A FLORIDA TAXWATCH BRIEFING

Corporate Income Tax Issues for the 2022 Legislature: Repeal the Impending Tax Increase and Fix the "Retail Glitch" and Like-Kind Exchanges

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Federal corporate income tax reform, which had the general aim of broadening the base and lowering the rate, has reduced the federal tax burden on many corporations. However, since Florida adopted most of the base expansion measures without a concurrent rate reduction, federal tax reform has resulted in increased taxes at the state level, even after subsequent state refunds and rate cuts. Under current state law, Florida's corporate income tax (CIT) rate is scheduled to return to 5.5 percent, meaning a much bigger tax increase is headed for Florida businesses. Moreover, the treatment of Qualified Improvement Property (QIP)--another result of federal tax reform and Florida's response to it--has created increased taxes and a barrier to investment for many companies, especially some of those that were hardest hit by the COVID-19 pandemic, including restaurants, hotels, and other retailers.

The 2022 Legislature must act to stop the scheduled return of the corporate income tax rate to 5.5 percent, fix the "retail glitch" relating to Qualified Improvement Property, and provide relief to companies most affected by the change to like-kind exchanges.

The Scheduled Increase of Florida's CIT Rate Percent Would Apply to a Much Larger Tax Base

Florida, like most states, "piggybacks" its corporate income tax code with the federal tax code. In filing their state tax returns, Florida corporate taxpayers start with their federal taxable income and make additions and subtractions to reflect federal provisions or treatments that the state has elected not to adopt.

Every year, the Legislature passes a corporate income tax (CIT) piggyback bill that adopts the Federal Internal Revenue Code as it exists on January 1 of that year. This picks up any federal changes. The annual piggyback bill is usually fairly straight forward, but in recent years it has become more complicated due to federal tax reform. This started with the federal Tax Cuts and Jobs Act (TCJA) of 2017, which made a number of changes to the CIT code, as well as individual income taxes. The CIT rate was significantly reduced, and tax base was expanded to help offset the revenue loss. This base expansion was accomplished through the reduction or elimination of certain business deductions and credits.

For Florida, adopting the tax base expansion provisions of the TCJA without a reduction in the state tax rate would have resulted in a significant tax increase for Florida corporations. The 2018 Florida Legislature had little time to formulate a response to the TCJA, which was enacted on December 22, 2017, less than three weeks before session began. The state's revenue estimators could not determine how adopting all these changes would impact Florida CIT revenue. Others estimated the federal changes would increase Florida's tax base by 13%, most of that from the interest expense deduction limitation and the taxing of Global Intangible Low Tax Income (GILTI).[1]

1 Council on State Taxation (COST), "The Impact of Federal Tax Reform on State Corporate Income Taxes," March 1, 2018.

The 2018 piggyback bill adopted all federal changes except for the 100 percent bonus depreciation deduction.[2] Some of the adopted provisions were limitations on the deductions for business interest, net operating losses, charitable contributions, and other items. Since the Florida Legislature recognized this would lead to a large tax increase, the bill required that any excess collections received during 2018-2019 be refunded to all corporate taxpayers that had a final tax liability, based on the percentage of total CIT payments each corporation paid. Excess collections were defined as any collections that exceeded the previously estimated revenue projection[3] by more than seven percent. (See Appendix for the provisions of the four piggyback bills from 2018 to 2021.)

If there were excess collections, the bill also required an automatic reduction in the corporate income tax rate. The tax rate would be reduced by the same percentage that actual collections exceeded that limit. The 2018 Legislature provided that if there was a reduction, it would only be in effect for one-year. The 2019 Legislature extended the refund and rate reduction triggers for two more years. The CIT rate is now scheduled to return to its pre-tax reform level of 5.5 percent, starting with tax years beginning in 2022.

Of course, there were excess collections. Actual net collections exceeded the limit by $543.2 million in FY2018-19 and by $623.9 million in FY2020-21. The $543.2 million was returned to taxpayers in Spring 2020 and the $623.9 million will be returned in 2022.

