

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

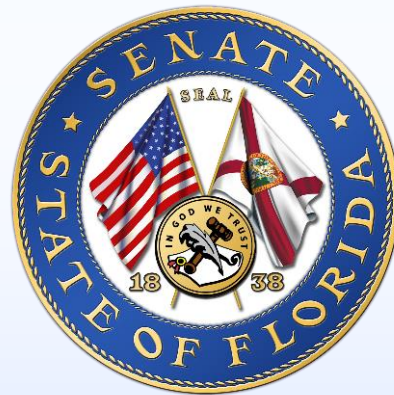
FINANCE AND TAX
Senator Gainer, Chair
Senator Gruters, Vice Chair

MEETING DATE: Wednesday, March 6, 2019
TIME: 4:15—6:00 p.m.
PLACE: James E. "Jim" King, Jr. Committee Room, 401 Senate Building

MEMBERS: Senator Gainer, Chair; Senator Gruters, Vice Chair; Senators Baxley, Bracy, Bradley, Pizzo, Powell, and Stargel

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	Presentation on Florida's Corporate Income Tax and Federal Tax Reform		Presented
2	Presentation on Department of Revenue's Report: Examination of the Impact of the Tax Cuts and Jobs Act of 2017		Presented
Other Related Meeting Documents			

The Tax Cuts and Jobs Act and Florida's Corporate Income Tax



Committee on Finance and Tax
March 06, 2019

Effect of Tax Cuts and Jobs Act on Florida – Overview

- The Tax Cuts and Jobs Act expanded Florida’s Corporate Income Tax base:
 - New sources of income (foreign source) were included
 - A number of deductions were repealed or limited
- Florida’s Corporate Income Tax receipts are estimated to increase as a result of the Act, beginning in Fiscal Year 2018-2019.



Florida Corporate Income Tax

- 5.5 percent tax on Florida Net Income
- “C” corporations and financial institutions
- \$50,000 exemption
- In determining Florida Net Income, Florida begins with federal taxable income. Thus, adjustments to federal taxable income flow to the Florida return.
- To maintain a current relationship between Florida law and the federal code, Florida adopts the Internal Revenue Code as of January 1, each year (the “Piggyback” bill).



The Tax Cuts and Jobs Act

- The Tax Cuts and Jobs Act of 2017 (Act) became law on December 22, 2017, and generally applies to taxable years beginning on or after January 1, 2018.
- The Act made significant changes to federal taxation of individual income, corporate income, and foreign income.
- The Act broadened the corporate income tax base by including new sources of income (foreign) and by eliminating and limiting certain deductions; the Act lowered the federal tax rate, resulting in a federal net tax decrease.



The Tax Cuts and Jobs Act

- The Act became law on December 22, 2017; the 2018 regular legislative session began on January 9, 2018, and ended on March 9, 2018.
- The Act involved a lot of unknowns; due to the lack of information available, the Legislature passed a “typical” piggyback bill (HB 7093 (2018)).



Florida's Reaction

- HB 7093 (2018)
 - Adopted the Internal Revenue Code as of January 1, 2018; thus, it adopted the changes made by the Tax Cuts and Jobs Act.
 - Decoupled from the bonus depreciation provisions of the Act, and, as in past years, requires bonus depreciation to be “spread” over a 7-year period.
 - Provided for refunds and a 1-year tax rate adjustment if Fiscal Year 2018-2019 receipts exceed the February 2018 REC estimate by more than 7 percent. The Revenue Estimating Conference's current estimate projects that receipts will exceed the February 2018 estimate by more than 7 percent.
 - Required the Department of Revenue to study the effects of the Act on Florida's Corporate Income Tax, hold public workshops, and file a report by February 1, 2019.



Examples

- Examples of corporate income tax changes by the Act that have an impact on Florida:
 - Global Intangible Low-Taxed Income (GILTI) (income from foreign sources) is now included in federal income
 - Net Operating Losses are limited to 80 percent of taxable income
 - Interest deduction is generally limited to 30 percent of adjusted taxable income
 - Repeal of Domestic Production Deduction



Next Steps

- “Decoupling” from specific provisions of the Act
- Adjusting the corporate income tax rate
- A mixture of both



Questions?



