

**HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS**

BILL #:	7099	FINAL HOUSE FLOOR ACTION:	
SUBJECT/SHORT TITLE	Corporate Income Tax	117 Y's	0 N's
SPONSOR(S):	Ways & Means Committee and Cortes, B.	GOVERNOR'S ACTION:	Approved
COMPANION BILLS:	CS/SB 1156		

SUMMARY ANALYSIS

HB 7099 Passed the House on April 20, 2016. The bill was amended in the Senate on May 2, 2017 and returned to the House. The House subsequently concurred with the Senate amendment and passed the bill as amended on May 3, 2017.

Florida imposes a 5.5 percent tax on the taxable income of corporations and financial institutions doing business in Florida. The taxable income Florida uses to calculate corporate income tax owed is based on the taxable income reported for federal taxation purposes. Florida updates its utilization of the federal Internal Revenue Code (IRC) by adopting the code as it exists on January 1 in any given year. Adopting the code on an annual basis ensures the Florida tax code reflects any relevant changes to the IRC that were made during the prior year.

The bill adopts the IRC as of January 1, 2017, applicable retroactively to January 1, 2017. The bill also conforms Florida law to current federal Internal Revenue Service policy by allowing calendar-year corporate income tax payers a 6 month time period for tax return extensions after the original due date. This change applies retroactively to taxable years beginning on or after January 1, 2016.

Finally, the bill modifies the estimated corporate income tax payment deadline at the end of June if the last day of the month is either a weekend or a holiday. This change will prevent large amounts of revenue from shifting from one fiscal year to the next simply as a consequence of the payment deadline falling on a weekend or holiday.

The Revenue Estimating Conference estimates that adopting the IRC as it existed on January 1 will have an indeterminate impact. The Conference also estimates that modifying the estimated payment deadline for the month of June will result in a one-time shift of \$83.9 million to Fiscal Year 2017-18.

The bill was approved by the Governor on June 2, 2017, ch. 2017-67, L.O.F., and became effective on that date.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Federal Tax Code Conformance

Current Situation

Florida levies a 5.5 percent tax on the taxable income of corporations and financial institutions doing business within the state.¹ Florida utilizes the taxable income determined for federal income tax purposes as a starting point to determine the total amount of corporate income tax due.² This means that a corporation paying taxes in Florida receives the same treatment when determining taxable income for state taxation purposes as it does when determining taxable income for federal tax purposes.

Florida maintains its relationship with the federal Internal Revenue Code (IRC) by annually adopting the federal the Code as it exists on January 1.³ By doing this, Florida adopts any changes related to determining federal taxable income that were made during the previous year.

On July 31, 2015, Congress passed the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015,⁴ which contains amendments to the Internal Revenue Code (IRC) regarding the due date for federal corporate income tax returns. Among other things, the federal change amended IRC section 6081(b) to provide that, beginning after 2015, a C-corporation with a tax year ending on December 31 (calendar-year taxpayer) may extend the time to file its federal corporate income tax return for 5 months. In 2016, the Florida Legislature amended s. 220.222, F.S., to align with the above federal due date changes. The 5 month extension limit for calendar-year taxpayers was explicitly added to statute.

On February 8, 2017, the Internal Revenue Service revised the instructions for Form 7004 (Application for Automatic Extension of Time To File Certain Business Income Tax, Information, and Other Returns). The revision reflects a clarification of the length of time a calendar-year C-corporation may extend the due date for its federal income tax return. Although the 2015 federal law change to IRC section 6081(b) provides a 5 month extension period for calendar-year taxpayers, the 2017 revision to the instructions for Form 7004 clarifies that under IRC section 6081(a) such taxpayer may receive a 6 month extension period.

Under Florida law, the due dates to file corporate income tax returns are generally aligned with federal income tax filing timeframes. When a Florida corporation or partnership is granted an extension of time to file its federal return, the taxpayer may file for an extension of time to file its Florida return.⁵ If granted, the extended Florida due date will generally be the 15th day after the expiration of the federal extension, or until the expiration of 6 months from the original due date, whichever occurs first.⁶ For taxable years beginning before January 1, 2026, the extension applicable to calendar year taxpayers is the 15th day after the expiration of the federal extension or until the expiration of 5 months from the original due date.

¹ Section 220.11(2), F.S.

² Section 220.12, F.S.

³ See s. 220.0, F.S.

⁴ Pub.L. No. 114-41, H.R. 3236 (July 31, 2015).

⁵ If a taxpayer extends the time to file its Florida return, the taxpayer must file a tentative tax return pursuant to s. 220.32, F.S.

⁶ Section 220.222(2), F.S.

Effect of Proposed Changes

The bill updates the Florida tax code to maintain conformity with federal tax policy. The bill accomplishes this by adopting the IRC as of January 1, 2017, applicable retroactively to January 1, 2017. The bill also amends s. 220.222(2), F.S., retroactive to taxable years beginning on or after January 1, 2016, to delete the language added in 2016 explicitly stating the 5 month tax return extension limitation. This change aligns with the IRS allowance for calendar-year taxpayers to receive a 6 month extension to file their federal income tax returns described above.

Estimated Payments

Current Situation

Section 220.24, F.S., requires each corporate income taxpayer to declare its estimated tax for the taxable year, if the amount payable as estimated tax can be expected to be more than \$2,500. Section 220.33, F.S., requires these taxpayers to pay estimated taxes in equal installments, depending upon when they are required to file their declarations of estimated taxes. The payments are due before the first day of specified months, including the 7th month of the taxable year, which for calendar-year corporations, is also the first month of the state's fiscal year. Most taxpayers choose to use the calendar year as their "taxable year." In 2014⁷, 84.4 percent of corporate income tax filers were calendar-year taxpayers. In that same year, 76.5 percent of total corporate income tax collections were from calendar-year taxpayers.

If the day on which an estimated payment due is a Saturday, Sunday, or legal holiday, payments made on that day will not be credited to the state until the following business day. Under this circumstance, estimated payments due before July 1 will fall into the next state fiscal year. Such a circumstance will occur at the end of state Fiscal Years 2017-18 and 2018-19.

Proposed Changes

The bill provides that any estimated tax payment which would otherwise be due on the last Saturday or Sunday of June shall be paid on or before the last Friday of June.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

On March 17, 2017, the Revenue Estimating Conference (REC) established that adopting the January 1, 2017 version of the Internal Revenue Code will have an impact on state revenues that is indeterminate in both direction and magnitude. The REC forecasts that modifying the estimated payment deadline for the month of June will result in one-time gains to General Revenue of \$83.9 million in Fiscal Year 2017-18 and \$0.6 million in Fiscal Year 2018-19, and a one time loss of -\$84.5 million in Fiscal Year 2019-20.

2. Expenditures:

None.

⁷ 2014 is the most recent year for which complete corporate income tax return data is available.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Maintaining the linkage between the federal and Florida tax codes will simplify compliance for Florida corporate income tax payers.

D. FISCAL COMMENTS:

None.