Because the first round of refunds was paid in FY2019-20 and a rate reduction also applied, net collections did not trigger the refund/rate reduction in FY2019-20.

The excess collections also resulted in the CIT rate being reduced from 5.5 percent to 4.458 percent for tax years beginning in 2019 and 2020. Even at that lower rate, collections continue to exceed the limit, so the tax rate is being further reduced to 3.535 percent for tax years beginning in 2021.[4]

The refunds and rate reductions (mostly) achieved what the Legislature had intended, avoiding a huge tax increase on Florida businesses. The two measures are saving taxpayers $3.8 billion over five years.[5] But these refunds are not "huge tax breaks" or "handouts" for corporations as they have been portrayed by some. They were enacted to avoid a huge tax increase. In fact, in total, it is very likely corporate taxpayers are still paying more--even after the refunds and lower rate--than they would have without the federal changes. This is largely due to the seven percent cushion allowed by the Legislature, which is much faster growth than usual for the CIT. Over the period from FY1999-00 to FY 2017-18–the year before TCJA–net CIT collections grew at an average of 3.4 percent.[6] The pre-TCJA estimates used to set the collection limits also had growth built in–an average rate of 2.0 percent over five years[7].

This meant the piggyback bill would produce additional revenue for the state in excess of the most recent estimate--the very definition of a tax increase. The increase averages $154 million annually.

2 100 percent bonus depreciation allows taxpayers to deduct the full cost of property in the first year, instead of depreciating it over time. The Legislature has used the same method four times since 2019 to deal with bonus depreciation passed by Congress since 2009. Florida taxpayers must add-back the amount of their federal bonus depreciation deduction to their taxable income. Taxpayers are then permitted to subtract from income one-seventh (1/7) of the deduction for the current taxable year and the following six taxable years. This allows the taxpayer to take the federal deduction but spreads out the fiscal impact to the state over seven years.

3 Excess collections are defined as any collections that exceed the then-current state CIT estimates (April 2020) plus a cushion of seven percent. (Current estimate X 1.07).

4 Florida Department of Revenue, "DOR Transmittal Letter for Final Rate Calculation," September 13, 2021. http://edr.state.fl.us/Content/conferences/generalrevenue/CITrateletters_2021.pdf

5 Office of Economic and Demographic Research, General Revenue Estimating Conference, Corporate Income Tax - Supporting Material for Statutory Adjustment, August 17, 2021.

6 Calculated by Florida TaxWatch, using collections data from the Office of Economic and Demographic Research.

7 Office of Economic and Demographic Research, results of the February 2018 General Revenue Estimating Conference.

Net Corporate Income Tax Collections in Florida

Actual/August 2021 Estimates vs. February 2018 Estimate

Fiscal Year	$ millions February 2018 Estimate	 Actual/August 2021 Estimate	 Over/(Under) 2018 Estimate
2018-19*	$2,173.6	$2,869.0	$695.4
2019-20*	$2,185.5	$1,671.8	$(513.7)
2020-21*	$2,234.4	$3,014.7	$780.3
2021-22	$2,288.0	$2,127.0	$(161.0)
2022-23	$2,359.5	$3,273.2	$913.7
Total	$11,241.0	$12,955.7	$1,714.7

*Collections for 2018-19, 2019-20, and 2020-21 are actual net collections. The February 2018 estimates were used for the refund and rate reduction legislation. Any collections in excess of these estimates plus 7% are refunded and triggered a rate reduction. Collections in 2019-20 and 2020-22 are below the 2018 estimate because they reflect refunds of excess collections paid in the prior year. $543.2 million in 2019-20 and $623.9 million im2021-22.

The table above compares the CIT revenue expected to be collected from FY2018-19 to FY 2022-23–based on the February 2018 estimates used in the law–to actual collections and the latest estimates (August 2021) for FYs 2021-22 and 2022-23. The CIT produces net collections of nearly $13.0 billion over the five years–even after subtracting the refunds and including the impact of the rate reductions. The pre-TCJA estimates forecast collections of $11.2 billion over the same period. Corporate taxpayers paid more than $1.7 billion more than was forecast before the TCJA and the state response. It should also be noted that this collection increase included the COVID-19 pandemic and its negative impact on state revenues. This includes the "reduced profitability, business failures, and delayed business formations"[8] that led to actual collections in FY2019-20 falling $357 million short of the previous estimate and have continued to temper subsequent estimates.