**Report on
“Examination of the Impact of the
Tax Cuts and Jobs Act of 2017”**

Department of Revenue

March 6, 2019

4:15 – 6:00



Legislative Intent

220.02(3), Florida Statutes

It is the intent of the Legislature that the income tax imposed by this code utilize, to the greatest extent possible, concepts of law which have been developed in connection with the income tax laws of the United States, in order to:

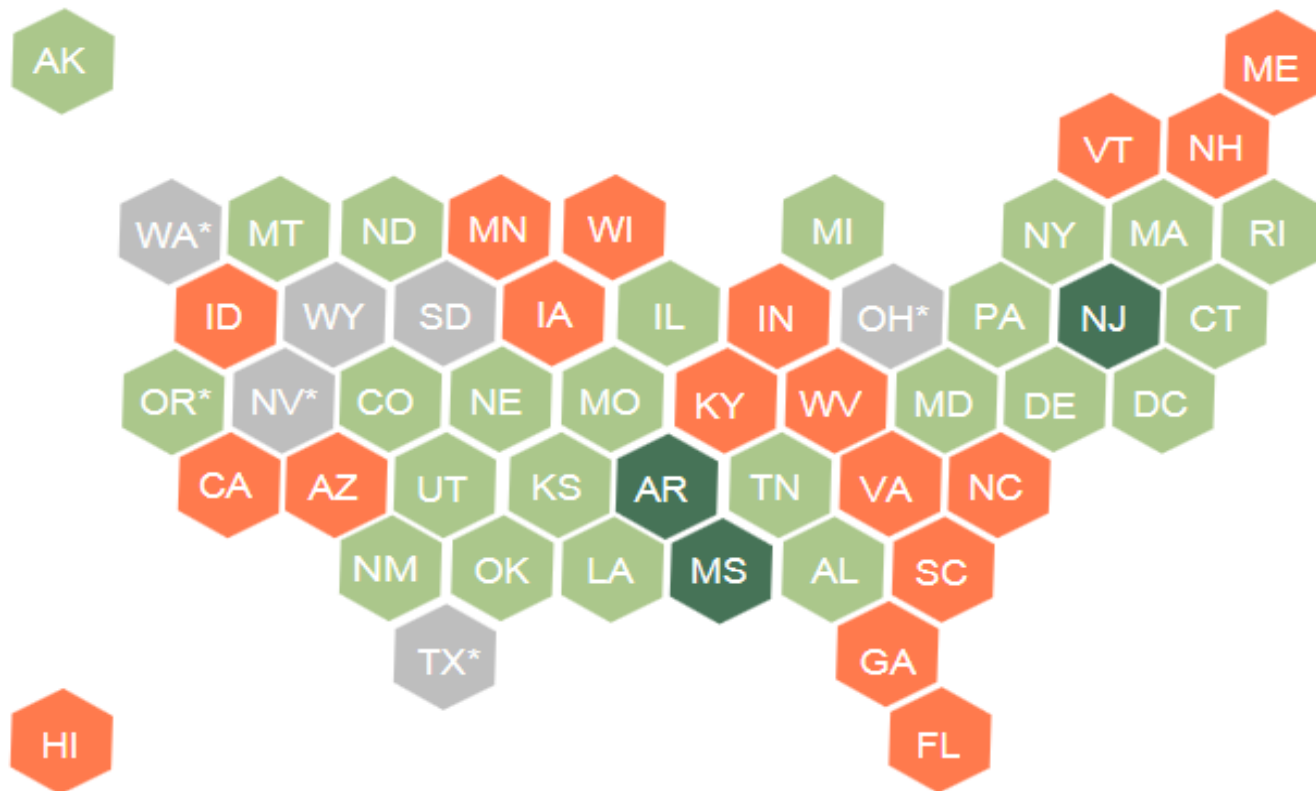
- (a) Minimize the expenses of the Department of Revenue and difficulties in administering this code;
- (b) Minimize the costs and difficulties of taxpayer compliance; and
- (c) Maximize, for both revenue and statistical purposes, the sharing of information between the state and the Federal Government.



Florida Piggybacks the IRC

- Historically Internal Revenue Code adopted every year effective the January 1 prior to legislative session
- Allows Legislature to contemplate federal changes made during previous calendar year
- It is the intent of the Legislature that all amendments to the Internal Revenue Code be given effect under the Florida Income Tax Code in such manner and for such periods as are prescribed in the Internal Revenue Code, to the same extent as if such amendments had been adopted by the Legislature of the state.
(s. 220.03(4), F.S.)

