LEGISLATIVE FISCAL ESTIMATE
ASSMEBLY, No. 4721
STATE OF NEW JERSEY
219th LEGISLATURE

DATED: SEPTEMBER 29, 2020

SUMMARY

Synopsis: Imposes CBT surtax at rate of 2.5 percent until December 31, 2023.

Type of Impact: Annual State revenue gain to General Fund.

Agencies Affected: Department of the Treasury.

Office of Legislative Services Estimate

Fiscal Impact	**FY 2021**	**FY 2022**	**FY 2023**
State Revenue Gain	$243 million to $333 million	$245 million to $342 million	$446 million to $664 million

- The Office of Legislative Services (OLS) projects additional revenues of $243 million to $333 million in FY 2021 from increasing the corporation business tax (CBT) surtax rate from 1.5 percent to 2.5 percent. Since the surtax is currently set to expire on December 31, 2021, the impact of this bill will be greater in FY 2022 through FY 2024. The OLS projects revenues to increase by $245 million to $342 million in FY 2022 and $446 million to $664 million in FY 2023. If the bill is enacted, the surtax would be set to expire after December 31, 2023; thus, the surtax would fully impact FY 2021 through parts of FY 2024. Revenue from the surtax would start to decline during the latter half of FY 2024 and onward.

BILL DESCRIPTION

This bill imposes the existing CBT surtax at a rate of 2.5 percent until December 31, 2023. However, if the federal corporate income tax rate is increased to its pre-Tax Cut and Jobs Act (35 percent of taxable income) level, the surtax will be suspended at the end of a taxpayer's current privilege period. Under current law, the CBT surtax rate was reduced to 1.5 percent on January 1, 2020, and is scheduled to be eliminated after December 31, 2021.

The bill also requires the Director of the Division of Taxation in the Department of the Treasury to waive all penalties that a taxpayer may incur because of the retroactive imposition of the surtax rate.

The CBT surtax is currently imposed on taxpayers that are not public utilities and that have allocated taxable net income in excess of $1 million. Taxpayers are not allowed to apply tax credits against the surtax liability, except those credits for installment payments, estimated payments with a request for an extension of time for filing a return, or overpayments from prior privilege periods.

FISCAL ANALYSIS

EXECUTIVE BRANCH

As part of the Governor's revised FY 2021 budget proposal, the Executive projected an increase in the CBT surtax rate from 1.5 percent to 2.5 percent would yield $210 million in additional revenue for FY 2021.

OFFICE OF LEGISLATIVE SERVICES

The OLS projects additional revenues of $243 million to $333 million in FY 2021 from increasing the CBT surtax rate from 1.5 percent to 2.5 percent. Since the surtax is currently set to expire on December 31, 2021, the impact of this bill will be greater in FY 2022 through FY 2024. The OLS projects revenues to increase by $245 million to $342 million in FY 2022 and $446 million to $664 million in FY 2023. If the bill is enacted, the surtax would be set to expire after December 31, 2023; thus, the surtax would fully impact FY 2021 through parts of FY 2024. Revenue from the surtax would start to decline during the latter half of FY 2024 and onward.

The OLS does not have access to taxpayer data, so it cannot determine the amounts collected from the current surtax. The OLS only has access to audited collections from the State's Comprehensive Annual Financial Report for FY 2018, the last fiscal year unaffected by the surtax and other significant alterations to the CBT tax base (i.e. federal and State policy changes). The FY 2018 collections are used as the tax base for this analysis, since that fiscal year was the last unaffected by any major policy changes at both the State and federal levels. Some of those policy changes did broaden the tax base, such as combined reporting, and thus, the surtax likely yielded more revenue than originally estimated as a result. So, the OLS also utilized audited collections from FY 2019, which reflects the implementation of the tax base changes and favorable economic conditions.

If the OLS uses FY 2018 audited collections and certain adjustments to determine a tax base, the 2.5 percent surtax would yield roughly $584 million annually. Under identical conditions, a 1.5 percent surtax would yield roughly $328 million annually. Similarly, using FY 2019 audited collections to determine the CBT tax base, the 2.5 percent surtax would yield roughly $876 million and the 1.5 percent surtax would yield $526 million. The bill's impact is the difference between the set of 2.5 percent estimates and 1.5 percent estimates, so the bill's range of likely outcomes is anywhere between $256 million ($584 million *less* $328 million) and $350 million ($876 million *less* $526 million). To account for current economic conditions impacting corporate financial performance and the retroactive imposition of the 2.5 percent surtax rate, the OLS adjusted its estimate to $243 million to $333 million for FY 2021.

Since the surtax is currently set to expire on December 31, 2021, the impact of this bill will be greater in FY 2022 through FY 2024. The OLS projects revenues to increase by $245 million to $342 million in FY 2022 and $446 million to $664 million in FY 2023.

Section: Revenue, Finance and Appropriations

Analyst:	Jordan M. DiGiovanni Revenue Analyst
Approved:	Frank W. Haines III Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).