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Florida Tax Views: A Closer Look At $500M Corporate Refund

By **French Brown** (August 15, 2019, 6:10 PM EDT)

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As discussed in my previous Law360 column, Florida's corporate income taxpayers will be receiving a significant tax refund in spring 2020 and a retroactive corporate tax rate reduction for 2019.[1] Both adjustments stem from legislation over the last two years to address the Tax Cuts and Jobs Act and some of the base broadening provisions contained therein.

Corporate Income Tax Refunds

According to the recent forecast adopted by Florida's economists, a corporate income tax refund of $543.2 million should be due back to taxpayers as a result of significant increased collections during the state's 2018-2019 fiscal year. Corporate taxpayers will receive these automatic refunds on or before May 1, 2020, in an amount proportionate to the corporate income tax paid by the taxpayer during fiscal year 2018-2019.

> *Example:*
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> With the official net corporate collections of $2.869 billion for the year, if Corporation A paid the state a net amount of $143.45 million in corporate income tax during the period July 1, 2018, to June 28, 2019, then Corporation A would be entitled to 5% ($143,450,000 / $2,869,000,000) of the aggregate refund amount or approximately $27.16 million ($543.2 million x 5%).

If a company paid no Florida corporate income tax, then no refund will be provided.

Corporate Income Tax Rate Reduction

The economists' determination should result in a retroactive corporate tax rate reduction to 4.459% for tax years beginning on or after Jan. 1, 2019. The official reduction will be published by the Florida Department of Revenue on or before Oct. 1, 2019. This change may result in overpayments during a company's first two estimated tax payments for 2019 and may create an opportunity for additional refunds or credits.

Increased Collections

These significant changes were put in place by the Florida Legislature to ensure Florida continues to have one of the best tax climates in the country. The leaders of the Legislature knew the base broadening provisions of the TCJA would impact Florida corporations, but in early 2018 and into 2019, they did not understand how much the state corporate income tax revenues would increase. With support from the state's business community, the Legislature established these refund and rate cut mechanisms as a protection in the event corporate income tax collections significantly exceeded previous estimated revenue projections. They did.

Florida corporate income tax net collections after the TCJA rose 31.4% over the previous state fiscal year. Historically, from 2013 through 2017, Florida's corporate income tax collections remained steady, bringing in between $1.97 to $2.18 billion in net revenue each year. In 2018-2019, the state collected $3.14 billion.

After refunds are considered, the state keeps the first $152.2 million in additional corporate income tax collections (7% of growth over the old estimated forecast). Corporations are refunded the remainder, $543.2 million.

While some may suggest the refunds are a mammoth tax cut given to corporations, if the government inadvertently and unknowingly takes $700 from a business and then gives back $540, is it really a tax benefit?

Florida's Economy

Combined, these two corporate adjustments will reduce collections by over $1.1 billion in state fiscal year 2019-2020 and by $704.5 million in state fiscal year 2020-2021. However, upward adjustments due to increased sales tax and insurance taxes helped soften the corporate income tax revenue reduction. In the end, economists revised the current fiscal year estimate by slightly over $470 million (-1.4%), and the revised fiscal year estimate for 2020-21 grows by more than $1.4 billion (+4.3%) over the current fiscal year.

GILTI

In 2019, the Florida Legislature also agreed to decouple from the federal global intangible low-taxed income, or GILTI, tax retroactive to Jan. 1, 2018. Ultimately, economists were not able to estimate an impact due from GILTI. These changes allow businesses to continue to reinvest in their employees and their company to further strengthen Florida's economy.

Agency Guidance

For additional information, the Florida Department of Revenue has recently published two Taxpayer Information Publications (TIPs) regarding corporate income tax changes.[1]

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[1] https://www.deanmead.com/2018/03/2018-florida-legislature-enacts-numerous-state-and-local-tax-changes/

[2] TIP #19C01-01 Florida Corporate Income Tax – Tax Cut and Jobs Act of 2017, https://revenuelaw.floridarevenue.com/LawLibraryDocuments/2019/07/TIP-122545_TIP_19C01-01_FINAL_RLL.pdf.

TIP #19C01-02 Florida Corporate Income Tax Adoption of Internal Revenue Code and Other 2019 Legislative Changes, https://revenuelaw.floridarevenue.com/LawLibraryDocuments/2019/07/TIP-122544_TIP_19C01-02_Final_RLL.pdf