TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE

FISCAL NOTE

HB 320 - SB 1207

February 28, 2017

SUMMARY OF BILL: Authorizes franchise and excise (F&E) taxpayers to elect to calculate the excise tax component of their quarterly estimated F&E tax payments based on an annualized method, as provided by Section 6655(e)(2) of the Internal Revenue Code. Extends the time period for a person claiming exemption from F&E taxes to file an application for such exemption. Decreases, from $1,000 to $200, the penalty for late filings of applications for F&E tax exemptions.

ESTIMATED FISCAL IMPACT:

Decrease State Revenue – $11,225,900/FY16-17
$3,697,700/FY17-18
$261,100/FY18-19 and Subsequent Years

The Governor's Recommended Budget Document for FY17-18, on page A-38, recognizes a one-time decrease in state revenue to the General Fund of $3,436,600, and a recurring decrease in state revenue to the General Fund of $261,100. The proposed budget further recognizes a decrease in state revenue to the General Fund of $11,225,900 in FY16-17.

Assumptions:

- Under current law, pursuant to Tenn. Code Ann. 67-4-2015(b), the minimum amount of a quarterly estimated payment for F&E taxpayers required to make such payments is the lesser of: 25 percent of the combined F&E tax shown on the tax return for the preceding tax year; or 25 percent of 80 percent of the combined F&E tax liability for the current tax year.
- The proposed bill authorizes taxpayers to elect to calculate the excise tax component of their quarterly estimated payments based on an annualized method, which is a method in which a taxpayer calculates such payments based on already realized revenue in the current tax year. The franchise tax component of their quarterly estimated payments will not be impacted.
- The annualized method will allow taxpayers who receive a larger share of their income towards the end of their tax year to reduce their earlier estimated payments when they are realizing a lower share of income, and then make up for such reduced initial

payments with their remaining estimated payments or the final payment due with their tax return.

- Taxpayers who receive their taxable income consistently throughout the year, or taxpayers who receive most of their income towards the beginning of the tax year, are not anticipated to utilize the annualized method as, under such method, they would be paying a larger share of their tax early in the tax year.
- This fiscal analysis is based on the Department of Revenue's (DOR) analysis of taxpayers' taxable income by industry, with the underlying assumption that all taxpayers who will benefit from the annualized method by being able to reduce their earlier estimated payments will do so as soon as they can by as much as they can.
- The proposed legislation will apply to tax years beginning on or after January 1, 2017.
- Fiscal year impacts are dependent on taxpayers' tax years.
- Taxpayers with tax years that correspond to the calendar year (January to December) will make estimated payments for tax year 2017 in April and June of 2017 (FY16-17), September of 2017 and January of 2018 (FY17-18), with any remaining payment due with the annual tax return in April of 2018 (FY17-18). Therefore, these taxpayers, who constitute a majority of F&E taxpayers and approximately 70 percent of total tax collections, will be able to lower two of their estimated payments in FY16-17, and make up for the difference in FY17-18. However, any additional payments in FY17-18 will be offset by lower initial estimated payments by such taxpayers for tax year 2018, and this pattern will continue in perpetuity.
- DOR's analysis shows that these taxpayers will pay an estimated $10,127,500 less in excise tax in their first two estimated payments by using the annualized method. Therefore, the decrease in state revenue in FY16-17 from such taxpayers is estimated to be $10,127,500. The net impact on state revenue in FY17-18 and subsequent years will be not significant.
- The pattern of payments for taxpayers with tax years that begin in later months will be similar. Taxpayers whose tax years start in February and March are assumed to make one estimated payment (lower than it would have been under current law) in FY16-17 for tax year 2017, for a total decrease in state revenue from those taxpayers in FY16-17 estimated to be $876,200. The net impact on state revenue in FY17-18 and subsequent years will be not significant.
- Taxpayers whose tax years begin in the months between April and December will cause a decrease in state revenue in FY17-18, estimated to be $3,436,600.
- The proposed bill will result in additional decreases in state revenue from decreased collections from penalties and interest that are due to underpayments of estimated quarterly F&E tax payments. Such decreases are estimated to be approximately $222,200 in FY16-17 and $261,100 in FY17-18 and subsequent years.
- Extending the time period for a person claiming exemption from F&E taxes to file an application for such exemption, and decreasing the penalty for late filings of applications for F&E tax exemptions are estimated to result in a not significant impact on state revenue.
- The total decrease in state revenue is estimated to be: $11,225,900 in FY16-17 ($10,127,500 + $876,200 + $222,200), $3,697,700 in FY17-18 ($3,436,600 + $261,100), and $261,100 in FY18-19 and subsequent years.

- Any required programming changes will be accomplished utilizing existing staff without a significant increase in state expenditures.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

Krista M. Lee

Krista M. Lee, Executive Director

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