



MULTISTATE INCOME/FRANCHISE TAX

## Tennessee proposes bill eliminating minimum property base measure of franchise tax

Tax Alert

### Overview

On January 22, 2024, Tennessee [House Bill 1893](#) (H.B. 1893) was introduced in the General Assembly. H.B. 1893 proposes to eliminate the statutory provision requiring that the franchise tax base must not be less than the actual value of the real or tangible property owned or used by a taxpayer in the state. The bill also proposes authorizing the Commissioner of the Tennessee Department of Revenue to issue refunds to qualifying taxpayers who properly file a claim for refund on the prescribed forms for taxes previously paid using the real and tangible property base measure of the franchise tax.

This Tax Alert summarizes some of the provisions in H.B. 1893.

### Proposes changes to Tennessee minimum measure of franchise tax

Taxpayers subject to the franchise tax in Tennessee currently pay tax on the greater of either the net worth apportioned to the state (the net worth tax base) or the real or tangible property owned or used in the state (the minimum tax base), but in no case less than a minimum tax of \$100. H.B. 1893 proposes to amend Tenn. Code Ann. § 67-4-2105(a) and other relevant code sections by deleting "or real or tangible personal property owned or used, as the case may be," wherever it appears, and by eliminating Tenn. Code Ann. § 67-4-2108, which details the minimum tax base measure, entirely. The effect of these proposed changes would be to remove the real or tangible property minimum tax base measure of the tax from the law such that taxpayers subject to the franchise tax would only pay on the net worth tax base, but no less than the \$100 minimum tax.

H.B. 1893 further proposes to authorize the Commissioner of the Tennessee Department of Revenue to issue refunds to affected taxpayers equal to the amount of tax actually paid under the minimum tax base measure minus the amount of tax otherwise due under the law without regard to Tenn. Code Ann. § 67-4-2108 (the minimum tax base), subject to following provisions:

- The refund must be claimed within three years from December 31st of the year in which the payment was made or within any period covered by a valid extension,
- The claim for refund must be filed on a form prescribed by the Commissioner, and must not include a claim for refund on any other basis,
- Credits claimed against the tax due must be reinstated but not paid as a refund,
- This section does not prevent the Commissioner from auditing the refund claim or auditing the amount of franchise tax otherwise due within the applicable statute of limitations,
- A refund due under this section must first be used to offset any outstanding tax liabilities,
- A denial of a refund claimed under this section is subject to the remedies provided in Tenn. Code Ann. § 67-1-1802,
- The interest rate established by 26 U.S.C. § 6621(a)(1) for a large corporate overpayment in the amount of the federal short-term rate plus five-tenths (0.5) of a percentage point must be added to the amount refunded under this section beginning 90 days from the date the Commissioner receives the refund claim, and
- Attorneys' fees must not be added to the amount of refund due.

H.B. 1893 also proposes that all refunds paid pursuant to this bill must be paid from an appropriately designated fund established by the Department of Finance and Administration.

This proposed bill, if enacted, will be effective immediately upon becoming law.

## Get in touch

[Joe Garrett](#)

[Amber Rutherford](#)

[Waltreese Carroll-Williams](#)



[Deloitte.com](#) | [Unsubscribe](#) | [Manage email preferences](#) | [Legal](#) | [Privacy](#)

30 Rockefeller Plaza  
New York, NY 10112-0015  
United States

As used in this document, "Deloitte" means Deloitte Tax LLP, a subsidiary of Deloitte LLP. Please see [www.deloitte.com/us/about](http://www.deloitte.com/us/about) for a detailed description of our legal structure. Certain services may not be available to attest clients under the rules and regulations of public accounting.

This alert contains general information only and Deloitte is not, by means of this alert, rendering accounting, business, financial, investment, legal, tax, or other professional advice or services. This alert is not a substitute for such professional advice or services, nor should it be used as a basis for any decision or action that may affect your business. Before making any decision or taking any action that may affect your business, you should consult a qualified professional advisor. Deloitte shall not be responsible for any loss sustained by any person who relies on this alert. The services described herein are illustrative in nature and are intended to demonstrate our experience and capabilities in these areas; however, due to independence restrictions that may apply to audit clients (including affiliates) of Deloitte & Touche LLP, we may be unable to provide certain services based on individual facts and circumstances.

Copyright © 2024 Deloitte Development LLC. All rights reserved.