

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** PCB FTC 15-01 Corporate Income Tax

**SPONSOR(S):** Finance & Tax Committee

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 7014

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Finance & Tax Committee	16 Y, 0 N	Dugan	Langston

### SUMMARY ANALYSIS

Florida imposes a 5.5 percent tax on the taxable income of corporations doing business in Florida. The starting point for calculating taxable income for Florida tax purposes is taxable income used for federal income tax purposes. This linkage to the federal Internal Revenue Code requires annual updates to Florida's tax code if the administrative and bookkeeping benefits of "piggybacking" on the federal system are to be retained.

In December 2014, the federal government passed an act that affected the Internal Revenue Code - the Tax Increase Prevention Act of 2014. This act grants accelerated deductions for expensing and depreciation of capital assets put into service during 2014. Because of the linkage between Florida's tax code and the federal code, adoption of these changes by Florida would result in an estimated \$180 million reduction in General Revenue in Fiscal Year 2015-2016.

The bill updates Florida's tax code by adopting the Internal Revenue Code as in effect on January 1, 2015. However, similar to acts in 2009, 2011, and 2013, the bill does not allow taxpayers, for Florida tax purposes only, to utilize the accelerated deductions allowed for federal tax purposes. Instead, the bill requires taxpayers to spread over a seven year period the amount of the accelerated deductions provided by the federal law changes.

The bill authorizes the Department of Revenue to adopt emergency rules to implement the bill.

On January 28, 2015, the Revenue Estimating Conference established that the bill has an indeterminate General Revenue impact because of uncertainty as to the mix of affected assets owned by Florida taxpayers.

The bill is effective upon becoming law and applies retroactively to January 1, 2015.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Current Situation

Florida imposes a 5.5 percent tax on the taxable income of corporations and financial institutions doing business in Florida. The determination of taxable income for Florida tax purposes begins with the taxable income determined for federal income tax purposes. This means that a corporation paying taxes in Florida receives the same treatment in Florida as is allowed in determining its federal taxable income.

Florida maintains its relationship with the federal Internal Revenue Code by each year adopting the federal Internal Revenue Code as it exists on January 1 of the year. By doing this, Florida adopts any changes that were made in the previous year to the determination of federal taxable income.

On December 19, 2014, the federal government passed the Tax Increase Prevention Act of 2014,<sup>1</sup> which contains several significant amendments to the Internal Revenue Code.

Generally, the Internal Revenue Code allows a taxpayer to deduct the cost of capital assets by deducting a portion of the cost over the useful life of the property (depreciation).<sup>2</sup> Additionally, the Internal Revenue Code allows a taxpayer to treat a certain amount of the cost of capital assets as a business expense that can be taken entirely in the year of purchase (expensing);<sup>3</sup> prior to the Tax Increase Prevention Act of 2014, the amount that could be expensed was limited to \$25,000.

Similar to other federal legislation during the past several years,<sup>4</sup> the Tax Increase Prevention Act of 2014 grants an accelerated depreciation deduction (bonus depreciation) and increases the expensing limitation. The Tax Prevention Act of 2014 grants a first-year bonus depreciation amount of 50 percent of the cost of the property placed in service during 2014, and increases the expensing limitation from \$25,000 to \$500,000 for taxable years beginning in 2014.

#### Effect of Proposed Changes

The bill updates the Florida tax code to reflect changes in the federal Internal Revenue Code enacted by Congress. However, in order to mitigate the Fiscal Year 2015-2016 impact of the accelerated federal deductions on Florida, the bill requires taxpayers to spread the effect of these deductions over seven taxable years. The bill accomplishes this by requiring taxpayers to “add-back” the bonus depreciation deduction and the amount of the increased expensing deduction above \$128,000. The taxpayer is then permitted to subtract from income one-seventh (1/7) of these deductions for the current taxable year and the following six taxable years. This mechanism was used to address the impacts of similar federal legislation in 2009, 2011, and 2013.<sup>5</sup>

The bill grants the Department of Revenue emergency rulemaking authority to implement the provisions of the bill.

### B. SECTION DIRECTORY:

Section 1. Amends s. 220.03(1)(n) and (2)(c), F.S., to adopt the 2015 version of the Internal Revenue Code.

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<sup>1</sup> Pub. Law No. 113-295, H.R. 5771, 113th Cong. (December 19, 2014).

<sup>2</sup> See generally 26 U.S.C. §§ 167 and 168.

<sup>3</sup> See generally 26 U.S.C. § 179.

<sup>4</sup> The Economic Stimulus Act of 2008, the American Recovery and Reinvestment Act of 2009, the Small Business Jobs Act of 2010, the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, and the American Taxpayer Relief Act of 2012.

<sup>5</sup> Ch. 2009-132, 2011-229 and 2013-40, Laws of Fla.

- Section 2. Amends s. 220.13(1)(e), F.S., to incorporate references to the federal Tax Increase Prevention Act of 2014.
- Section 3. Provides emergency rulemaking authority to the Department of Revenue to implement the provisions of this bill.
- Section 4. Reenacts s. 1009.97(3)(l), F.S., to incorporate the amendment made by this act to s. 220.03, F.S.
- Section 5. Provides an effective date of upon becoming law and provides retroactive applicability to January 1, 2015.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

On January 28, 2015, the Revenue Estimating Conference established that the bill has an annual impact on General Revenue that is indeterminate in direction and magnitude because of uncertainty as to the mix of affected assets owned by Florida taxpayers.

#### 2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

#### 2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

By adopting recent changes to the Internal Revenue Code, Florida provides ease of administration for Florida corporate taxpayers. The bill allows a taxpayer to take advantage of the deductions for federal tax purposes, but places the taxpayer in a similar position for Florida tax purposes as the taxpayer would have been had it not taken advantage of the federal provisions.

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

#### 1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

#### 2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

The bill grants the Department of Revenue emergency rulemaking authority to implement the provisions of the bill.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

None.