

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 5701 PCB FTC 12-04 Corporate Income Tax

**SPONSOR(S):** Finance & Tax Committee, Precourt

**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Finance & Tax Committee	23 Y, 0 N	Aldridge	Langston
1) Appropriations Committee	24 Y, 0 N	Voyles	Leznoff

### SUMMARY ANALYSIS

Florida imposes a 5.5% tax on the net income of corporations doing business in Florida.<sup>1</sup> If a taxpayer reasonably estimates his or her corporate income tax will be more than \$2,500 for a taxable year, then that taxpayer is required to make a declaration of that estimated amount.<sup>2</sup> Following the declaration, the taxpayer is required to make payments of the estimated tax, in varying numbers of installments, depending on when the declaration is due. 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.

If the day on which an estimated payment is due is a Saturday, Sunday, or legal holiday, current administrative practice is to allow such payment to be made on the next following day that is not a Saturday, Sunday, or legal holiday. Therefore, if estimated payments due before July 1 fall on a Saturday, Sunday, or legal holiday, the payment will not be due until the following Monday, which would be into the next state fiscal year.

June 30, 2013 is a Sunday. Therefore, estimated payments that are otherwise due no later than that date, would not be due under current law and practice until Monday, July 1, 2013, which is the first day of the 2013-14 state fiscal year.

The bill requires a one-time "speed-up" of estimated corporate income tax payments so that any estimated tax payment that would otherwise be due no later than Sunday, June 30, 2013, shall be paid on or before June 28, 2013.

Staff estimates the impact on General Revenue to be a positive \$100 million in FY 2012-13 and a negative \$100 million in FY 2013-14.

This bill takes effect upon becoming law.

<sup>1</sup> Section 220.11, F.S.

<sup>2</sup> Section 220.24, F.S.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Background

Florida imposes a 5.5% tax on the net income of corporations doing business in Florida.<sup>3</sup> Every taxpayer that is liable for corporate income tax under ch. 220 or that is required to make a federal income return is required to submit a return to the state of Florida for each taxable year.<sup>4</sup> If a taxpayer reasonably estimates his or her corporate income tax will be more than \$2,500 for a taxable year, then the taxpayer is required to make a declaration of that estimated amount.<sup>5</sup> Following the declaration, the taxpayer is required to make payments of the estimated tax, in varying numbers of installments, depending on when the declaration is due.<sup>6</sup> Although the statutes do not specify specific calendar day due dates<sup>7</sup> for the estimated payments—stating the taxpayers must pay *before* a given date<sup>8</sup>—the estimated payment “due date” for each installment is, practically speaking, the day immediately preceding the deadline. At least some of these estimated tax payment due dates fall on a Saturday, Sunday, or legal holiday.<sup>9</sup> Current administrative practice is to allow such payment to be made on the next following day that is not a Saturday, Sunday, or legal holiday.<sup>10</sup>

#### Current Situation

The June 30, 2013, estimated payment “due date” falls on a Sunday. Accordingly, an estimated \$100 million that would normally have been due to be received in FY 2012-2013 if the due date were not a weekend day, will instead be due to be received in FY 2013-14.

#### Effect of Proposed Changes

The bill amends s. 220.33, F.S., to provide that notwithstanding any administrative rule or determination of the department that allows estimated payments otherwise due on a Saturday, Sunday or legal holiday to be paid on the next succeeding day that is not a Saturday, Sunday or legal holiday, any estimated tax payment required under s. 220.33, F.S., that would otherwise be due no later than Sunday, June 30, 2013, shall be paid on or before June 28, 2013.

### B. SECTION DIRECTORY:

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<sup>3</sup> Section 220.11, F.S.

<sup>4</sup> Section 220.22, F.S. The Department may prescribe rules and regulations concerning taxpayers making returns and notices. Section 220.21, F.S. Statutes provide that all returns other than those required for a Domestic International Sales Corporation and partnership information are due “on or before the 1st day of the 4th month following the close of the taxable year or the 15th day following the due date, without extension, for the filing of the related federal return for the taxable year.” Additionally, the Department has provided that if the “due date prescribed by law falls on a Saturday, Sunday, or legal holiday, a return will be considered timely if” it is either postmarked or received “on the next succeeding day that is not a Saturday, Sunday, or legal holiday.” Rule 12C-1.0222, F.A.C. “For this purpose, a legal holiday will mean a holiday that is observed by federal or state agencies as this term is defined in Chapter 683, F.S., and Section 7503 of the Internal Revenue Code of 1986, as amended.” *Id.*

<sup>5</sup> Section 220.24, F.S.

<sup>6</sup> A taxpayer is required to file the declaration before the 1st day of the 5th month of each taxable year, unless “the minimum tax requirement of s. 220.24(1) is first met.” Section 220.241, F.S. (detailing the various declaration due dates if the minimum tax requirement is met).

<sup>7</sup> E.g., “June 30” or “December 31.”

<sup>8</sup> See Section 220.33, F.S. If the taxpayer is required to file the declaration before 1st day of the 5th month, then the estimated tax shall be paid in four equal installments in the following order: 1) before the 1st day of the 5th month; 2) before 1st day of the 7th month; 3) before the 1st day of the 10th month; and 4) before the 1st day of the next taxable year. *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> C.f., Rule 12C-1.0222, F.A.C. (providing that if a return is due on a Saturday, Sunday, or legal holiday, then the return will be considered timely if it is electronically filed or postmarked on the “next day succeeding the day that is not a Saturday, Sunday, or legal holiday”). See also [Form F1120N](#), which are the instructions for Form F1120, the Florida corporate income tax return. Form F1120N contains a schedule of due dates for declaration of estimated tax, including dates upon which installments are due based upon the taxable year of the taxpayer. This form indicates that the payment due date in question is July 1, 2013.

Section 1: Amends s. 220.33, F.S., to require estimated payments otherwise due no later than June 30, 2013 shall be paid on or before June 28, 2013. Provides for repeal of this provision July 1, 2014.

Section 2: Provides emergency rulemaking authority to the Department to implement the act.

Section 3: Provides that the bill is effective upon becoming law.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

Staff estimates the impact on General Revenue to be a positive \$100 million in FY 2012-13 and a negative \$100 million in FY 2013-14.

#### 2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

#### 2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

#### 1. Applicability of Municipality/County Mandates Provision:

None.

#### 2. Other:

None.

### B. RULE-MAKING AUTHORITY:

None.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES