In 2019, the General Assembly imposed the reduced 2.5% rate to essential personal hygiene products
- ▶ 2022 legislation eliminated the state tax on food for home consumption and essential personal hygiene products
  - ▶ Effective January 1, 2023
  - ▶ The local 1% rate will continue to apply

## Regional and Local Sales & Use Tax Rates

- ▶ The base state sales tax rate is 4.3%
- ▶ Every locality has adopted a local 1% rate, for a combined state and local rate of 5.3%
- ▶ In addition, since 2013, the General Assembly has enacted several regional tax rates:
  - ▶ Additional 0.7% tax in Hampton Roads (2013), Northern Virginia (2013), and Central Virginia (2020) for transportation funding, for a total tax rate of 6%
  - ▶ Additional 1% tax in the Historic Triangle for regional tourism marketing (2018), for a total tax rate of 7%
  - ▶ Additional 1% tax for school construction in certain localities (2020-2021), for a total tax rate of 6.3%

## Taxation of Online Sales

- ▶ **1992:** *Quill Corp. v. North Dakota* barred a state from requiring an out-of-state mail-order company to collect use tax on goods sold to customers located within the state when the company has no physical presence in the state
- ▶ **2017:** Virginia law change required any dealer owning inventory for sale located in Virginia to register for collection of the Retail Sales and Use Tax
- ▶ **2018:** *South Dakota v. Wayfair* (2018) overturned *Quill* and held that physical presence is no longer required for a state to require a merchant to collect its tax
- ▶ **2019:** Virginia law change requires remote sellers and marketplace facilitators to collect and remit the Virginia sales tax if annual sales made or facilitated to Virginia customers exceed \$100,000 or 200 transactions (consistent with South Dakota thresholds approved in *Wayfair* decision)



Hampton Roads & Historic Triangle (6-7%)*	Northern Virginia Region (6%)	Central Virginia Region (6%)	Additional 1% School Construction (6.3%)	Statewide Rate (5.3%)
Chesapeake Franklin Hampton Isle of Wight Newport News Norfolk Poquoson Portsmouth Suffolk Virginia Beach	Alexandria Arlington Fairfax City Falls Church Loudoun Manassas Manassas Park Prince William	Charles City Co. Chesterfield Goochland Hanover Henrico New Kent Powhatan	Charlotte Danville Gloucester Halifax Henry Northampton Patrick	All other localities
Williamsburg* James City* York*				

\*Williamsburg, James City Co., and York Co. subject to additional 1% Historic Triangle tax rate

General Rate	
General Fund	2.025%
Local Option	1.0%
K-12 Education	1.375%
Transportation	0.9%
<b>Total</b>	<b>5.3%</b>

Hampton Roads/Northern Virginia/Central Virginia	
General Fund	2.025%
Local Option	1.0%
K-12 Education	1.375%
Transportation	0.9%
Regional Transportation	0.7%
<b>Total</b>	<b>6.0%</b>

Localities with Additional 1% Tax	
General Fund	2.025%
Local Option	1.0%
K-12 Education	1.375%
Transportation	0.9%
Add'l Local	1.0%
<b>Total</b>	<b>6.3%</b>

Historic Triangle	
General Fund	2.025%
Local Option	1.0%
K-12 Education	1.375%
Transportation	0.9%
Regional Transportation	0.7%
Historic Triangle	1.0%
<b>Total</b>	<b>7.0%</b>

