

February 14, 2020

The Honorable Steven Johnson, Chairperson
House Committee on Taxation
Statehouse, Room 185A-N
Topeka, Kansas 66612

Dear Representative Johnson:

SUBJECT: Fiscal Note for HB 2553 by House Committee on Taxation

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2553 is respectfully submitted to your committee.

Calculations for Kansas income taxes are based on the Kansas adjusted gross income, which is calculated by adding or subtracting certain types of income from the federal adjusted gross income. HB 2553 would allow 100.0 percent of global intangible low-taxed income (GILTI), before allowable deductions, to be subtracted from income for Kansas income tax purposes beginning retroactively to tax year 2018. Additionally, all deductions from GILTI would be added back for Kansas income tax purposes beginning retroactively to tax year 2018. This would exempt this income from state income taxes.

The bill would allow the amount of disallowed business interest expenses to be subtracted from income for Kansas income tax purposes beginning retroactively to tax year 2018. Additionally, all deductions from the carry forward amount of disallowed business interest would be added back for Kansas income tax purposes beginning retroactively to tax year 2018. This would allow state taxpayers to claim the full amount of business interest expenses on state income tax returns.

The bill would allow taxpayers to deduct the costs of any disallowed Federal Deposit Insurance Corporation (FDIC) premiums beginning retroactively to tax year 2018. Corporate taxpayers would be allowed to exclude contributions to capital from non-shareholders in the calculation of state income taxes beginning retroactively to tax year 2018. This provision would exclude contributions by a governmental entity or civic group such as the values of state and local tax incentives from the calculation of income. Taxpayers would be allowed to file amended returns for changes to these deductions for a prior tax year that become law on July 1, 2020.

Estimated State Fiscal Effect				
	FY 2020 SGF	FY 2020 All Funds	FY 2021 SGF	FY 2021 All Funds
Revenue	--	--	(\$178,200,000)	(\$178,200,000)
Expenditure	--	--	\$339,320	\$339,320
FTE Pos.	--	--	--	3.00

The Department of Revenue estimates that HB 2553 would decrease State General Fund revenues by \$178.2 million in FY 2021, \$56.1 million in FY 2022, and \$62.3 million in FY 2023.

The Department of Revenue estimates that exempting GILTI would decrease State General Fund revenues by \$95.6 million in FY 2021, \$24.2 million in FY 2022, and \$23.5 million in FY 2023. The Department indicates that it is current reviewing Kansas corporate (form K-120) and federal (form 1120) tax returns for tax year 2018 that have been received to date. The Department indicates that approximately 900 Kansas corporate taxpayers with GILTI reported on form 1120 and not all 2018 Kansas corporate returns have been received to date. As additional returns are received and worked, the Department may revise the estimate for exempting GILTI. Allowing taxpayers to claim disallowed business interest expenses is estimated to reduce State General Fund revenues by \$78.6 million in FY 2021, \$30.6 million in FY 2022, and \$37.5 million in FY 2023. The deduction for FDIC premiums would decrease State General Fund revenues by \$4.0 million in FY 2021 and by \$1.3 million in both FY 2022 and FY 2023. The exclusion of certain contributions to capital would reduce State General Fund receipts by a negligible amount. The Department of Revenue indicates that it used the 2017 report from the Federal Joint Commission on Taxation to estimate the impact of all federal tax policy changes on Kansas. Because the bill is retroactive to tax year 2018, the Department assumes taxpayers would amend tax years 2018 and 2019 returns and apply for refunds in FY 2021. The estimates assume refunds would not include interest.

The Department indicates that the bill would require \$339,320 from the State General Fund in FY 2021 to implement the bill and to modify the automated tax system. The bill would require the Department to hire 3.00 new FTE positions to answer questions from taxpayers and to review, process, and audit additional income tax returns. The required programming for this bill by itself would be performed by existing staff of the Department of Revenue. In addition, if the combined effect of implementing this bill and other enacted legislation exceeds the Department's programming resources, or if the time for implementing the changes is too short, additional expenditures for outside contract programmer services beyond the Department's current budget may be required.

The Department of Administration indicates that adjusting state income tax collections has the potential to have a fiscal effect on the amount of revenue collected from its debt setoff program. This program intercepts individual income tax refunds and homestead tax refunds and applies those amounts to debts owed to state agencies, municipalities, district courts, and state agencies in

other states. Debts include, but are not limited to child support, taxes, educational expenses, fines, services provided to the debtor, and court ordered restitution. As the dollar amounts of refunds are increased, the amount available for possible debt setoffs is also increased. However, the Department is unable to make an estimate of the amount of additional debts setoffs that will be intercepted as a result of the bill. Any fiscal effect associated with HB 2553 is not reflected in *The FY 2021 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink that reads "L. L. Campbell". The signature is written in a cursive style with a large, sweeping initial "L".

Larry L. Campbell
Director of the Budget

cc: Jeff Scannell, Department of Administration
Lynn Robinson, Department of Revenue