

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

Legislative Fiscal Note

BILL NUMBER: Senate Bill 363 (First Edition)

SHORT TITLE: Business Tax Reduction and Reforms.

SPONSOR(S): Senator Brock

FISCAL IMPACT (\$ in millions)					
State Impact	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
General Fund Revenues:					
Eliminate State Privilege Taxes	0.0	(27.3)	(35.8)	(37.2)	(38.7)
Replace Business Franchise Tax with Business Privilege Tax	0.0	51.0	53.6	56.3	59.1
Reduce Annual Report Fees for Unincorporated Entities with Limited Liability	0.0	(27.0)	(28.1)	(29.2)	(30.4)
STATE IMPACT	\$0.0	(\$3.3)	(\$10.3)	(\$10.1)	(\$10.0)
Local Revenues:					
Eliminate Local Franchise Authority on Businesses		(75.0)	(75.0)	(77.0)	(79.0)
LOCAL IMPACT	\$0.0	(\$75.0)	(\$75.0)	(\$77.0)	(\$79.0)
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Revenue					
EFFECTIVE DATE: Various effective dates apply. See bill for details.					
TECHNICAL CONSIDERATIONS: None					

BILL SUMMARY:

Repeal State and Local Privilege Taxes:

Under current law, North Carolina levies privilege taxes on attorneys and other professionals, banks, loan agencies, and installment paper dealers. Additionally, local governments are authorized to levy certain local privilege license taxes. The bill would eliminate State privilege taxes on those businesses, and eliminate the general authority of local governments to levy privilege license taxes.

Repeal Franchise Tax and Replace It with a Business Privilege Tax Applicable to All Businesses with Limited Liability:

Under current law, a business franchise tax is levied on C and S corporations at the rate of \$1.50 per \$1,000 of the largest value of three alternate bases, with a minimum tax of \$35. The three bases are:

1. The amount of the capital stock, surplus, and undivided profits (net worth base) apportionable to the State
2. The book value of real and tangible personal property
3. 55% of the appraised value of property in the State subject to local taxation

The bill would replace the present business franchise tax with a new business privilege tax. The business privilege tax is a simplified version of the business franchise tax that eliminates bases 2 and 3 from the calculation of the tax, and makes adjustments to base 1 to better align with accounting records maintained by businesses based on Generally Accepted Accounting Principles. Additionally, all businesses with limited liability are subject to the tax instead of just corporations. The tax rate for the business privilege tax is \$1.35 per \$1,000. However, the tax liability for businesses other than corporations cannot be greater than \$5,000. The minimum business privilege tax is \$500.

Reduce Annual Report Filing Fees for Unincorporated Businesses with Limited Liability to Equal Report Filing Fees for Corporations

Under current law, businesses with limited liability protection are required to file an annual report with the Secretary of State and pay a filing fee. For corporations, the filing fee is \$25 if a paper report is filed or \$18 if an electronic return is filed. For Limited Liability Companies (LLCs) and business types other than corporations, the fee is \$200. The fee is in lieu of the business franchise tax. The bill would make the annual report fee for these businesses the same as it is for corporations.

ASSUMPTIONS AND METHODOLOGY:

Eliminate State and Local Privilege Taxes:

The fiscal impact is based on the amount collected from these taxes compiled by the Department of Revenue.

Repeal Franchise Tax And Replace It With A Business Privilege Tax Applicable to All Businesses With Limited Liability:

The fiscal impact is based on tax return data from the current business franchise tax on corporations. First, Fiscal Research analyzed the differences between the calculation of the business franchise tax and the calculation of the proposed business privilege tax. Next, Fiscal Research used the franchise tax data to estimate what corporations would have paid under the business privilege tax by making adjustments to the franchise tax data based on the differences in

the calculation of the two taxes. To estimate the impact of the business privilege tax on unincorporated entities such as LLCs and Limited Liability Partnerships (LLPs) that are not subject to the franchise tax, Fiscal Research estimated the number of new taxpayers based on data obtained from the Secretary of State. Next, Fiscal Research reviewed IRS Statistics on Income to calculate a ratio comparing the size of LLCs and other unincorporated entity types to S corporations based on total assets. This factor was applied to the business privilege tax liability per S corporation and multiplied by the estimated number of new taxpayers.

Reduce Annual Report Filing Fees for Unincorporated Businesses

The fiscal impact is based on data obtained from the Secretary of State regarding current annual report fees collected from unincorporated businesses. These collections were adjusted proportionally based on the proposed reduction in the annual report filing fee to calculate the fiscal impact.

SOURCES OF DATA: NC Department of Revenue, NC Secretary of State, Internal Revenue Service

TECHNICAL CONSIDERATIONS: None

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