# Appendix

# Comparison to Rates in Other States

STATE INDIVIDUAL INCOME TAXES												
(Tax rates for tax year 2022 -- as of January 1, 2022)												
	TAX RATE RANGE		Number of Brackets	INCOME BRACKETS		PERSONAL EXEMPTIONS			STANDARD DEDUCTION			
	Low	High		Lowest	Highest	Single	Married	Dependents	Single	Married		
ALABAMA	2.0	- 5.0	3	500 (b)	- 3,001 (b)	1,500	3,000	500 (e)	2,500 (y)	7,500 (y)		
ALASKA	No State Income Tax											
ARIZONA (a)	2.59	- 4.5	4	27,808 (b)	- 166,843 (b)	--	--	100 (c)	12,550	25,100		
ARKANSAS (a)	2.0	- 5.5 (f)	3	4,300	- 8,501	29 (c)	58 (c)	29 (c)	2,200	4,400		
CALIFORNIA (a)	1.0	12.3 (g)	9	9,325 (b)	- 625,369 (b)	129 (c)	258 (c)	400 (c)	4,803 (a)	9,606 (a)		
COLORADO	4.55		1	----Flat rate----		-- (d)	-- (d)	-- (d)	12,950 (d)	25,900 (d)		
CONNECTICUT	3.0	- 6.99	7	10,000 (b)	- 500,000 (b)	15,000 (h)	24,000 (h)	0	-- (h)	-- (h)		
DELAWARE	0.0	- 6.6	7	2,000	- 60,001	110 (c)	220 (c)	110 (c)	3,250	6,500		
FLORIDA	No State Income Tax											
GEORGIA	1.0	- 5.75	6	750 (i)	- 7,001 (i)	2,700	7,400	3,000	5,400	7,100		
HAWAII	1.4	- 11.0	12	2,400 (b)	- 200,000 (b)	1,144	2,288	1,144	2,200	4,400		
IDAHO (a)	1.125	- 6.5	5	1,568 (b)	- 7,939 (b)	-- (d)	-- (d)	-- (d)	12,950 (d)	25,900 (d)		
ILLINOIS (a)	4.95		1	----Flat rate----		2,375	4,750	2,375	--	--		
INDIANA	3.23		1	----Flat rate----		1,000	2,000	2,500 (j)	--	--		
IOWA (a)	0.33	- 8.53	9	1,743	- 78,435	40 (c)	80 (c)	40 (c)	2,210 (a)	5,450 (a)		
KANSAS	3.1	- 5.7	3	15,000 (b)	- 30,000 (b)	2,250	4,500	2,250	3,500	8,000		
KENTUCKY	5.0		1	----Flat rate----		-----None-----			2,770	2,770		
LOUISIANA	1.85	- 4.25	3	12,500 (b)	- 50,001 (b)	4,500 (k)	9,000 (k)	1,000	-- (k)	-- (k)		
MAINE (a)	5.8	- 7.15	3	23,000 (l)	- 54,450 (l)	4,450	8,900	4,450	12,950 (d)	25,900 (d)		
MARYLAND	2.0	- 5.75	8	1,000 (m)	- 250,000 (m)	3,200	6,400	3,200	2,350 (z)	4,700 (z)		
MASSACHUSETTS	5.0		1	----Flat rate----		4,400	8,800	1,000	--	--		
MICHIGAN (a)	4.25		1	----Flat rate----		4,900	9,800	4,900	--	--		
MINNESOTA (a)	5.35	- 9.85	4	28,080 (n)	- 171,221 (n)	-- (d)	-- (d)	4,350	12,950 (d)	25,900 (d)		
MISSISSIPPI	0.0	- 5.0	3	5,000	- 10,001	6,000	12,000	1,500	2,300	4,600		
MISSOURI (a)	1.5	- 5.3	9	1,121	- 8,968	-- (d)	-- (d)	-- (d)	12,950 (d)	25,900 (d)		

Source: Federation of Tax Administrators

# Comparison to Rates in Other States

STATE INDIVIDUAL INCOME TAXES												
(Tax rates for tax year 2022 -- as of January 1, 2022)												
	TAX RATE RANGE		Number of Brackets	INCOME BRACKETS		PERSONAL EXEMPTIONS			STANDARD DEDUCTION			
	Low	High		Lowest	Highest	Single	Married	Dependents	Single	Married		
MONTANA (a)	1.0	- 6.75	7	2,900	- 17,400	2,580	5,160	2,580	4,830	(z)	9,660	(z)
NEBRASKA (a)	2.46	- 6.84	4	3,340 (b)	- 32,210 (b)	142 (c)	284 (c)	142 (c)	7,100		14,200	
NEVADA	No State Income Tax											
NEW HAMPSHIRE	State Income Tax of 5% on Dividends and Interest Income Only											
NEW JERSEY	1.4	- 10.75	7	20,000 (p)	- \$1 million (p)	1,000	2,000	1,500	--		--	
NEW MEXICO	1.7	- 5.9	5	5,500 (q)	- 210,000 (q)	-- (d)	-- (d)	-- (d)	12,950 (d)		25,900 (d)	
NEW YORK (a)	4.0	- 10.9	9	8,500 (r)	- \$23 million (r)	0	0	1,000	8,000		16,050	
NORTH CAROLINA	4.99		1	----Flat rate----		-----None-----			10,750		21,500	
NORTH DAKOTA (a)	1.10	- 2.90	5	41,775 (s)	- 458,350 (s)	-- (d)	-- (d)	-- (d)	12,950 (d)		25,900 (d)	
OHIO (a)	0.0	3.99	6	25,000	- 110,650	1,900 (t)	3,800 (t)	1,900 (t)	--		--	
OKLAHOMA	0.25	- 4.75	6	1,000 (u)	- 7,200 (u)	1,000	2,000	1,000	6,350		12,700	
OREGON (a)	4.75	- 9.9	4	3,750 (b)	- 125,000 (b)	219 (c)	438 (c)	219 (c)	2,420		4,840	
PENNSYLVANIA	3.07		1	----Flat rate----		-----None-----			--		--	
RHODE ISLAND (a)	3.75	- 5.99	3	68,200	- 155,050	4,350	8,700	4,350	9,300 (y)		18,600 (y)	
SOUTH CAROLINA (a)	0.0	- 7.0	6	3,110	- 15,560	-- (d)	-- (d)	-- (d)	12,950 (d)		25,900 (d)	
SOUTH DAKOTA	No State Income Tax											
TENNESSEE	No State Income Tax											
TEXAS	No State Income Tax											
UTAH	4.95		1	----Flat rate----		--	--	--	(v)		(v)	
VERMONT (a)	3.35	- 8.75	4	42,150 (w)	- 213,150 (w)	4,350	8,700	4,350	6,350		12,700	
VIRGINIA	2.0	- 5.75	4	3,000	- 17,001	930	1,860	930	4,500		9,000	
WASHINGTON	No State Income Tax											
WEST VIRGINIA	3.0	- 6.5	5	10,000	- 60,000	2,000	4,000	2,000	--		--	
WISCONSIN (a)	3.54	- 7.65	4	12,760 (x)	- 280,950 (x)	700	1,400	700	11,790 (y)		21,820 (y)	
WYOMING	No State Income Tax											
DIST. OF COLUMBIA	4.0	- 9.75	6	10,000	- 1,000,000	-- (d)	-- (d)	-- (d)	12,950 (d)		25,900 (d)	

