

# LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

**ASSEMBLY, No. 4809**

## **STATE OF NEW JERSEY 219th LEGISLATURE**

DATED: OCTOBER 29, 2020

### **SUMMARY**

**Synopsis:** Revises, clarifies, corrects, and simplifies various aspects of CBT.

**Type of Impact:** Annual net impact on State revenues.

**Agencies Affected:** Department of the Treasury

#### **Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b><u>FY 2021 and Thereafter</u></b>
<b>Net State Revenue Impact</b>	Indeterminate

- The Office of Legislative Services (OLS) is unable to determine the magnitude and direction of the bill's net impact on annual State revenues. The OLS notes that various changes proposed by the bill would codify existing administrative practices previously implemented by the Division of Taxation. Given that these changes are technical in nature and meant to clarify and conform to current practices, the OLS does not expect those changes to yield a discernible fiscal impact. Numerous other provisions in the bill, however, will impact annual State revenue collections. The OLS cannot quantify these impacts due to a lack of available information and access to taxpayer data.
- The bill's changes to the State's realty transfer fee (RTF), controlling interest transfer tax (CITT), and bulk sale laws could reduce annual State revenues by an indeterminate amount. The impact of changes to the treatment of net operating losses and dividends on State revenues will vary, since each taxpayer is unique. Certain taxpayers may end up paying less taxes because of the changes while other taxpayers may be required to pay more.

### **BILL DESCRIPTION**

This bill makes numerous corrections and revisions to clarify and simplify various aspects of the changes that were enacted as part of P.L.2018, c.48 and P.L.2018, c.131. Those laws, among

other things, mandated mandatory unitary combined returns on a water's-edge basis if no election for an affiliated group basis filing or world-wide group basis filing had been made. The laws also changed the application of the net operating losses from pre-allocation (called pre-apportionment in other states) to post-allocation (called post-apportionment in other states), updated the research and development credit, and amended the dividend received exclusion.

The bill excludes certain intercompany transfers of real property between combined group members from the State's RTF and CITT. The bill also excludes transactions that are intercompany transfers between combined group members from the State's bulk sale notification requirements.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS is unable to determine the magnitude and direction of the bill's net impact on annual State revenues. The OLS notes that various changes proposed by the bill would codify existing administrative practices previously implemented by the Division of Taxation. Given that these changes are technical in nature and meant to clarify and conform to current practices, the OLS does not expect those changes to yield a discernible fiscal impact. Numerous other provisions in the bill, however, will impact annual State revenue collections. The OLS cannot quantify these impacts due to a lack of available information and access to taxpayer data.

The bill would exclude certain intercompany transfers of real property between combined group members from the State's RTF and from the CITT. The bill would also exclude transactions that are intercompany transfers between combined group members from the State's bulk sale notification requirements. The bill's changes to the State's RTF, CITT, and bulk sale laws could reduce State revenues by an indeterminate amount. The OLS assumes that some of these intercompany transfers have been subject to these taxes and notification requirements but notes that the fiscal impact from those transfers has likely been insignificant.

Lastly, the bill modifies the treatment of net operating losses and dividends under the corporation business tax, which will have an impact on the tax base. The impact of these changes on State revenues will vary, since each taxpayer is unique. Certain taxpayers may end up paying less taxes because of the changes while other taxpayers may be required to pay more.

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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).