SB 978

Department of Legislative Services

Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

Senate Bill 978 (Senator Pipkin)
Budget and Taxation

Corporate Income Tax - Foreign and Domestic Corporations - Capital Investments

This bill reduces, from 8.25% to 4.125%, the corporate income tax rate for three years for certain qualified foreign and domestic corporations. The Comptroller's Office is required to adopt regulations to implement the bill.

The bill takes effect July 1, 2013, and applies to tax year 2013 and beyond.

Fiscal Summary

State Effect: Significant decrease in general fund revenues, Transportation Trust Fund (TTF) revenues, and Higher Education Investment Fund (HEIF) revenues beginning in FY 2014 as a result of reducing the corporate income tax rate for qualifying corporations. General fund expenditures increase annually beginning in FY 2014 due to administrative costs at the Comptroller's Office.

Local Effect: Significant decrease in local highway user revenues beginning in FY 2014. Expenditures are not affected.

Small Business Effect: Minimal. While many small businesses are pass-through entities or corporations with no tax liability, small businesses that qualify for the tax rate reduction in the State will benefit.

Analysis

Bill Summary: To qualify for a corporate tax rate of 4.125%, a foreign or domestic corporation must:

- open a branch office in a county with no more than 200,000 individuals;
- make a minimum private investment of at least $250,000 in the branch office or $250,000 of improvements on the property where the branch office is located; and
- generate a minimum of five full-time equivalent filled positions in a 12-month period or reduce the commuting distance to less than 10 miles for at least five full-time equivalent employees.

After the first three taxable years, the corporate income tax rate for qualifying corporations is 8.25%. The State income tax benefit realized by a corporation may not exceed the amount of the capital investment made in the branch office. The corporation must provide the Comptroller's Office evidence of the qualifying capital investment with the corporation's income tax return.

Current Law: A corporate income tax rate of 8.25% is applied to a corporation's Maryland taxable income. In general, the Maryland corporate income tax is computed using federal provisions to determine income and deductions.

Every Maryland corporation and every corporation that conducts business within Maryland, including public service companies and financial institutions, are required to pay the corporate income tax. The tax base is the portion of federal taxable income, as determined for federal income tax purposes and adjusted for certain Maryland addition and subtraction modifications, that is allocable to Maryland. Federal taxable income for this purpose is the difference between total federal income and total federal deductions (including any special deductions). The next step is to calculate a corporation's Maryland taxable income. The Maryland taxable income of a corporation that operates wholly within the State is equal to its Maryland modified income. Corporations engaged in multistate operations are required to determine the portion of their modified income attributable to Maryland, based on the amount of their trade or business carried out in Maryland. Corporations are generally required to use either a three-factor apportionment formula of payroll, property, and sales, with sales double weighted or, in the case of a manufacturing corporation, a single sales factor formula. The apportionment factor is then multiplied by the corporation's modified income to determine Maryland taxable income. The Maryland tax liability of a corporation equals the Maryland taxable income multiplied by the tax rate, less any tax credits.

Chapter 3 of the 2007 special session (SB 2) increased the corporate income tax rate from 7.00% to 8.25%. Chapter 3 also created HEIF and distributed a portion of corporate income tax revenues to that fund. Net corporate income tax revenues are projected to total $1.1 billion in fiscal 2014. Of this amount, $844.7 million is general fund revenues, $180.5 million is TTF revenues, and $65.4 million is HEIF revenues.

Background: **Exhibit 1** shows the State population by county. Sixteen counties have a population of fewer than 200,000 individuals.

Exhibit 1
Population by County
July 2011

County	Population
Allegany	74,692
Anne Arundel	544,403
Baltimore City	619,493
Baltimore	809,941
Calvert	89,256
Caroline	32,985
Carroll	167,288
Cecil	101,694
Charles	149,130
Dorchester	32,640
Frederick	236,745
Garrett	30,051
Harford	246,489
Howard	293,142
Kent	20,204
Montgomery	989,794
Prince George's	871,233
Queen Anne's	48,354
St. Mary's	107,484
Somerset	26,339
Talbot	38,025
Washington	148,203
Wicomico	99,190
Worcester	51,514
Total	**5,828,289**

State Revenues: Beginning in tax year 2013, the bill reduces the corporate income tax rate from 8.25% to 4.125% for three years for qualified corporations. The actual decrease in State revenues beginning in fiscal 2014 cannot be reliably estimated and depends on the number of companies qualifying for the rate reduction. *For illustrative purposes only*, assuming that 20% of companies qualify for the rate reduction in tax year

2013, general fund revenues would decrease by $108.2 million, TTF revenues would decrease by $23.1 million, and HEIF revenues would decrease by $8.4 million in fiscal 2014.

This estimate is based on the current Board of Revenue Estimates corporate income tax forecast, adjusted for the estimated correlation between tax year and fiscal year revenues. To the extent that corporations adjust estimated payments before July 1, 2013, some revenue loss would occur in fiscal 2013. In addition, to the extent that fewer corporations or additional corporations qualify for the rate reduction, revenues in fiscal 2014 and future years will be affected accordingly.

State Expenditures: The Comptroller's Office reports that it will incur additional expenditures annually beginning in fiscal 2014 as a result of having to manually check the tax rate and make adjustments for qualifying corporations. The actual expense will depend on the number of qualifying corporations.

Local Revenues: Local governments receive a portion of corporate income tax revenues to support the construction and maintenance of local roads and other transportation facilities. *For illustrative purposes only*, using the example cited above, local highway user revenues would decrease by $2.2 million in fiscal 2014.

Additional Information

Prior Introductions: A similar bill, SB 14 of the 2012 second special session, was introduced in the Senate Rules Committee, but no further action was taken. Its cross file, HB 18, was introduced in the House Rules and Executive Nominations Committee, but no further action was taken.

Cross File: None.

Information Source(s): Comptroller's Office, Department of Legislative Services

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