REVENUE IMPACT OF PROPOSED LEGISLATION

81st Oregon Legislative Assembly
2021 Regular Session
Legislative Revenue Office

Economist: Kaitlyn Harger
Bill Number: SB 164 A
Tax Area: Corporate Activity Tax
Date: 5/27/2021

Only Impacts on Original or Engrossed Versions are Considered Official

---

This office has reviewed the proposed legislation and determined that it has

Minimal Revenue Impact

Fiscal Year Filing

SB 164 A changes statute to accommodate businesses filing on a fiscal year that is different from the calendar year. Language within statute is adjusted to move from calendar year filing towards tax year filing, which is inclusive of both fiscal and calendar year filers. This change affects the timing of returns and estimated payments but is not expected to affect the amount of revenue due to the state.

Grocery Outlet Adjustment

Feedback from stakeholders and the DOR indicated that due to the unique business model of Grocery Outlet stores, the Independent Operators (IOs) of the store were required to pay CAT on revenue related to the sale of groceries. Grocery Outlet's stores are run by IOs similar to other franchise or license-based business models. However, Grocery Outlet maintains ownership of the products (grocery and non-grocery) sold in Grocery Outlet stores by IOs. Despite never owning the groceries, the IOs receive revenue based on the consignment sales made in the store. The language in SB 164 A adjusts statute to clarify that revenue from grocery sales on a consignment basis are also subject to the grocery exemption. Given that this issue is related specifically to Grocery Outlet's business model, using tax return data is not possible for revenue analysis due to disclosure issues. Based on publicly available data from the Wall Street Journal, Grocery Outlet's national sales in 2019 were roughly $2.5 Billion. After sharing that national amount down to Oregon, adjusting for exclusions from commercial activity, and applying the CAT rate, the estimated revenue decline from this provision is likely to be minimal, less than $50,000 on an annual basis.

Retaliatory Tax

SB 164 A exempts from the CAT, insurance companies that are subject to the retaliatory tax in Oregon. In general, foreign or alien insurers writing policies in Oregon are subject to the retaliatory tax. When taxes on insurers in Oregon increase, Oregon based insurers operating in other states are faced with retaliatory tax increases in every other state in which they operate (assuming all else is held equal). When foreign and alien insurers writing policies within Oregon experience a tax increase in Oregon, their retaliatory tax burden declines, resulting in a revenue loss to the state. By exempting entities

State Capitol Building
900 Court St NE
Salem, OR 97301

Phone: 503-986-1266
Fax: 503-986-1770
https://www.oregonlegislature.gov/lro

subject to the retaliatory tax in Oregon (foreign and alien insurance companies), Oregon based insurers avoid the retaliatory tax impact of the CAT in the other states in which they operate, and the revenue decline due to retaliatory taxes paid from foreign and alien insurers is also avoided.

Under current law, foreign and alien insurers are subject to the CAT and the retaliatory tax. Additionally, ORS 327.001 requires a transfer from the Fund for Student Success to the General Fund (GF), to backfill any decline in GF revenue due to the CAT. Since the CAT triggers the retaliatory tax under current law, the portion of GF revenue lost to the retaliatory tax is backfilled by the transfer from the Fund for Student Success at the end of the biennium. Effectively, the CAT revenue received from foreign and alien insurers is moved from the Fund for Student Success to the General Fund to backfill the loss to the General Fund due to retaliatory taxes. Under SB 164 A, insurers subject to the retaliatory tax are exempt from the CAT. That exemption results in a decrease in CAT revenue but avoids the decline in General Fund revenue related to the retaliatory tax caused by the CAT. The ending balance of the Fund for Student Success is the same under current law and SB 164 A due to the transfer required by ORS 327.001, thus there is no revenue impact of this provision.

State Capitol Building
900 Court St NE
Salem, OR 97301

Phone: 503-986-1266
Fax: 503-986-1770
https://www.oregonlegislature.gov/lro