

BILL ANALYSIS AND FISCAL IMPACT REPORT
Taxation and Revenue Department

January 31, 2024

Bill: SB-119 - revised **Sponsor:** Senator Peter Wirth

Short Title: Flat Corporate Income Tax Rate

Description: This bill amends Section 7-2A-5 NMSA 1978 to create a flat corporate income tax (CIT) rate of 5.9% of taxable income, replacing the two-tiered marginal rate structure of 4.8% for income under \$500,000, and 5.9% for taxable income of \$500,000 or more.

Effective Date: January 1, 2025. Applicable to taxable years beginning January 1, 2025.

Taxation and Revenue Department Analyst: Lucinda Sydow

Estimated Revenue Impact*					R or NR**	Fund(s) Affected
FY2024	FY2025	FY2026	FY2027	FY2028		
--	--	\$11,710 - \$18,100	\$11,900 - \$18,400	\$12,300 - \$19,100	R	General Fund

* In thousands of dollars. Parentheses () indicate a revenue loss. ** Recurring (R) or Non-Recurring (NR).

Methodology for Estimated Revenue Impact: The fiscal impact is based on reviewing CIT tax return data from fiscal years 2021 through 2023. The revenue increase was modeled applying the single tax rate of 5.9% to the portion of taxable income less than \$500 thousand. CIT is an extremely challenging revenue to forecast in times of relative stability. Given the variable economic conditions that may impact CIT taxpayers, the estimate has been presented as a positive range to emphasize the uncertainty of the magnitude of the impact. Using the December 2023 Consensus Revenue Estimating Group (CREG) forecast, the average range impact is grown by the current growth rate for gross CIT.

Policy Issues: Corporations and the economy like certainty and that applies to the tax code. Changing the tax code and in this case the tax rates would be the sixth change to the CIT brackets in 10 years as detailed in the table below. This uncertainty is seen by corporations as creating a less favorable business environment: on the other hand, the majority of states with CIT are moving to a single tax rate.

Taxable Income	1987-2013	2014	2015	2016	2017	2018-present
Up to \$500,000	4.8%	4.8%	4.8%	4.8%	4.8%	4.8%
\$500,000.01 to \$1,000,000	6.4%	6.4%	6.4%	6.4%	6.2%	5.9%
Over \$1,000,000	7.6%	7.3%	6.9%	6.6%		

One tax rate also reduces the complexity of the CIT code. This change would support the tax policy principle of simplicity. Taxpayers incur compliance burdens as they prepare, submit, and keep records about tax returns. Likewise, Tax & Rev incurs administrative costs to collect taxes, review the accuracy of tax returns and tax payments, and bring taxpayers into compliance.

The reduction of the CIT rates to one rate moves the majority of taxpayers who have tax liability to the higher tax rate. In Tax Year 2020, of those that had tax liability, the majority, approximately 94%, incurred that liability with taxable income less than \$500,000 placing them at the 4.8% current tax rate. This now places smaller income companies on par with larger corporations. But while for personal

income time (PIT) there is progressivity tied to the ‘ability to pay’ and fairness with vertical equity, that association of ability to pay is not readily applied to corporate income tax policy. The Tax Foundation quotes Jeffrey Kwall, a professor of law at Loyola University Chicago School of Law that “Graduated corporate income rates are inequitable – that is, the size of a corporation bears no necessary relation to the income levels of the owners.”¹ An argument that the Tax Foundation puts forth for a single-rate is that it minimizes the effort by corporations to avoid the tax liability at the higher marginal tax rates. New Mexico would join 29 other states who have a corporate income tax and the District of Columbia in enacting a single-rate corporate income tax.

Technical Issues: None.

Other Issues: None.

Administrative & Compliance Impact: Tax & Rev will need to make information system changes and update forms, instructions and publications. These changes will be incorporated into annual tax year implementation.

Implementation of this bill will have a moderate impact on Tax & Rev’s Information Technology Division (ITD) of approximately 440 hours or about 2.75 months and \$24,420 of staff workload costs. The Administrative Services Division (ASD) of Tax & Rev will test the changes and will incur 8 hours of staff workload costs.

Estimated Additional Operating Budget Impact*				R or NR**	Fund(s) or Agency Affected
FY2024	FY2025	FY2026	3 Year Total Cost		
--	\$24.4	--	\$24.4	NR	Tax & Rev – ITD staff workload

* In thousands of dollars. Parentheses () indicate a cost saving. ** Recurring (R) or Non-Recurring (NR).

Related Bills: Conflicts with HB-216