

LEGISLATIVE FISCAL OFFICE
Fiscal Note



Fiscal Note On: **HB 604** HLS 19RS 1189
 Bill Text Version: **ENGROSSED**
 Opp. Chamb. Action:
 Proposed Amd.:
 Sub. Bill For.:

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Dept./Agy.: Revenue		Analyst: Greg Albrecht
Subject: Corporate Income Tax		

TAX/INCOME TAX EG SEE FISC NOTE GF RV See Note Page 1 of 1
 Provides relative to state income taxation of Subchapter S corporations and other flow through entities

For federal purposes, income, losses, and taxes of an S-Corp is passed down to its shareholders. Current LA law does not recognize S-Corps, requiring them to file as a C-Corp for LA income tax purposes. LA does provide for an S-Corp exclusion where the S-Corp can exclude the income/loss that is passed down and taxed at the shareholder's level. Current LA law requires the S-Corp, if not electing the exclusion, to pay income tax at the corporate rates of 4%, 5%, 6%, 7% and 8% on all taxable income in excess of \$200,000. Entities taxed as a partnership for federal tax purposes are also taxed as such for LA tax purposes. For these entities, all of their income/losses and tax responsibility is passed down to the partners or members. Proposed law would allow these entities to elect to be taxed for LA purposes as if they filed a C-corp return at the federal level, and pay state tax at the entity level as opposed to the shareholder/partner level. They would be allowed a federal income tax deduction equal to the federal income tax they would have paid on their LA net income if they had filed a C-corp return at the federal level. The state tax rates these entities would be subject to are set at the rates tax of individuals filing married jointly: 2% on the first \$25,000, 4% on the next \$75,000, and 6% on income above \$100,000. Effective for tax periods beginning on and after January 1, 2019.

EXPENDITURES	2019-20	2020-21	2021-22	2022-23	2023-24	5 -YEAR TOTAL
State Gen. Fd.	\$0	\$0	\$0	\$0	\$0	\$0
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	\$0
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	\$0
Annual Total	\$0	\$0	\$0	\$0	\$0	\$0

REVENUES	2019-20	2020-21	2021-22	2022-23	2023-24	5 -YEAR TOTAL
State Gen. Fd.	SEE BELOW					
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	\$0
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	\$0
Annual Total						

EXPENDITURE EXPLANATION

Tax system changes will have to be made and these changes are typically estimated as several thousands of dollars of staff time for design, modification, and testing (estimated at \$26,000 per year in this case).

REVENUE EXPLANATION

According to committee testimony, the goal of the bill is to aid S-corp shareholders work around the limitation on state & local tax deduction included in the federal tax law changes enacted in late 2017. Eligible entities that make the election provided for by the bill, would have income currently taxed at the individual level taxed at the entity level by the state, but subject to the rates tax of individuals filing married jointly: 2% on the first \$25,000, 4% on the next \$75,000, and 6% on income above \$100,000, rather than the rates of tax of corporations.

These tax dollars would be collected as state corporate income tax. There would be an offsetting reduction in state individual income tax receipts, as income is shifted from taxation at the individual/shareholder level to the entity/corporate level. The Dept. of Revenue indicates that while it does not capture the return data necessary to fully estimate the impact of the bill, it expects the bill to result in an increase in state tax liabilities and collections, as it expects more of this income to fall into a higher bracket than it does currently.

However, the Dept. indicates that its analysis is based on effective tax rates (average rates). From a marginal rate perspective, much income could be shifting from the 7% and 8% top corporate rates to the 6% top individual rates. Thus, state tax receipts could be negatively effected. In addition, since the bill is providing an election option, it would seem that eligible entities and their shareholders would attempt to minimize tax burdens. Thus, it may occur that only entities with combined entity/shareholder tax situations that result in lower overall state tax burdens exercise the election option of the bill. Under that scenario overall state tax liabilities and receipts can be expected to decline.

It is possible, though, that the entities/shareholders seek to minimize the combined state and federal tax burden, and the predominate situation may be an increase in state taxes while federal taxes are decreased by a greater amount (federal rates are considerably higher than state rates). Thus, the effect on aggregate state tax receipts is uncertain.

Senate Dual Referral Rules
 13.5.1 >= \$100,000 Annual Fiscal Cost {S & H}
 13.5.2 >= \$500,000 Annual Tax or Fee Change {S & H}

House
 6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S}
 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S}

John D. Carpenter
Legislative Fiscal Officer