LEGISLATIVE FISCAL OFFICE
Fiscal Note

Louisiana Legislative Fiscal Office Fiscal Notes

Fiscal Note On: **HB 628** HLS 17RS 47
Bill Text Version: **ORIGINAL**
Opp. Chamb. Action:
Proposed Amd.:
Sub. Bill For.:

Date: April 23, 2017 1:50 PM **Author:** JONES
Dept./Agy.: Revenue
Subject: Commercial Activities Tax **Analyst:** Greg Albrecht

TAX OR +$416,600,000 GF RV See Note
Imposes the Commercial Activity Tax

Proposed law imposes a tax on the Louisiana apportioned gross receipts of all business organizations in the state. For partnerships, single member limited liability companies, and S-corporations a flat dollar amount of tax is imposed, ranging from $250 to $12,500 associated with ranges of gross receipts; $150,000 - $500,000 to a top tier of $12 million or more. Most C-corporations pay the greater of their corporate income tax (after all credits) or a flat dollar dollar amount of tax, ranging from $250 to $750 associated with gross receipt ranges that top out at $1.5 million, and if over that level a tax of 0.35% of gross receipts. Manufacturing, wholesale & retail trade, and gaming C-corporations pay the greater of their corporate income tax (after all credits) or the lessor of two calculations; 0.35% of their gross receipts or 2.76% of their gross profits (gross receipts less costs of goods sold). Certain businesses are exempt from the tax entirely: sole proprietorships, banking, insurance, non-profits and various other associations, and governmental entities. Quarterly declaration payments of estimated tax are required, and the Secretary of Revenue may promulgate rules and regulations to implement the tax. Effective January 1, 2018.

EXPENDITURES	2017-18	2018-19	2019-20	2020-21	2021-22	5 -YEAR TOTAL
State Gen. Fd.	$823,000	$139,000	$139,000	$139,000	$139,000	**$1,379,000**
Agy. Self-Gen.	$0	$0	$0	$0	$0	**$0**
Ded./Other	$0	$0	$0	$0	$0	**$0**
Federal Funds	$0	$0	$0	$0	$0	**$0**
Local Funds	$0	$0	$0	$0	$0	**$0**
Annual Total	**$823,000**	**$139,000**	**$139,000**	**$139,000**	**$139,000**	**$1,379,000**

REVENUES	2017-18	2018-19	2019-20	2020-21	2021-22	5 -YEAR TOTAL
State Gen. Fd.	$50,000,000	$416,600,000	$416,600,000	$416,600,000	$416,600,000	**$1,716,400,000**
Agy. Self-Gen.	$0	$0	$0	$0	$0	**$0**
Ded./Other	$0	$0	$0	$0	$0	**$0**
Federal Funds	$0	$0	$0	$0	$0	**$0**
Local Funds	$0	$0	$0	$0	$0	**$0**
Annual Total	**$50,000,000**	**$416,600,000**	**$416,600,000**	**$416,600,000**	**$416,600,000**	**$1,716,400,000**

EXPENDITURE EXPLANATION

The implementation of a new tax with various new calculations will likely require significant administrative expense to design, program, and test the tax processing system. The Dept. of Revenue estimates $684,000 of such costs in the first year. In addition, the Dept. requests two additional tax specialist positions to administer the tax on an ongoing basis, with personnel costs of $139,416 per year. Given the large number of affected businesses and the complexity of the tax, it seems likely that additional personnel beyond this minimal level will likely be needed.

REVENUE EXPLANATION

The Dept. of Revenue combined 2015 tax year state corporate income tax returns with federal tax data on these firms and other business entities with instate addresses. This allowed the Dept. to do the calculations required by the bill across almost all affected business entities in the state (nearly 153,000 pass through entities and over 100,000 C-corporations). The total additional tax liability calculated to $416.6 million.

The gross receipts of each pass through entity determined the flat dollar tax each would have to pay ($250 - $12,500), which then determined the new tax liability of this group of firms; some $69.6 million as a group.

For C-corporations, each firms existing state income tax liability (after all credits) was compared to their flat dollar tax liability ($250 -$750) for firms with less than $1.5 million of gross receipts, or for larger gross receipts firms the income tax liability was compared to 0.35% of their gross receipts. This subset of C-corporations (nearly 83,000 firms) had $279.5 million of additional tax liability.

For C-corporations in the manufacturing, wholesale & retail trade, and gaming industries, each firms existing state income tax liability (after all credits) was compared to the lesser of 0.35% of their gross receipts of 2.76% of their gross profits (gross receipts less cost of goods sold). This subset of C-corporations (over 17,000 firms) had $67.5 million of additional tax liability.

Pass through entities without instate addresses, as well as business estates, trusts, and associations are not included in these computations, although tax liabilities will likely be due from some of these entities.

Given the January 1, 2018 effective date, quarterly declaration payments would be due in the first half of 2018 (within the second half of FY18) from any entities whose estimated tax is expected to be at least $1,000. The average share of the corporate income tax paid through declarations over the 2012-2015 period has been 53%. Applying that share to the C-corporation annual liability increase, and half that share (26%) to the pass through entity annual liability increase, and taking half of those amounts, results in a potential $100.7 million being paid within FY18. The tax then steps up toward full annual receipts in FY19 and beyond. While some additional tax receipts are likely in FY18, this is an entirely new tax and an expectation of any particular amount of receipts without any experience with the tax entails substantial risk. That risk is recognized by discounting the FY18 declaration expectation by one-half, to $50 million, still a substantial risk.

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[x] 13.5.1 >= $100,000 Annual Fiscal Cost {S&H}
[x] 13.5.2 >= $500,000 Annual Tax or Fee Change {S&H}
[x] 6.8(F)(1) >= $100,000 SGF Fiscal Cost {H & S}
[ ] 6.8(G) >= $500,000 Tax or Fee Increase or a Net Fee Decrease {S}

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