8 Office of Economic and Demographic Research, Executive Summaries for the August 2020, December 2020, and April 2021 General Revenue Estimating Conferences. http://edr.state.fl.us/Content/conferences/generalrevenue/archives/index.cfm

Tax Increase Scheduled for 2022

If the CIT rate is allowed to increase from its current (tax year 2021) rate of 3.535 to its pre-tax reform rate of 5.5 percent, businesses are looking at what would be a substantial tax hike. It is not simply a return to the normal, as the tax base is now significantly larger. The size of that tax hike is difficult to determine. CIT net collection growth is not stable, it has decreased in six of the 17 years before tax reform and has fluctuated wildly. There are also factors such as the impact of COVID-19 and the fact that collections in one year reflect liability from several different years.

Here are a couple of numbers to consider. Net collections in FY2018-19–the first year reflecting tax reform–increased by nearly $700 million ($31.4 percent), and these collections only represented a portion of tax year 2018 liability. Unadjusted net collections (not including the impact of the rate reduction) in FY2020-21 increased by almost $1 billion over FY2019-20 (36.5 percent). This growth was fueled in part by a recovering economy. Lastly, comparing the most recent estimate of unadjusted net collections for FY2022-23 (the first full year back at a 5.5 percent tax rate) to the amount that would be collected at the current 3.535 rate results in a difference of $1.3 billion. Estimated FY2022-23 collections are also $1.4 billion higher than the February 2018 estimate used to calculate excess revenue for the refunds and rate reduction.

If the rate goes back to 5.5 percent, corporate income taxes will go up. It is hard to quantify how much would be attributable to the base expansion measures Florida adopted, but it will surely be hundreds of millions, if not a billion, dollars.

Qualified Improvement Property – Fix the "Retail Glitch"

One of the key goals of the TCJA was to reduce the barriers to business investment, which it did through several provisions. However, the Act contained a drafting error that affected the cost recovery of investments in "qualified improvement property" (QIP). Instead of reducing the tax burden of these investments, as was intended, the TCJA inadvertently made the tax treatment more onerous than it was previously. The CARES Act subsequently fixed the error. Unfortunately, Florida adopted the TCJA provisions but decoupled from the CARES Act provision, in effect increasing the tax burden on this class of property.

QIP is generally any improvement to the interior of a nonresidential building. There are exceptions for enlarging a building, improving its structural framework, or an installing an elevator or escalator. QIP includes improvements such as interior doors, drywall, flooring, HVAC, water heaters, security upgrades, fire protection, electrical, plumbing, painting, and many others.

Prior to the TCJA, only three classes[9] of improvement property qualified for 15-year depreciation, others had to use 39 years. The TCJA consolidated the three classes of improvement property with other interior building improvements into this new classification–Qualified Improvement Property. The intent was to apply a 15-year depreciation schedule to all QIP so it would qualify for another TCJA provision–100 percent bonus depreciation. However, the final bill omitted specific mention of this, so QIP was assigned a 39-year cost recovery period. This not only lengthened the cost recovery from 15 to 39 years for the three prior classes of interior improvements, but it rendered all QIP ineligible for bonus depreciation. This made cost recovery even more difficult for some QIP than it was prior to the TCJA when businesses could depreciate QIP over 15 years and take 50 percent bonus depreciation.

The CARES Act provided a fix for this problem, which had become known as the "retail glitch," by specifying QIP was subject to 15-year depreciation and eligible for 100 percent bonus depreciation. But Florida did not adopt the CARES provision, meaning QIP in Florida is still subject to 39-year depreciation. Taxpayers must add back any federal deduction taken for QIP on their state return (minus the amount allowed under a 39-year depreciation schedule).

