FISCAL IMPACT REPORT

SPONSOR Muñoz **ORIGINAL DATE** 2/2/15 **LAST UPDATED** 3/2/15 **HB**

SHORT TITLE Admin. & Accounting Svc. Gross Receipts **SB** 302

ANALYST van Moorsel

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY15	**FY16**	**FY17**	**FY18**	**FY19**		
$0.0	($210.0-$420.0)	($210.0-$420.0)	($210.0-$420.0)	($210.0-$420.0)	Recurring	General Fund
$0.0	($140.0-$280.0)	($140.0-$280.0)	($140.0-$280.0)	($140.0-$280.0)	Recurring	Local Governments
$0.0	($350.0-$700.0)	($350.0-$700.0)	($350.0-$700.0)	($350.0-$700.0)	Recurring	Total
Fiscal impacts are subject to a high degree of uncertainty. See "**Fiscal Implications**."						

(Parentheses ( ) indicate revenue decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From
Taxation and Revenue Department (TRD)
Attorney General's Office (AGO)

SUMMARY

Synopsis of Bill

Senate Bill 302 amends the Gross Receipts and Compensating Tax Act to remove a restriction in the definition of "control" in the existing Gross Receipts Tax (GRT) deduction for administrative and accounting services.

Specifically, the bill amends the definition of "control" to mean equity ownership in a business entity that meets one (rather than both, as is the current requirement) of the following criteria:

- the ownership represents at least 50 percent of the total voting power of that business entity;
- the ownership has a value equal to at least 50 percent of the total equity of that business entity.

The effective date of the provisions of SB302 is July 1, 2015.

FISCAL IMPLICATIONS

TRD reports the bill may have an impact on gross receipts tax revenue because the change of a single word – “and” to “or” – broadens the eligibility standard for the deduction. Because the deduction is not separately stated, it is difficult to estimate the impact. TRD identified the following NAICS industry codes that could be impacted by the change in this bill:

- 541211: Offices of Certified Public Accountants;
- 541214: Payroll Services;
- 541219: Other Accounting Services
- 541611: Administrative Management and General Management Consulting Services,
- 541612: Human Resources Consulting Services;
- 561110: Office Administrative Services;
- 561210: Facilities Support Services;
- 561311: Employment Placement Agencies;
- 561320: Temporary Help Services;
- 561330: Professional Employer Organizations;
- 561410: Document Preparation Services;
- 561421: Telephone Answering Services;
- 561422: Telemarketing Bureaus and Other Contact Centers;
- 561439: Other Business Service Centers (including Copy Shops);
- 561499: All Other Business Support Services; and
- 561990: All Other Support Services.

TRD states that combined over the last five fiscal years, these sectors have filed an annual average of about 10 thousand returns for $411 million in total gross receipts, $77 million in gross receipts deductions, and $22 million in GRT.

The total deduction amount for these sectors equates to about $4.8 million in foregone GRT revenue. Some portion of that is the result of the current deduction that would be expanded by this bill. TRD is uncertain of whether the chosen sectors completely capture the applicable taxpayers and of the proportion of the current gross receipts deductions attributable to this particular deduction.

Still, the department estimates the existing gross receipts tax revenue would not be reduced by more than $4.8 million dollars if the bill is passed. TRD states it cannot determine whether the impact will be small or large, and either result is equally possible.

The revenue table illustrates a potential scenario based on assumptions of the value of gross receipts that could qualify for the deduction due to the expansion. *The lack of data creates a very high level of uncertainty*, and the estimate is therefore presented in a range.

Assuming taxable gross receipts of administrative and accounting services that would qualify under the expanded criteria (by meeting either the control test or the ownership test) total between $5 million and $10 million, and assuming an average GRT rate of 7 percent, foregone GRT revenue could range from $350 thousand to $700 thousand. This would correspond to the general fund and local government revenue impacts approximated in the revenue table above.

This bill may be counter to the LFC tax policy principle of adequacy, efficiency and equity. Due to the increasing cost of tax expenditures revenues may be insufficient to cover growing recurring appropriations.

Estimating the cost of tax expenditures is difficult. Confidentiality requirements surrounding certain taxpayer information create uncertainty, and analysts must frequently interpret third-party data sources. The statutory criteria for a tax expenditure may be ambiguous, further complicating the initial cost estimate of the expenditure's fiscal impact. Once a tax expenditure has been approved, information constraints continue to create challenges in tracking the real costs (and benefits) of tax expenditures.

SIGNIFICANT ISSUES

This exemption currently exists in law, and makes deductible from gross receipts for GRT purposes the receipts of a business entity for administrative, managerial, accounting and customer services performed by it for an affiliate upon a nonprofit or cost basis and receipts of a business entity from an affiliate for the joint use or sharing of office machines and facilities upon a nonprofit or cost basis.

Current law makes the following definitions:

- affiliate means a business entity that directly or indirectly through one or more intermediaries controls, is controlled by or is under common control with another business entity; and
- business entity means a corporation, limited liability company, partnership, limited partnership, limited liability partnership or real estate investment trust, but does not mean an individual or a joint venture.

Volume III of the Legislative Finance Committee Report for Fiscal Year 2016 includes a listing of tax preferences. This table does not identify this existing deduction as a tax expenditure, noting it is an anti-pyramiding provision meant to reduce taxation of business inputs.

PERFORMANCE IMPLICATIONS

The LFC tax policy of accountability is <u>not</u> met since TRD is <u>not</u> required in the bill to report annually to an interim legislative committee regarding the data compiled from the reports from taxpayers taking the deduction and other information to determine whether the deduction is meeting its purpose.

TECHNICAL ISSUES

This bill does not contain a sunset date. The LFC recommends adding a sunset date.

Does the bill meet the Legislative Finance Committee tax policy principles?

1. **Adequacy**: Revenue should be adequate to fund needed government services.
2. **Efficiency**: Tax base should be as broad as possible and avoid excess reliance on one tax.
3. **Equity**: Different taxpayers should be treated fairly.
4. **Simplicity**: Collection should be simple and easily understood.
5. **Accountability**: Preferences should be easy to monitor and evaluate

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