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: CS/SB 76

INTRODUCER: Banking and Insurance Committee and Senator Hukill

SUBJECT: Tax-exempt Income

DATE: October 19, 2015 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Knudson	BI	**Fav/CS**
2.	Babin	Diez-Arguelles	FT	**Pre-meeting**
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 76 increases the amount of income that is exempt from the Florida corporate income tax from $50,000 to $75,000. The first $50,000 of a corporation's income is exempt from the corporate income tax under current law.

The Revenue Estimating Conference (REC) has determined that the bill will reduce General Revenue by $5.9 million in Fiscal Year 2016-2017, with a recurring reduction of $14.7 million.

II. Present Situation:

Florida began imposing an income tax of five percent on corporations in 1972.[1] In 1984, the tax rate was increased to 5.5 percent.[2] The tax is imposed on a taxpayer's "net income."[3] Net income is determined using the following process.

1. **Begin with Federal Taxable Income.** As the starting point for determining how much tax is owed in Florida, taxpayers use their federal taxable income.

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

[2] 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, banks and savings associations. *See* ss. 220.03(1)(e) and 220.63(1), F.S. In limited circumstances, a taxpayer may be subject to an alternative 3.3 percent tax rate. *See* s. 220.11(3), F.S.

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

2. **Make Certain Statutory Adjustments.** These adjustments are 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 adjustments is known as "adjusted federal income."

3. **Apportion and Allocate.** Multistate taxpayers must determine what portion of their adjusted federal income is taxable in Florida – a process generally referred to as "apportionment." 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 conducts business and its non-business income is "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 multistate 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 result of this calculation is a fraction. A multistate taxpayer's business income is 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 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 the Florida corporate income tax.

III. Effect of Proposed Changes:

The bill increases the amount of income that is exempt from the Florida corporate income tax from $50,000 to $75,000 for taxable years beginning on or after January 1, 2017.

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 their 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 REC has determined that the bill will reduce General Revenue by $5.9 million in Fiscal Year 2016-2017, with a recurring reduction of $14.7 million.

B. Private Sector Impact:

This bill will result in a tax reduction for certain corporate income 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.)

CS by Banking and Insurance on October 6, 2015:
The amendment provides that the act applies to taxable years beginning on or after January 1, 2017, rather than January 1, 2016.

B. Amendments:

None.