Overview

Florida imposes a 5.5 percent tax on the taxable income of corporations and financial institutions doing business in Florida. **However, over 90 percent of corporations owe zero corporate income tax (CIT).**¹ To calculate CIT due, the Sunshine State uses federal taxable income as a starting point and then modifies it by applying state-based additions, subtractions, and other adjustments. Since Florida uses federal taxable income as a starting point, the state tax code maintains a relationship with the federal Internal Revenue Code (IRC) by piggybacking the IRC as it exists on January 1 of the year.² Since Florida does not have to build an entirely different tax code from scratch, piggybacking leads to substantial administrative savings, uniformity, and reductions in compliance costs. However, sometimes state policymakers choose to decouple or throw out specific tax provisions in the IRC.

For example, in 2018, policymakers passed House Bill (HB) 7093 to update the Florida CIT code in response to a major 2017 federal tax reform legislation known as the Tax Cuts and Jobs Act (TCJA). The TCJA made significant and broad changes to the IRC, with critical CIT implications. While the act eliminated or limited several income tax deductions — e.g., limits on deductions for business interest expenses — it also reduced the top corporate tax rate from 35 percent to 21 percent and increased bonus depreciation by allowing businesses to immediately deduct 100 percent of the value of certain property assets. In response to these changes, Florida policymakers decided to adopt the TCJA-IRC without accelerated bonus depreciation.³ Policymakers also sought to counter TCJA’s base broadeners, which would have generated more CIT revenue for the state, by creating an automatic downward adjustment to the CIT rate triggered when net collections for the fiscal year exceeded the Revenue Estimating Conference’s (REC’s) expectations by 7 percent. Furthermore, HB 7093 specified that excess collections had to be refunded to corporate taxpayers no later than March 1 of the following year.⁴

As of January 1, 2022, the CIT automatic downward adjustment and refund mechanism has officially expired: the CIT rate has reset to 5.5 percent and the Department of Revenue (DOR) is set to distribute a final $624 million refund to corporations by May. Nevertheless, this does not mean that legislators are done with TCJA, automatic rate reductions, or corporate payouts. **CS/SB 1090 (2022)** aims to rewrite Florida’s CIT code by reversing previous TCJA decisions.

Concerning the fiscal impact of **CS/SB 1090**, state economists estimate that the bill would cost **$3.5 billion** over the next five fiscal years. Specifically, the legislation would:

- **Adopt the changes originally made in the TCJA related to research and development (R&D) expenditures.** Previously, legislators adopted a TCJA provision that stops businesses from fully deducting research or experimental expenditures the same year in which the costs are incurred. This applies to research and development expenditures made after December 31, 2021. **CS/SB 1090** leaves this TCJA provision unchanged so that corporations would have to capitalize and amortize R&D expenditures instead of immediately deducting them.
Fiscal Impact: Florida would see an estimated $980 million in new revenue over the next five fiscal years.  

- Remove the limit on business interest expense (BIE) deductions that some of Florida’s largest corporations are currently subject to. Previously, legislators adopted a TCJA provision that restricted businesses with average gross receipts of $25 million or more from deducting interest payments above 30 percent of their adjusted taxable income. Accordingly, any disallowed BIE deductions could be carried forward. CS/SB 1090 reverses this previous decision and decouples from TCJA’s BIE deduction limit, meaning that most corporations’ BIE deductions would no longer be limited to 30 percent of their adjusted taxable income.

Fiscal impact: Florida would lose an estimated $1.7 billion in revenue over the next five fiscal years.

- Adopt the TCJA’s bonus depreciation schedule for certain business assets. Previously, legislators rejected a TCJA provision that allowed corporations to immediately deduct 100 percent of the value of certain property assets placed in service after September 27, 2017, and before January 1, 2023. Per TCJA, after January 2023, corporations could continue to deduct significant portions of their purchased assets so long as these assets were placed in service before December 31, 2016. As noted, Florida policymakers originally rejected TCJA’s bonus depreciation scheme and instead required corporations to add back the deduction amount to the taxpayer’s taxable income. Then, corporations could subtract from income one-seventh of the deduction for the current taxable year and do the same in the following six taxable years. CS/SB 1090 would reverse this previous decision and adopt TCJA’s depreciation schedule moving forward, so corporations would have the option to immediately deduct significant portions of their purchased assets.

Fiscal impact: Florida would lose an estimated $2.1 billion in revenue over the next five fiscal years.

