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Business Tax Cut Likely to Trigger in 2019, Florida Governor Says

By Chris Marr Feb 1, 2019

- Legislature could change rate-cut plan in 2019
- Broader proposals responding to federal tax overhaul also likely
- Governor unveils \$91B budget, with \$300M in property tax relief, sales tax holidays

Business tax cuts weren't among the Florida budget proposals that newly inaugurated Gov. Ron DeSantis (R) unveiled Feb. 1, but he predicted a rate cut is likely for 2019 anyway.

An automatic, temporary cut to the state's corporate income tax rate is likely to be triggered based on the growth of corporate tax collections thus far in fiscal year 2018-19, DeSantis told reporters during the budget announcement. In the meantime, the governor proposed about \$290 million of property tax relief through millage rate reductions, plus sales tax holidays estimated to reduce taxes by \$45 million.

The potential corporate rate cut is a part of the state's response to the 2017 federal tax law, which many business-side tax advocates said would result in unintentional state-level tax increases if states fully followed the new federal tax code.

Florida enacted the rate-cut trigger in 2018 to limit the impact on business taxpayers, while the state further studied how to respond to the federal changes, such as limits on business deductions of net interest expense and taxation of certain foreign income.

'Still Up In the Air'

Whether and how much of a rate cut businesses will get depends on the total corporate tax collections for the year ending June 30, 2019—and whether the Legislature revises the law during its upcoming session beginning in March.

If collections exceed the state's forecast by more than 7 percent, then state law calls for a rate cut for tax year 2019 that matches the amount of the excess collections. The state predicted corporate income tax collections of \$2.4 billion for the fiscal year, and has recorded collections of nearly \$1.3 billion through the end of December.

The rate-cut trigger was enacted in 2018 as part of the state's response to the federal tax overhaul. The same legislation called for the revenue department to conduct a year-long study estimating the state-tax impacts of the federal-code changes. Based on the department's report to legislative leaders, the Legislature might opt to revise Florida law to treat certain business income and deductions differently than the federal tax code.

"It's still somewhat up in the air," Mark Holcomb, a tax attorney at Dean Mead in Tallahassee, told Bloomberg Tax Feb. 1. Although tax-collection figures for the first half of fiscal 2018-19 suggest the rate cut will be triggered, the numbers aren't final and the Legislature could change the law, he said.

\$91B Budget

The governor's total budget proposal of \$91.3 billion included \$33.8 billion from Florida's general revenue, plus federal and other funding sources.

DeSantis—succeeding Gov. Rick Scott (R), who typically proposed \$500 million to \$1 billion worth of tax cuts each year—told reporters he’s committed to keeping Florida business-friendly and minimizing the tax burden, but that he chose not to propose a corporate tax cut this year given the likely triggered rate cut.

The business community isn’t likely to be surprised or disappointed, Holcomb predicted.

“I don’t think there was an expectation for the governor to recommend wholesale business tax cuts,” he said. “So much is dependent on how the Legislature is going to fully respond to the Tax Cuts and Jobs Act.”

Florida lawmakers also are expected to consider sales tax legislation in 2019 responding to last year’s landmark Supreme Court decision in *South Dakota v. Wayfair*, Holcomb added. This decision cleared the way for states to require out-of-state sellers such as online retailers to collect and remit sales tax, getting rid of a previous legal barrier that limited states’ authority to tax those retailers.

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