

HF4535 - 0 - Corporate Tax Base Erosion Study

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 Committee: **Taxes**
 Date Completed: **3/5/2024 7:56:10 PM**
 Agency: **Revenue Dept**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	-	655	-	-	-
Total	-	-	655	-	-	-
Biennial Total			655			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	-	2.01	-	-
Total	-	-	2.01	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Joel Enders **Date:** 3/5/2024 7:56:10 PM
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State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands	FY2023	FY2024	FY2025	FY2026	FY2027	
General Fund	-	-	655	-	-	-
Total	-	-	655	-	-	-
Biennial Total			655			-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
General Fund	-	-	655	-	-	-
Total	-	-	655	-	-	-
Biennial Total			655			-
2 - Revenues, Transfers In*						
General Fund	-	-	-	-	-	-
Total	-	-	-	-	-	-
Biennial Total			-			-

Bill Description

The bill mandates the commissioner of revenue to submit a report on the extent of “corporate tax base erosion” in Minnesota, legislative options for addressing that erosion (specifically including worldwide combined reporting), and the litigation risks involved in those options. The report must be provided to the chairs and ranking minority members of legislative committees with jurisdiction over taxes by January 1, 2025. The report must include discussion of:

1. The types of international corporate structures and resulting transactions among commonly controlled businesses that reduce the amount of income that would otherwise be apportionable to Minnesota under the corporate franchise tax;
2. The most reliable published analyses of corporate tax base erosion that could be used to estimate the revenue impact of that erosion on corporate franchise tax collections in Minnesota, including how Minnesota’s share of aggregate domestic shifted profits may be calculated;
3. The extent to which current Minnesota statutes address income under Internal Revenue Code section 951A and the limitations of this approach;
4. Other options to address corporate tax base erosion, including worldwide combined reporting;
5. For worldwide combined reporting, how increased Minnesota apportioned income with worldwide combined reporting equals the amounts described in clause (2), the administrative impact on taxpayers and the Department of Revenue relative to current law, and recommendations for administrative changes to the corporate franchise tax to address the impact;
6. Recommendations for any other modifications to current law needed to administer options described in clause (4).
7. The risk of litigation, constitutional and otherwise, under the options described in clause (4) and recommendations to mitigate those risks;
8. Other topics necessary to inform legislators on this subject.

The effective date is the day following final enactment.

Assumptions

The Department of Revenue (Revenue) assumes it will need to contract with someone who has technical expertise in

international corporate structures and corporate franchise taxes, including worldwide combined reporting. Revenue assumes the technical expert would lead the work on the topics described in clauses 1, 2, 3, 4, and 5(i) of the bill.

Revenue assumes that a contract with a technical expert, such as an economist or someone in academia, would cost around \$150,000 based on input from individuals engaged in tax research and previous experience. We assume an hourly rate of \$300 and approximately 500 hours of work. Revenue assumes that it will need to follow the Department of Administration’s Standard Professional/Technical Contract Process, which includes a Request for Proposal (RFP) process, for services in excess of \$25,000 in order to hire a technical expert. Revenue assumes it may take up to six months or more to execute a contract with a technical expert.

Minnesota statutes, section 16C.08, subdivision 3a allows state agencies to pursue a single source request if they conduct a search and submit a request to the commissioner of administration with information supporting the request. Minnesota statutes, section 16C.10, subdivision 1 allows state agencies to circumvent the state procurement process if there is clearly and legitimately only a single source for the services and the commissioner of administration determines the price has been fairly and reasonably established.

If Revenue is not able to pursue or is not approved for a single source request for the technical expert, Revenue assumes it may not be able to complete the study or issue a report by January 1, 2025 given the requirements of the state’s procurement process.

Revenue assumes it will contract with a consultant to coordinate with Revenue and the third-party technical expert to assemble and complete the report. Revenue assumes the consultant will need to attend bi-monthly meetings with Revenue and the technical expert to facilitate the writing of the report, as well as review analysis and research provided by the technical expert and Revenue.

Revenue assumes a cost of up to \$145,000 to contract with a consultant through MMB’s Management Analysis Division. The cost includes project planning, meeting design and facilitation, writing services, between meeting coordination, consultation on development of recommendations, facilitation of report review and editing process, and one focused engagement event or survey. Revenue assumes it may take up to two months or more to execute a contract with a consultant from MMB’s approved vendor list.

The Corporate Franchise Tax (CFT) Division assumes it will conduct the bidding process for a consultant to write the report. CFT will assist the Tax Research Division and technical expert with clauses 1, 4, 5(ii) and 5(iii), and 6. CFT assumes 1.16 FTE is needed for FY25, including 1.11 FTE of staff time and .05 FTE of supervisor time.

The Appeals, Legal Services, and Disclosure (ALSD) Division assumes it will need .73 FTE in FY25 for corporate franchise tax (CFT) attorneys, litigation attorneys, and disclosure attorneys to assist with clause 7 of the bill.

CFT attorneys assume .24 FTE is needed in FY25 to review drafts of the report, participate in meetings regarding the study, and meet with the technical expert to address the constitutional concerns mentioned in clause 7 of the bill.

Litigation attorneys assume .13 FTE is needed in FY25 to participate in meetings, review drafts of the report, and discuss litigation concerns with the consultant.

Disclosure attorneys assume .36 FTE is needed in FY25 to participate in meetings as well as review the final report for disclosure concerns since CFT data is not public data.

The Tax Research Division assumes their staff will assist the third-party technical expert with clauses 2, 3, and 5(i) of the bill. They assume .13 FTE is needed in FY25 to assist the technical expert with understanding and working with Minnesota corporate data. This includes .10 FTE of staff time, .02 FTE of supervisor time, and .01 FTE of managerial time.

FTE Impact

FTEs	FY 2024	FY 2025	FY 2026	FY 2027
Appeals, Legal, and Disclosure staff (Attorney)		.73		
Corporate Franchise Tax staff		1.16		
MAPE		1.11		
MMA		.05		

Tax Research staff		.13		
MAPE		.10		
MMA		.02		
Managerial		.01		
Total FTE Impact		2.01		

Note: Totals may vary slightly due to rounding.

Expenditure and/or Revenue Formula

Administrative Impact

Administrative Costs (Savings)	FY 2024	FY 2025	FY 2026	FY 2027
Employee Compensation		359,719		
Technical expert		150,000		
Consultant		145,000		
Total Administrative Costs (Savings)		654,719		

Note: This table uses whole numbers. Totals may vary slightly due to rounding.

Long-Term Fiscal Considerations

N/A

Local Fiscal Impact

N/A

References/Sources

Department of Administration Standard Professional/Technical Contract Process: Over \$25,000

<https://mn.gov/admin/osp/government/professionatechnicalcontracts/decision-tree/standard-pt-contract-process-over-25000.jsp>

Consulted with MMB’s Management Analysis Division (MAD) and with individuals engaged in tax research.

Agency staff provided information for this fiscal note.

I have reviewed the content of this fiscal note and believe it is a reasonable estimate of the expenditures and revenues associated with this proposed legislation.

Agency Contact:

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