State Corporate Income Tax: Conformity to Federal Tax Code



MAP LEGEND

- Rolling Conformity - 24
- Fixed Conformity - 18
- No Conformity - 3
- Does not Levy Corporate Income Tax - 6

NV-Nevada levies a Modified Business Tax*
OH- Ohio does not impose a corporate income tax, instead levies a Commercial Activities Tax*
OR-Oregon has a rolling conformity when related to taxable income, but for items other than taxable income, Oregon has a static IRC conformity.*
TX- Texas levies a Margins Tax*
WA- Washington imposes a Business & Occupation Tax*

Tax Cuts and Jobs Act

1. Tax Cuts and Jobs Act – 12/22/17
2. Piggyback – Florida adopted the Internal Revenue Code in effect January 1, 2018, thus adopting federal tax law changes (over 100 provisions; 42 states piggyback)
3. Decoupling – 100% Bonus Depreciation spread over 7 years
4. If greater than 7% increase in forecast collections
 - Prospective Tax Rate Reduction
 - Taxable years beginning 1/1/2019 – 12/31/2019
 - Retroactive Refund
 - Taxable years beginning between 4/1/2017 and 3/31/2018
5. DOR Study with Report due February 1, 2019

Tax Cuts and Jobs Act – 12/22/17

- Reduced the federal tax rate (35% to 21%)
- Expanded the base
 1. Limits Net Interest Deductions
 2. Repeals Deduction for Domestic Production Activities
 3. Expands Period for Amortization of Research and Experimental Expenditures
 4. Changes to Treatment of Capital Contributions
 5. Limits Like-Kind Exchanges (1031 Exchanges)
- Decreased the base
 1. Accelerated depreciation deductions (Bonus and s. 179 IRC expensing)
- Changed taxation of foreign income
 1. Transition Tax – Repatriated Income
 2. Deduction for Dividends Received from Foreign Corporations
 3. Global Intangible Low-Taxed Income (GILTI)
 4. Deduction for Foreign Derived Intangible Income
 5. Base Erosion and Anti-Abuse Tax (BEAT)
- Ensured some tax paid when income earned (Net operating losses)
- Repealed alternative minimum tax

Public Input

- 2 Public Workshops Held
- 13 Public Comments Received
- Topics Receiving Comments:
 - Reduced the federal tax rate (35% to 21%)
 - Expanded the base
 1. Limits Net Interest Deductions - 6
 2. Repeals Deduction for Domestic Production Activities - 0
 3. Expands Period for Amortization of Research and Experimental Expenditures - 1
 4. Changes to Treatment of Capital Contributions - 4
 5. Limits Like-Kind Exchanges (1031 Exchanges) - 0
 - Decreased the base
 1. Accelerated depreciation deductions (Bonus and s. 179 IRC expensing) - 9
 - Changed taxation of foreign income
 1. Transition Tax – Repatriated Income - 6
 2. Deduction for Dividends Received from Foreign Corporations - 3
 3. Global Intangible Low-Taxed Income (GILTI) - 5
 4. Deduction for Foreign Derived Intangible Income - 7
 5. Base Erosion and Anti-Abuse Tax (BEAT) - 1
 - Ensured some tax paid when income earned (Net operating loss) - 0
 - Repealed Alternative Minimum Tax - 0
 - Other (FDIC Premium Deduction - 2 and Unrelated Business Taxable Income - 2)

Fiscal Impacts

- Problem - 2018 CIT returns not due until May 2019, and with extensions may not be received until November 2019
- Best available information - Estimates for the entire bill for the entire country provided by the Federal Joint Committee on Taxation
- Converted to show potential Florida impact
 - Methodology used for 13 out of 14 significant topics

Summary of Fiscal Impacts for Florida from Tax Cuts and Jobs Act (Millions)

State Fiscal Year	2018	2019	2-year Impact	Public Comments	Other Information
1 Limits Net Interest Deductions	\$ 110	\$ 164	\$ 274	9	
2 Limits Net Operating Losses	\$ 73	\$ 88	\$ 161	1	
3 Expands Period for Amortization of Research and Experimental Expenditures	\$ -	\$ -	\$ -	1	No impacts in 2018 and 2019. Impacts will not start until 2021.
4 Repeals Deduction for Domestic Production Activities	\$ 45	\$ 65	\$ 110	0	
5 Limits Like-Kind Exchanges (1031 Exchanges)	\$ 6	\$ 9	\$ 15	2	
6 Changes to Treatment of Capital Contributions	\$ 1	\$ 2	\$ 3	4	
7 Increases Expensing (Section 179)	\$ (6)	\$ (7)	\$ (13)	0	
8 Bonus Depreciation			\$ -	8	Florida Decoupled. If Florida decided to conform to Tax Cuts and Jobs Act, the impact is estimated to be (-\$273 million for 2018, -\$231 for 2019, or -\$504 million for the 2-year period)
9 Repeals Alternative Minimum Tax	\$ (7)	\$ (6)	\$ (13)	0	Used middle simulation numbers.
10 Global Intangible Low-Taxed Income (GILTI)	\$ 97	\$ 112	\$ 209	6	There is a question as to whether the state can tax this income. Commentary suggests that states are prohibited based on a U.S. Supreme Court case - Kraft General Foods v. Iowa Department of Revenue and Finance.
11 Deduction for Foreign-Derived Intangible Income	\$ 8	\$ 49	\$ 57	0	No public comments. Revenue increase in early years; revenue decrease starting in 2022
12 Deduction for Dividends Received from Foreign Corporation	\$ (224)	\$ (249)	\$ (473)	0	
13 Transition Tax - Repatriated Income	\$ -	\$ -	\$ -	2	Generally, repatriation income under section 965 of the IRC does not flow into federable taxable income.
14 Base Erosion and Anti-Abuse Tax (BEAT)	\$ -	\$ -	\$ -	0	The BEAT does not affect federal taxable income, which is the starting point for Florida corporate income tax computation. Therefore, BEAT will not have an impact on Florida.
Total	\$ 103	\$ 227	\$ 330		