Due to 100 percent bonus depreciation[10], corporate taxpayers can immediately write-off the full cost of QIP on their federal return while they must spread it out over 39 years on their Florida return. According to the Tax Foundation, anything short of full expensing is "economically harmful, as inflation and the time value of money reduce the value of deductions in future years. This effectively raises taxes on capital investment, leading to lower investment, economic growth, productivity, and wages."[11] They further explain, citing the *Stanford Law and Policy Review,* how extended recovery schedules can even disadvantage green

9 Qualified leasehold improvement property, qualified restaurant property, and qualified retail improvement property.

10 The future for federal bonus depreciation in uncertain. It is scheduled to begin to phase-out after 2022until completely phased-out by 2026. President Biden's tax plan could eliminate bonus depreciation but there is also considerable support for extending or even making it permanent.

11 Tax Foundation, "How the CARES Act Fixed a Tax Bias Against Green Investment," August 20, 2020. https://taxfoundation.org/cares-act-fixed-tax-bias-green-investment/

technology such as energy efficiency improvements, since the full investment will not be recovered. "Efficiency investments tend to involve an increase in capital costs (spending on more sophisticated technology) in exchange for lower operating costs, but without full expensing, operating costs are tax-advantaged relative to capital costs."

The federal fix eliminated much of the retail glitch's tax increase and economic impact, since the federal tax rate is much higher than Florida's. However, the added after-tax cost of investing in QIP at Florida's tax rate is significant. It was estimated that it increased taxes by $179.6 million in the first year, with $105.7 million recurring.[12]

In addition, the reason Florida piggybacks its state CIT code with federal law is to minimize difficulties of taxpayer compliance and difficulties in administering the corporate income tax by the Department of Revenue.[13] Tax code conformity allows both parties to rely on federal statutes, rulings, and interpretations, which are generally more detailed and extensive than what any individual state could produce. Using federal taxable income as the starting point allows states to rely on federal audits, enforcement, definitions, and taxpayer data. For the taxpayer, it allows them to not have to keep multiple sets of books and makes it easier to complete state returns, while providing consistency for those filing in multiple states.[14] Federal conformity has been described as "delegating up," allowing states to conserve legislative, administrative, and judicial resources while reducing taxpayer compliance burdens.[15] Conformity can also reduce double taxation and the incentive for tax arbitrage--the practice of reducing tax liability from differences in the ways income, capital gains, and transactions are taxed.

In addition to increasing the after-tax cost for businesses investing in interior building improvement, the "retail glitch" does not advance the goal of tax code conformity and reducing compliance costs. Florida companies investing in QIP will have to keep two different depreciation schedules, not just for the short term, but for 39 years for each investment if not changes are not made.

Change in the Treatment of Like-Kind Exchanges Created Huge Tax Increases for Some Florida Companies

The tax refund and rate reduction mechanisms enacted by the Legislature attempted to make the changes in the TCJA as revenue neutral as possible. In total, this measure largely did its job, even if it fell short of true revenue neutrality. However, it did create some inequities. The refund was based on the relative size of each corporation's tax bill, not the magnitude of the TCJA's impact on it. The refund to a smaller company with a relatively small tax bill, but a big impact from the federal changes, might not come close to refunding its tax increase. A larger company with normally high tax bill, but a relatively smaller TCJA impact, might receive a windfall. One change contained in the TCJA that created this type of inequity involved the changes to Internal Revenue Code (IRC) Section 1031–or "like-kind" exchanges.

When a taxpayer sells an asset, the taxpayer is generally required to report the gain as income. However, prior to the TCJA, IRC Section 1031 had an exception when business property was exchanged for similar property, such as car leasing and rental companies that regularly update their fleet. Any gain from these "like-kind" or "1031" exchanges was deferred until the new asset was disposed of.

