TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE

FISCAL NOTE

HB 1893 – SB 2103

February 12, 2024

SUMMARY OF BILL: Repeals the franchise tax minimum measure based on property owned in the state. Requires the commissioner of Revenue to issue refunds to taxpayers in an amount of tax actually paid minus the amount of tax otherwise due in the absence of the minimum tax based on property ownership. Requires refunds to be claimed within three years from December 31 of the year in which the payment was made. Requires refunds to be paid from a fund established by the Department of Finance and Administration and any remaining funds to revert to the General Fund upon the determination that the fund is no longer necessary.

FISCAL IMPACT:

Increase State Revenue – $1,561,577,600/FY24-25/Franchise Tax Refund Fund

Decree State Revenue –
$393,400,000/FY24-25/General Fund
$405,200,000/FY25-26 and Subsequent Years/General Fund

Increase State Expenditures – $1,561,577,600/FY24-25/General Fund

Other Fiscal Impact – Should taxpayers amend estimated tax payments as a result of the proposed legislation in FY23-24, decreases in state franchise tax revenue will be realized prior to FY24-25. The amount of any decrease is dependent on multiple unknown factors and cannot be reasonably determined.

An amount of up to $1,561,577,600 will be expended from the Franchise Tax Refund Fund beginning in FY24-25 and ending in FY27-28.

The Governor's FY24-25 proposed budget includes a one-time appropriation of $1,200,000,000 in FY23-24 and recognizes a decrease in recurring revenue of $410,000,000, beginning in FY24-25.

Assumptions:

- Under the current *Franchise Tax Law*, businesses are taxed at a rate of 0.25 percent times a base of net worth or real tangible property in Tennessee, whichever is greater, with a minimum tax of $100.

- The proposed legislation will eliminate the use of real tangible property in Tennessee as a base for tax calculations, and therefore require all franchise taxes to be calculated using net worth as the base.
- This elimination will result in an increase in state expenditures pursuant to the requirements of the legislation to issue refunds to taxpayers for any payments made on or after January 1, 2021, as well as a recurring decrease in franchise tax collections.
- The Fiscal Review Committee (FRC) staff does not have access to individual taxpayer information utilized in the calculations of the impacts on franchise tax revenue. Therefore, the FRC staff cannot independently verify their accuracy.
- Based on information provided by the Department of Revenue (DOR), the total sum of refunds eligible to be claimed is estimated to be $1,561,577,626.
- Such refunds may be claimed up to three years after December 31st of the year a payment was made; therefore, refund claims can be made until December 31, 2027. An amount of $1,561,577,626 will be allocated from the General Fund to the newly created Franchise Tax Refund Fund in FY24-25. Such funds will be expended beginning in FY24-25 and ending in FY27-28.
- There will be a recurring decrease in franchise tax collections due to the elimination of the requirement that businesses be taxed on the value of real tangible property when it is greater than net worth. This decrease may begin in FY23-24; however, the precise amount and timing of any decrease in state revenue in FY23-24 is unknown due to multiple factors, including the timing of this legislation becoming law and how taxpayers adjust their estimated payments.
- Based on information provided by DOR, the decrease in state revenue in FY24-25 is estimated to be $393,400,000. The recurring decrease in state tax revenue in FY25-26 and subsequent years is estimated to be $405,200,000.
- DOR is currently developing a process to automate refund claims. Any additional workload created by this refund process will be handled within existing departmental resources without a significant increase in state expenditures.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

Krista Lee Carsner

Krista Lee Carsner, Executive Director

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