Conclusively, CS/SB 1090 would have a negative revenue impact of $3.5 billion over the next five fiscal years. This is mainly driven by the bill’s reversal of previous legislative decisions regarding BIE deductions and bonus depreciation. Since CS/SB 1090 eliminates TCJA’s BIE deduction limitation, this will create a recurring (or permanent) tax expenditure of $340 million. Also, it is important to note that while the fiscal impact of the legislation’s BIE deduction provision will turn positive in FY 2026-2027, the state will not recover the full negative impact until FY 2030-2031. In the meantime, there is no assurance that policymakers won’t reverse these decisions and pass new CIT deductions.

How CS/SB 1090, “Corporate Income Tax,” would put Florida’s public investments at risk

Over 90 percent of Americans agree that everyone’s civic duty is to pay their fair share of taxes. Unfortunately, Florida’s tax code, which prioritizes sales taxes, is far from equitable: it keeps prosperity out of reach for people with low and moderate income while boosting the state’s more affluent...
residents. This model is unsustainable and limits the quality of Florida schools, affordable housing, transportation infrastructure, clean water and energy, and safety net programs. Accordingly, nationwide, per capita, Florida ranks 46th on public services expenditures, 49th on elementary and secondary school spending, 50th on higher education spending, 49th on safety net spending, and 36th on highway infrastructure spending. Also, the Sunshine State has the worst renter cost burden and is ranked fifth worst for its uninsured rate.

Instead of generating revenue to address Florida’s underfunded services, CS/SB 1090 forgoes $3.5 billion to the benefit of a small percentage of wealthy businesses. The Sunshine State already exempts: the first $50,000 of net income; Limited Liability Companies (LLCs); and S Corporations or pass-through businesses that have no more than 100 shareholders and whose profits flow through to shareholders’ income. Since Florida does not have a personal income tax, these profits are not taxed in the state. As a result, most businesses in Florida (99 percent of them) do not pay CITs. Even among the corporations that are not exempt, only one out of 10 owes a CIT. The opportunity costs associated with CS/SB 1090 are clear: the state would have $3.5 billion less over the next five fiscal years, which limits public investments.

For more info:

Contact Esteban Leonardo Santis, PhD, policy analyst at Florida Policy Institute, santis@floridapolicy.org.

2 This is known as “static” or “fixed date” conformity and requires legislative action to incorporate any changes made to federal statutes since the last day of conformity. See 2021 Florida Statutes 220.03(2), www.flsenate.gov/Laws/Statutes/2021/0220.03.
3 Instead, HB 7093 required corporations to spread over a seven-year period the amount of the accelerated deductions provided by federal law changes.
4 Although the bill was originally supposed to sunset on December 31, 2019, during the 2019 legislative session, policymakers passed HB 7127, which extended the automatic downward adjustment and refund mechanism through December 31, 2021. Due to these decisions, for taxable years beginning January 1, 2019, through December 31, 2020, Florida’s CIT rate dropped from 5.5 to 4.458 percent, costing an estimated $433 million per fiscal year. Then, for taxable years beginning January 1, 2021, through December 31, 2021, the rate dropped to 3.532 percent, costing an additional $427 million. Finally, alongside the downward rate adjustments, Florida’s Department of Revenue (DOR) refunded $543 million in 2020 and must refund another $624 million by May 1 of 2022.
TCJA’s bonus depreciation schedule is as follows:

<table>
<thead>
<tr>
<th>Applicable Percentage</th>
<th>Placed in Service</th>
</tr>
</thead>
<tbody>
<tr>
<td>100 percent</td>
<td>After September 27, 2017, and before January 1, 2023</td>
</tr>
<tr>
<td>80 percent</td>
<td>After December 31, 2022, and before January 1, 2024</td>
</tr>
<tr>
<td>60 percent</td>
<td>After December 31, 2023, and before January 1, 2025</td>
</tr>
<tr>
<td>40 percent</td>
<td>After December 31, 2024, and before January 1, 2026</td>
</tr>
<tr>
<td>20 percent</td>
<td>After December 31, 2025, and before January 1, 2027</td>
</tr>
<tr>
<td>None</td>
<td>After December 31, 2026</td>
</tr>
</tbody>
</table>

6 Florida Senate Committee on Tax and Finance.
7 TCJA’s bonus depreciation schedule is as follows:

13 Kaiser Family Foundation, “Health Insurance Coverage of the Total Population (CPS),” 2020, https://www.kff.org/other/state-indicator/health-insurance-coverage-of-the-total-populationcps/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D.