12 Florida Senate, Bill Analysis and Fiscal Impact Statement for SPB 7082, April 14, 2021.

13 See Legislative Intent in the Florida corporate income tax statutes, s. 220.02(3), Florida Statutes.

14 Tax Foundation, "Toward a State of Conformity: State Tax Codes a Year After Federal Tax Reform," January 28, 2019. https://taxfoundation.org/state-conformity-one-year-after-tcja/

15 Ruth Mason, "Delegating Up: State Conformity with the Federal Tax Base," Duke Law Journal 62, no. 7 (April 2013), https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=3382&context=dlj

The TCJA limited this Section 1031 treatment to the exchange of real property, making such exchanges of business tangible personal property a taxable event in the year of the exchange. This change in the tax treatment was mitigated at the federal level by the bonus depreciation provision of TCJA, which allows a deduction of 100 percent of the cost of business assets in the first year, allowing them to write-off the replacement property. However, Florida requires companies to spread bonus depreciation over seven years, which can keep such assets on a company's books even after they are exchanged or otherwise taken out of service. Since Florida chose not to adopt bonus depreciation, any Florida company with significant 1031 exchanges experienced very large state tax increases. Tax liability increases of up to tenfold were reported.

The Florida TaxWatch COVID-19 Taxpayer Task Force recommended that the Legislature address this issue[16]. Legislation[17] was considered during the last two sessions, but it would have provided only limited relief. One approach would have created a $2 million credit for a company that had a tax liability of at least $15 million and experienced an increase in that liability of at least 700 percent. The availability of this credit was limited to car rental, leasing, and financing companies, likely the industry that used non-realty like-kind exchanges the most[18]. This was included in the tax package that was approved by the full House in 2020. However, most of the tax changes with significant fiscal impacts were removed from the final bill due to budgetary concerns as COVID-19 was just hitting Florida. In 2021, a bill with this provision advanced in the Senate.

Proposed legislation was also drafted that would have been a more comprehensive approach.[19] It would have allowed car rental and leasing companies to subtract any remaining bonus depreciation (which Florida spreads out over seven years) when the property is removed from service. This approach would provide more relief but has a much higher fiscal impact.[20]

Conclusion and Recommendations

Federal tax reform was a complex undertaking, as was formulating a Florida response. Florida's adoption of most of the provisions of the Tax Cuts and Jobs Act of 2017 for the state's corporate income tax code resulted in a larger CIT tax base. Florida TaxWatch commends the Florida Legislature for attempting to make the changes as revenue neutral as possible through an automatic refund and rate reduction process.

Despite these efforts, federal tax reform and Florida's response resulted in a tax increase for Florida corporations. Even after the refunds and rate reduction, corporate taxpayers will have paid $1.7 billion more from FY2018-19 through FY2022-23 than was forecast before the TCJA was enacted. This is despite COVID-19's negative impact on tax collections.

16 Florida TaxWatch, Final Report of the COVID-19 Taxpayer Task Force, August 2020. https://floridataxwatch.org/Research/Full-Library/ArtMID/34407/ArticleID/18919/TaxWatch-COVID-19-Taxpayer-Task-Force

17 Florida Legislature, SB 1240 (2020), HB 7079 (2020), and SB 1390 (2021). https://flsenate.gov/Session/Bill/2021/1390, https://flsenate.gov/Session/Bill/2020/7097, https://flsenate.gov/Session/Bill/2020/1240

18 Auten, Gerald and Joulfaian, David and Mookerjee, Romen, Recent Trends in Like-Kind Exchanges (August 1, 2017). Available at http://dx.doi.org/10.2139/ssrn.3049029

19 Florida Legislature, proposed legislation as scored by the Revenue Estimating Impact Conference. http://www.edr.state.fl.us/content/conferences/revenueimpact/archives/2020/Agenda/0214_Issue8.pdf

20 Office of Economic and Demographic Research, results of the Revenue Estimating Impact Conference, pages 479-486, February 13, 2020. http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2020/_pdf/page479-486.pdf

1 Unless current law is changed, there will be another huge increase when the tax rate returns to its pre-tax reform rate of 5.5 percent (beginning with 2022 tax years). While difficult to estimate, this could result in a tax increase of at least hundreds of millions of dollars, perhaps exceeding $1 billion. This would be tough on companies recovering from the global pandemic.

