The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Finance and Tax

BILL: SB 138

INTRODUCER: Senator Hukill

SUBJECT: Tax-exempt Income

DATE: January 30, 2015 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Billmeier	Knudson	BI	**Favorable**
2.	Babin	Diez-Arguelles	FT	**Pre-meeting**
3.			AP	

I. Summary:

SB 138 increases the level of income that is exempt from the Florida corporate income tax. Florida imposes a 5.5 percent tax on the net income of corporations doing business in Florida. The first $50,000 of a corporation's income that is subject to the tax is exempt from the corporate income tax under current law. The bill increases the exemption from $50,000 to $75,000 for taxable years beginning on or after January 1, 2016.

The Revenue Estimating Conference estimates that the bill will reduce general revenue by $7.6 million in Fiscal Year 2015-2016, with a recurring reduction of $18.7 million.

II. Present Situation:

Florida began imposing an income tax on corporations in 1972.[1] The initial tax rate was 5 percent, but that rate was increased to 5.5 percent in 1984.[2]

Florida's corporate income tax is imposed on a taxpayer's "net income." Net income[3] is determined through the following process:

1. **Begin with Federal Taxable Income.** Rather than requiring the taxpayer to fully recalculate all of its income and deductions for Florida purposes, Florida taxpayers use their federal taxable income as the starting point for determining how much tax is owed in Florida.

[1] *See* Chapter 71-984, Laws of Fla.

[2] *See* s. 21, ch. 84-549, Laws of Fla. The Florida Constitution requires a 3/5 vote of the membership of each house of the Legislature to impose a tax in excess of 5 percent. *See* FLA. CONST. art. VII, s. 5. The tax is imposed on "c" corporations and financial institutions. In limited circumstances, taxpayer may be subject to an alternative 3.3 percent tax rate.

[3] *See* s. 220.12, F.S.

2. **Make Certain Statutory Adjustments.** These adjustments are generally known as "additions and subtractions,"[4] and they relate to various items that Florida treats differently than the federal government. The income remaining after these additions and subtractions is known as "adjusted federal income."

3. **Apportion and Allocate.** Multi-state taxpayers must determine what portion of their adjusted federal income is properly taxable in Florida – a process generally referred to as "apportionment." Within this process, the taxpayer first determines what portion of its income is from business operations and what portion of its income is from non-business activities.[5] Its business income is then "apportioned"[6] among the states where it does business and its non-business income "allocated" to the state where the transactions or activities that gave rise to the non-business income occurred.[7]

   Florida generally uses a three-factor apportionment formula to determine the amount of a multi-state corporation's taxable income that is subject to tax in Florida. The formula compares the taxpayer's total payroll, sales and property in all states with the taxpayer's payroll, sales and property in Florida. The ultimate result of this calculation is a fraction. A multi-state taxpayer's business income is then apportioned to Florida based on that fraction.

4. **Subtract the Exemption**. Lastly, Florida grants an exemption for the first $50,000 of income that would otherwise be taxable in Florida. Accordingly, after apportionment and allocation are applied to determine a taxpayer's income that is properly taxable in Florida, the taxpayer subtracts $50,000 before applying the tax rate. The amount of income remaining after subtraction of the $50,000 exemption is known as "net income" and is the amount subject to Florida corporate income tax.

III. Effect of Proposed Changes:

The bill increases the $50,000 exemption to $75,000 for taxable years beginning on or after January 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue or reduce the percentage of a state tax shared with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

---

[4] *See generally* s. 220.13, F.S.
[5] Non-business income is certain income that does not arise from transactions and activities in the regular course of business. *See* s. 220.03(1)(r), F.S.
[6] *See generally* s. 220.15, F.S.
[7] *See generally* s. 220.16, F.S.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference estimates that the bill will reduce general revenue receipts by $7.6 million in Fiscal Year 2015-2016, with a recurring reduction of $18.7 million.

B. Private Sector Impact:

This bill will result in a tax reduction for corporate taxpayers.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 220.14 and 220.63.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.