

Fiscal Estimate Narratives

DOR 1/6/2022

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|--|-----------|---------------------|--------|---------------|----------|
| LRB Number | 21-5420/1 | Introduction Number | SB-794 | Estimate Type | Original |
| Description pass-through entity audits | | | | | |

Assumptions Used in Arriving at Fiscal Estimate

The bill makes various changes related to conducting tax audits of pass-through entities such as partnerships, limited liability companies, and tax-option corporations. Under the bill, the Department of Revenue may do all of the following with regard to an audit of a pass-through entity:

1. Assess and collect additional tax from a pass-through entity on income otherwise reportable by its pass-through members. Under the bill, a "pass-through member" is, generally, a partner in a partnership, member of a limited liability company, shareholder in a tax-option corporation, a beneficiary of an estate or a trust, or any other person who derives a tax benefit from a pass-through entity.
2. Direct the secretary of the Department of Administration to refund to a pass-through entity that part of an overpayment paid by the pass-through entity and not by the entity's pass-through members.
3. Assess an adjustment to reduce a tax credit to a pass-through entity if the pass-through entity previously computed the credit and reported the credit to its pass-through members.
4. Assess an adjustment to increase a tax credit to offset additional tax assessed to a pass-through entity.
5. Assess any pass-through member of a pass-through entity for additional tax otherwise owed by one or more of the pass-through members.

Fiscal Effect

The bill will result in an unknown change in revenue that varies from year to year.

There is a potential for revenue increases when tax is assessed at 7.65% at the entity level, and the member's marginal tax rate is less than 7.65%; or when a partnership is assessed at 7.9%, but its partners are S corps or partnerships that pass through the income to individuals, trusts, or estates that are taxed at a rate of 7.65% or less.

The bill allows for pass through entities with fewer than 25 members to opt of the entity level assessment. According to tax year 2018 returns, 96% of partnerships and virtually all S-corps have fewer than 25 members and may opt out. The fiscal effect will vary to the extent that partnerships and S-corps, that do not or are unable to opt out are subject to audit, and to the extent that those audits yield assessments where the pass-through entity owes more tax.

While large assessments are possible in any given year, over time any increase in revenue will not be significant.

Long-Range Fiscal Implications

Fiscal Estimate Worksheet - 2021 Session

Detailed Estimate of Annual Fiscal Effect

Original
 Updated
 Corrected
 Supplemental

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| LRB Number 21-5420/1 | Introduction Number SB-794 | |
| Description pass-through entity audits | | |
| I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect): | | |
| II. Annualized Costs: | | |
| | Annualized Fiscal Impact on funds from: | |
| | Increased Costs | Decreased Costs |
| A. State Costs by Category | | |
| State Operations - Salaries and Fringes | \$ | \$ |
| (FTE Position Changes) | | |
| State Operations - Other Costs | | |
| Local Assistance | | |
| Aids to Individuals or Organizations | | |
| TOTAL State Costs by Category | \$ | \$ |
| B. State Costs by Source of Funds | | |
| GPR | | |
| FED | | |
| PRO/PRS | | |
| SEG/SEG-S | | |
| III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.) | | |
| | Increased Rev | Decreased Rev |
| GPR Taxes | \$ | \$ |
| GPR Earned | | |
| FED | | |
| PRO/PRS | | |
| SEG/SEG-S | | |
| TOTAL State Revenues | \$ | \$ |
| NET ANNUALIZED FISCAL IMPACT | | |
| | State | Local |
| NET CHANGE IN COSTS | \$ | \$ |
| NET CHANGE IN REVENUE | \$See Text | \$ |
| Agency/Prepared By | | |
| Authorized Signature | | Date |
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| | | 1/6/2022 |