Florida TaxWatch recommends that the 2022 Legislature repeal the scheduled increase in the corporate income tax rate to 5.5 percent to stave off a major tax increase. If the current reduced rate of 3.535 percent is determined to be too low, the Legislature should determine, as best as practical, the rate that makes the federal changes revenue neutral to Florida. If the Legislature needs more corporate income collections data to make the best decision, the rate increase could be postponed.

2 In addition, a drafting error in the TCJA increased the depreciation schedule for certain improvements to the interior of nonresidential buildings, known as "qualified improvement property" (QIP). Instead of the intended 15-year recovery period, it became 39 years. This also made QIP ineligible for federal 100 percent bonus depreciation (which Florida law spreads out over seven years.) The CARES Act provided a fix for the "retail glitch" but Florida did not adopt it. This increases the after-tax cost of QIP investment in Florida and harms business that rely of extensive interior improvements such as restaurants, hotels, movie theaters, and other retailers, which also are some of the companies most hurt by COVID-19. It also further dilutes the conformity between the Florida and federal tax code, which increases tax compliance burden for both taxpayers and the state.

Florida TaxWatch recommends the 2022 Legislature adopt the federal fix for the retail glitch, allowing Qualified Improvement Property (QIP) to be depreciated over 15--instead of 39–years. This should be made retroactive to 2018.

3 Another provision in the TCJA that was adopted by Florida resulted in huge tax increases for some companies, such as those engaging in car rental and leasing. The TCJA provided that taxpayers could no longer defer the gain when business personal property was exchanged for similar property, known as a Section 1031–or "like-kind" exchange. This was mitigated at the federal level by the bonus depreciation provision of TCJA, but Florida decoupled from that provision, requiring companies to spread bonus depreciation over seven years, which can keep such assets on a company's books even after they are exchanged or otherwise taken out of service. Florida companies with significant 1031 exchanges experienced very large state tax increases.

Florida TaxWatch recommends the 2022 Legislature address the massive tax increase for some companies, particularly those in car rental and leasing, created by no longer allowing taxpayers to defer gains from IRC Section 1031–or "like-kind"–exchanges of tangible personal property. Different approaches should be explored, including tax refunds or credits, or allowing companies to subtract any remaining bonus depreciation when the property is removed from service.

Appendix A

Provisions in Florida's Corporate Income Tax Piggyback Bills Passed in the Wake of Federal Tax Reform (2018 to 2021)

HB 7093 (2018) – adopted the Internal Revenue Code as in effect on January 1, 2019

This was the Legislature's first response to the federal corporate income tax reform of the TCJA. There was no real sense of the magnitude of the impact these changes would have on Florida corporations' state tax liability, except that the tax base would increase.

The bill adopted all the CIT provisions of the TCJA, except for 100 percent bonus depreciation because, unlike many of the other changes, it would negatively impact state revenue. Using the same method that the Legislature has used four times to deal with bonus depreciation passed by Congress since 2009, Florida taxpayers must add-back the bonus depreciation deduction amount to the taxpayer's taxable income. The taxpayer is then permitted to subtract from income one-seventh (1/7) of the deduction for the current taxable year and the following six taxable years. This allows the taxpayer to take the federal deduction but spreads out the fiscal impact to the state over seven years.

Some of the adopted provisions were limitations on the deductions for business interest, net operating losses, charitable contributions, meals and entertainment, income from domestic production activities and other items. Changes to the taxation of foreign income were also adopted, including Global Intangible Low-Taxed Income (GILTI), which was decoupled from the following year (see HB 7127 below). Florida also adopted an increase in Section 179 expensing from $500,000 to $1 million, which has a relatively minor (average of $2.5 million) negative revenue impact.

To address the tax increase the federal changes would create, the Legislature developed the refund and tax rate reduction mechanisms in the event CIT collections exceed the then-current estimates by more than seven percent. These safeguards were only for one year--based on collections in FY2018-19. If a tax rate reduction occurred, it would only apply to tax years beginning in 2019 and then return to 5.5 percent.

HB 7093 also required the Department of Revenue to examine how the TCJA will affect the state corporate income tax and the businesses that pay the tax, conduct public workshops, and submit a report[21] that included a comprehensive discussion of the potential effects of federal tax reform, options for legislative changes to integrate state and federal law, and estimates of the potential fiscal impact of each option. The 2019 Legislature was required to consider the report to determine whether adjustments were needed.