Source: Federation of Tax Administrators

# Comparison to Rates in Other States

RANGE OF STATE CORPORATE INCOME TAX RATES							
(For tax year 2022 -- as of January 1, 2022)							
STATE	TAX RATE	TAX BRACKETS		STATE	TAX RATE	TAX BRACKETS	
	(percent)	LOWEST	HIGHEST		(percent)	LOWEST	HIGHEST
ALABAMA	6.5	---Flat Rate---		NEBRASKA	5.58 - 7.5	100,000	
ALASKA	0 - 9.4	25,000	222,000	NEVADA	--	No corporate income tax	
ARIZONA	4.900	---Flat Rate---		NEW HAMPSHIRE	7.6	---Flat Rate---	
ARKANSAS	1.0 - 5.9	3,000	100,001	NEW JERSEY	9.0	---Flat Rate---	
CALIFORNIA	8.8	---Flat Rate---		NEW MEXICO	4.8 - 5.9	500,000	
COLORADO	4.55	---Flat Rate---		NEW YORK	6.5	---Flat Rate---	
CONNECTICUT	7.5	---Flat Rate---		NORTH CAROLINA	2.5	---Flat Rate---	
DELAWARE	8.7	---Flat Rate---		NORTH DAKOTA	1.41 - 4.31	25,000	50,001
FLORIDA	5.5	---Flat Rate---		OHIO	*		
GEORGIA	5.75	---Flat Rate---		OKLAHOMA	4.0	---Flat Rate---	
HAWAII	4.4 - 6.4	25,000	100,001	OREGON	6.6 - 7.6	1 million	
IDAHO	6.5	---Flat Rate---		PENNSYLVANIA	9.99	---Flat Rate---	
ILLINOIS	9.5	---Flat Rate---		RHODE ISLAND	7.0	---Flat Rate---	
INDIANA	4.9	---Flat Rate---		SOUTH CAROLINA	5.0	---Flat Rate---	
IOWA	5.5 - 9.8	100,000	250,001	SOUTH DAKOTA	--	No corporate income tax	
KANSAS	4.0	---Flat Rate---		TENNESSEE	6.5	---Flat Rate---	
KENTUCKY	5.0	---Flat Rate---		TEXAS	*		
LOUISIANA	3.5 - 7.5	50,000	150,000	UTAH	5.0	---Flat Rate---	
MAINE	3.5 - 8.93	350,000	3.5 Million	VERMONT	6.0 - 8.5	10,000	25,000
MARYLAND	8.25	---Flat Rate---		VIRGINIA	6.0	---Flat Rate---	
MASSACHUSETTS	8.0	---Flat Rate---		WASHINGTON	--	No corporate income tax	
MICHIGAN	6.0	---Flat Rate---		WEST VIRGINIA	6.5	---Flat Rate---	
MINNESOTA	9.8	---Flat Rate---		WISCONSIN	7.9	---Flat Rate---	
MISSISSIPPI	0 - 5.0	5,000	10,001	WYOMING	--	No corporate income tax	
MISSOURI	4.0	---Flat Rate---		DIST. OF COLUMBIA	8.3	---Flat Rate---	
MONTANA	6.75	---Flat Rate---					

Source: Federation of Tax Administrators

\* Ohio has a Commercial Activity Tax (CAT) and Texas has the Texas Margin Tax, both in lieu of a corporate income tax