

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 3246

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 12, 2019

The Assembly Appropriations Committee reports favorably and with committee amendments Senate Bill No. 3246 (1R).

This bill, the “Pass-Through Business Alternative Income Tax Act,” establishes an elective entity-level alternative income tax to be paid by pass-through businesses and provides an offsetting credit to taxpayers who receive income from a pass-through business.

For a business that opts to pay the pass-through business alternative income tax, the bill provides a refundable gross income tax credit that is available to taxpayers who are members of the pass-through business. In the case of a corporation that owns a pass-through business opting to pay the pass-through business alternative income tax, the bill provides a corporation business tax credit which, if unused, may be carried forward for up to 20 years.

The bill takes effect immediately and applies to taxable years of pass-through entities beginning on or after January 1, 2020.

As amended and reported by the committee, Senate Bill No. 3246 (1R) is identical to Assembly Bill No. 4807 (1R), as also amended and reported by the committee.

COMMITTEE AMENDMENTS:

- The committee amended the bill to:
- (1) change the rates of tax a pass-through entity will pay under the bill to as follows:
- | Pass-Through Entity Income | Tax Rate |
|--|----------|
| First \$250,000 | 5.675% |
| Amount between \$250,000 and \$1 million | 6.52% |
| Amount between \$1 million and \$5 million | 9.12% |
| Amount over \$5 million | 10.9% |
- (2) allow a corporation business tax credit to offset the elective tax paid by a pass-through business owned by a corporation;
- (3) redefine which entities are considered pass-through entities;
- (4) makes changes related to the administration of the bill; and

(5) change the effective date so that the first tax year the elective pass-through business entity income tax will be in effect is 2020.

FISCAL IMPACT:

The Office of Legislative Services (OLS) anticipates that the bill will be revenue neutral, but the permissive nature of the bill precludes the OLS from quantifying the impact.

To the extent that pass-through entities elect to pay the pass-through business alternative income tax, revenue will shift from the Property Tax Relief Fund to the General Fund. Gross income tax collections are constitutionally dedicated to the Property Tax Relief Fund, but the bill requires collections from the pass-through business alternative income tax be deposited into the State's General Fund. The bill allows for a tax credit equal to a member's share of pass-through entity tax paid by the pass-through entity. A member can then apply the tax credit to offset its gross income tax or corporation business tax liability, since the pass-through entity would be paying the entity-level tax on those proceeds.

The OLS notes that the Division of Taxation in the Department of the Treasury may incur increased costs to implement and administer the pass-through business alternative income tax, which the department may be able to absorb within its existing budget.