Note -

The 7% rate reduction/refund provision is not included.

The REC adopted indeterminate estimates for the fiscal years affected with no actual dollar impacts included.

Tax planning efforts by taxpayers are not considered.

Lawsuits challenging Florida's ability to incorporate any of the new or revised federal provisions not included.

QUESTIONS

For more information visit

floridarevenue.com

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

March 6, 2019

Meeting Date

N/A

Bill Number (if applicable)

Topic Examination of the Impact of the Tax Cuts and Jobs Act of 2017

Amendment Barcode (if applicable)

Name Jim Zingale

Job Title Executive Director

Address 2450 Shumard Oak Blvd.

Phone (850) 617-8600

Street

Tallahassee

FL

32399

Email jim.zingale@floridarevenue.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Department of Revenue

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

CourtSmart Tag Report

Room: SB 401

Case No.:

Type:

Caption: Senate Committee on Finance and Tax

Judge:

Started: 3/6/2019 4:20:05 PM

Ends: 3/6/2019 5:10:00 PM Length: 00:49:56

4:20:13 PM Meeting Called to Order
4:21:12 PM Roll Call
4:22:42 PM Member Introductions
4:23:01 PM Katie Colton, Committee Legislative Analyst Introduction
4:23:36 PM Committee Staff Introductions
4:24:21 PM Tab 1 - Corporate Income Tax and Federal Tax Reform, Robert Babin, Deputy Staff Director
4:32:43 PM Senator Bradley's question
4:33:34 PM Robert Babin's response
4:33:37 PM Senator Bradley's question
4:33:45 PM Robert Babin's response
4:33:52 PM Senator Bradley's question
4:33:57 PM Robert Babin's response
4:34:29 PM Senator Bradley's question
4:34:37 PM Robert Babin's response
4:35:10 PM Chair Gainer's question
4:35:21 PM Robert Babin's response
4:37:28 PM Senator Bradley's question
4:38:18 PM Robert Babin's response
4:40:26 PM Chair Gainer's question
4:40:37 PM Robert Babin's response
4:40:49 PM Vice Chair Gruters' question
4:41:41 PM Robert Babin's response
4:43:10 PM Vice Chair Gruters' question
4:43:28 PM Robert Babin's response
4:43:46 PM Senator Stargel's remarks
4:43:54 PM Robert Babin's response
4:44:52 PM Senator Powell's question
4:45:09 PM Robert Babin's response
4:46:17 PM Vice Chair Gruters' question
4:46:48 PM Robert Babin's response
4:47:05 PM Tab 2 - Examination of the Impact Tax Cuts and Jobs Act of 2017 - Dr. Jim Zingale, Executive Director,
Department of Revenue
5:02:10 PM Senator Bradley's question
5:02:16 PM Dr. Zingale's response
5:02:24 PM Senator Bradley's question
5:02:27 PM Dr. Zingale's response
5:02:43 PM Senator Bradley's question
5:02:54 PM Dr. Zingale's response
5:03:08 PM Senator Bradley's question
5:03:18 PM Jose Diez Arguelles,' Staff Director, remarks
5:03:23 PM Senator Bradley's remarks
5:03:36 PM Jose Diez Arguelles' response
5:04:16 PM Senator Bradley's question
5:04:18 PM Senator Bradley's question
5:04:29 PM Jose Diez Arguelles' response
5:04:50 PM Senator Bradley's response
5:05:19 PM Dr. Zingale's remarks
5:05:36 PM Vice Chair Gruters' question
5:05:44 PM Dr. Zingale's remarks
5:06:28 PM Jose Diez-Arguelles' remarks
5:07:22 PM Vice Chair Gruters' question
5:07:40 PM Dr. Zingale's response

5:08:53 PM Vice Chair Gruters' question

5:09:20 PM Dr. Zingale's remarks

5:09:52 PM Meeting Adjourned