LEGISLATIVE FISCAL OFFICE
Fiscal Note

Louisiana Legislative Fiscal Office — Fiscal Notes

Fiscal Note On: **SB 161** SLS 21RS 145

Bill Text Version: **ENGROSSED**

Opp. Chamb. Action: **w/ CONF COMM AMD**

Proposed Amd.:

Sub. Bill For.:

Date: June 9, 2021 4:07 PM

Author: ALLAIN

Dept./Agy.: Revenue

Subject: Corporate Franchise Tax

Analyst: Greg Albrecht

TAX/FRANCHISE/CORPORATE EGC -$55,900,000 GF RV See Note

Extends the termination date of the exemption from corporate franchise tax for small business corporations. (gov sig)

Present law levies a franchise tax at the rate of $1.50 per $1,000 on the first $300,000 of taxable capital, and $3.00 per $1,000 on taxable capital in excess of $300,000. The tax is due on the first day of a taxpayers normal accounting period (calendar or fiscal), and payable in the fifth month after the tax is due. The first tier of the tax, for firms subject to the tax that have up to $1,000,000 of taxable capital, is suspended through June 20, 2021. Proposed law (CCR 3575) eliminates the first tier of taxation entirely ($1.50 per $1,000 on the first $300,000 of taxable capital), and reduces the second tier to $2.75 per $1,000 on taxable capital in excess of $300,000. Applicable to tax years beginning on or after January 1, 2023. The current law suspension of the bottom tier of tax continues for tax year 2022.
Proposed law also provides further tax rate reductions through a procedure that reduces the rates by the percent that corporate income and franchise tax collections exceed those of FY19 that have been adjusted annually by the expenditure limit growth rate. Other conditions are required to be met, and this process begins April 2024, potentially first affecting FY25 collections, and repeats annually.
Contingent upon adoption of constitutional amendments contained in SB159 is adopted at the election of October 9, 2021, as well as enactment of statutory companions HB278 and HB292 of this session.

EXPENDITURES	2021-22	2022-23	2023-24	2024-25	2025-26	5 -YEAR TOTAL
State Gen. Fd.	$0	$0	$0	$0	$0	**$0**
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	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**

REVENUES	2021-22	2022-23	2023-24	2024-25	2025-26	5 -YEAR TOTAL
State Gen. Fd.	($7,500,000)	($25,200,000)	($50,300,000)	($55,900,000)	($55,900,000)	**($194,800,000)**
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	**($7,500,000)**	**($25,200,000)**	**($50,300,000)**	**($55,900,000)**	**($55,900,000)**	**($194,800,000)**

EXPENDITURE EXPLANATION

The Department will incur costs of IT staff time to expedite the modification of the tax processing system to implement the tax reduction in the bill. Additional costs will be incurred in later years if further tax rate reductions are triggered.

REVENUE EXPLANATION

The Department of Revenue estimated the effect of the proposed law provisions based on 2018 corporate franchise tax year returns, compared to the current law rate and tax base structure, resulting in an aggregate tax year franchise tax liability reduction of $55.9 million.

The fiscal year receipts effect of this liability change is complicated by the fact that in any particular fiscal year returns are filed for a number of prior tax years. Based on the filing pattern of the 2018 tax year returns, within a fiscal year, 45% of the corporate franchise tax returns for a particular tax year (2023 in this case) will be filed within the immediate fiscal year, 50% within the second fiscal year (2024), and 5% within the third fiscal year (2025).

Incorporating these factors, results in a first fiscal year (FY23) revenue decrease of $25.2M ($55.9M x 45%). The second fiscal year (FY24) decrease will include a 50% filing factor applied to the first year's liability decrease plus the second year's liability decrease and a 45% filing factor, resulting in a $50.3M loss ($55.9M x 95%). The third fiscal year (FY24) decrease will include a 5% filing factor applied to the first year's liability decrease plus a 50% filing factor applied to the second year's liability decrease plus the third year's liability decrease with a 45% filing factor, resulting in a $55.9M revenue loss ($55.9M x 100%). This pattern accumulates the tax year liability decreases realized in fiscal years over a three year period until the full amount of corporate income tax liability change is reflected in fiscal year revenue collections each year (FY24 - FY26).

In addition, the bill continues the current law suspension of the bottom tier of tax until the new provisions of this bill take effect. This is reflected in the FY22 revenue loss in the table above.

The rate-reduction in this bill is contingent upon the constitutional amendment in SB 159, and statutory companions that also broaden the individual and corporate income tax bases, and reduce the individual and corporate income tax rates (HB 292). From the aggregate state fiscal perspective, the individual income tax changes (HB 278) are closely revenue neutral. The combined corporate tax impact of this bill HB 292 (corporate income tax) and (SB 161, franchise tax) is also closely revenue neutral in FY22 -$2.2M and FY23 +$1.1M, and then becomes a net revenue decrease in each subsequent year; FY24 -$21.1M, FY25 -$26.7M, FY26 and beyond -$26.7M. Over the five-year fiscal note horizon, the two bills result in a $75.6M revenue decrease.

Senate — Dual Referral Rules

- [ ] 13.5.1 >= $100,000 Annual Fiscal Cost {S & H}
- [x] 13.5.2 >= $500,000 Annual Tax or Fee Change {S & H}

House

- [ ] 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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CONTINUED EXPLANATION from page one:

The bill also provides further tax rate reductions through a procedure (starting in April 2024 and repeated each) that reduces the rates by the percent that actual corporate income & franchise tax receipts in the prior completed fiscal year have exceeded FY19 growth-adjusted receipts. Rate reductions occur if (a) corporate income & franchise tax receipts and total REC-based tax revenues in the prior completed fiscal year exceed FY19 growth-adjusted revenues of corporate income & franchise tax receipts and total REC-based tax revenues, respectively and, (b) the Budget Stabilization Fund balance is at least 2.5% of total state revenue receipts of the prior fiscal year. Growth adjustment is based on the expenditure limit growth factor, and assures that estimated revenue base growth accrues to the state fisc, while revenue growth in excess of that is channeled into corporate franchise tax reductions. If rate reductions are triggered, reductions will be implemented with the ensuing tax year after the February calculations.

Senate — Dual Referral Rules

- [ ] 13.5.1 >= $100,000 Annual Fiscal Cost {S & H}
- [x] 13.5.2 >= $500,000 Annual Tax or Fee Change {S & H}

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