HB 7127 (2019) adopted the Internal Revenue Code as in effect on January 1, 2019

The bill "decoupled" from the TCJA's newly created foreign-source income type--Global Intangible Low-Taxed Income (GILTI). U.S. corporations that are shareholders of a controlled foreign corporation were required to include GILTI in their federal taxable income (at an effective federal tax rate of 10.5 percent). Decoupling allowed corporations to subtract the amount of GILTI included in their federal returns from their taxable income on their state tax returns. This was retroactive to January 1, 2018. In addition to the increase tax burden of the federal provision, there were questions about the constitutionality of its application at the state level.[22]

It also extended the refund and rate cut mechanisms created by the 2018 Legislature for two years, based on net CIT collection in FY2019-20 and FY2020-21. After that, starting with tax years beginning in 2022, the rate would return to 5.5 percent.

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21 Florida Department of Revenue, "Examination of the Impact of the Tax Cuts and Jobs Act of 2017," February 1, 2019. https://floridarevenue.com/taxes/Documents/cit_Review/CIT%20Report%20Final%202019.pdf

22 The Florida House of Representatives, Final Bill Analysis for HB 7127, May 2, 2019.

The Legislature felt that it still needs more data on the federal changes' impact on Florida. To this end, the bill required taxpayers to annually submit (on-line) a significant amount of information, such as the amount of GILTI and the interest expense and net operating loss deductions they claim on their federal returns.

HB 7095 (2020) adopted the Internal Revenue Code as in effect on January 1, 2020.

Adopting the new federal code picked up several tax changes included in the Further Consolidated Appropriations Act, which became law on December 20, 2020. These were largely extensions of previous enacted tax credits and other provisions, most of them relatively minor. The Revenue Estimating Conference estimated that the impact on state revenues was indeterminate with respect to both magnitude and direction.

HB 7059 (2021) adopted the Internal Revenue Code as in effect on January 1, 2021.

Congress passed two additional major pieces of legislative than contain both temporary and permanent changes to corporate taxation in 2020-- the Coronavirus Aid, Relief, and Economic Security Act (CARES) and the Consolidated Appropriations Act (CAA).

This piggyback bill adopted some changes, with the following four exceptions:

Retail Glitch Fix – correcting a drafting error in the TCJA, the bill changes the depreciable life of qualified improvement property from 39 years to 15, which also qualified the property for bonus depreciation.

Business Expense Deduction – increased the limit on the deduction from 30 percent to 50 percent of adjusted taxable value for tax years beginning in 2019 and 2020.

Film Production Costs – extended the ability of certain film productions to expense up to $15 million in costs in the year incurred through 2025.

Meal Expense Deduction – increased the amount allowed from 50 percent to 100 percent of deductible meal expenses.

The adopted provisions included:

Net Operating Losses – suspended the limitation of 80 percent of taxable income for 2018 through 2020, allowing taxpayers with sufficient losses to fully offset taxable income

Charitable Contributions – increased the limitation from 10 percent to 25 percent of taxable income for 2020 and 2021.

Other Changes – the bill adopted a number of extensions for existing tax provisions and miscellaneous provisions.

The Revenue Estimating Conference estimated this bill would have a one-time, negative revenue impact of $2.2 million in 2020.

The Senate's piggyback bill originally would have adopted all federal changes, except the business interest expense limitation increase. This would have saved taxpayers $211.9 million in FY2021-22 and $108.3 million annually thereafter. However, the bill was later amended to decouple from most of the provisions.

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As an independent, nonpartisan, nonprofit taxpayer research institute and government watchdog, it is the mission of Florida TaxWatch to provide the citizens of Florida and public officials with high quality, independent research and analysis of issues related to state and local government taxation, expenditures, policies, and programs. Florida TaxWatch works to improve the productivity and accountability of Florida government. Its research recommends productivity enhancements and explains the statewide impact of fiscal and economic policies and practices on citizens and businesses.

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