



This Week in State Tax (TWIST)

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Tennessee: Pending Bill would Grant Franchise Tax Refunds

Legislation has been introduced in both chambers of the Tennessee General Assembly that, if enacted, would authorize franchise tax refunds for certain taxpayers. Currently, the franchise tax is imposed on the greater of apportioned net worth, or the actual value of real and tangible personal property owned or used in Tennessee. There is litigation pending in Tennessee over the constitutionality of the property measure, which resulted in the Attorney General's Office and Department of Revenue recommending the repeal of the property measure. The Senate version of the Bill (SB 2103) was recently amended and appears to be advancing with a committee vote scheduled for March 19, 2024. Senate Bill 2103 would delete Tenn. Code Ann., Section 67-4-2108, which sets forth the alternative franchise tax measure based on real and tangible personal property. Further, the bill would adopt a new section of law governing refunds for taxpayers that previously paid on the property measure. Specifically, the Commissioner would be required to issue refunds in the amount of tax actually paid minus the tax that would have otherwise been due under the net worth base. "Tax actually paid" would include any credits applied on the return, which would be reinstated but not refunded. The tax subject to refund must have been reported to the Department on a return filed on or after January 1, 2021, covering a tax period that ended on or after March 31, 2020, and the refund claim must be filed between May 1, 2024, and February 3, 2025. Interest will be added to the amount refunded beginning ninety days from the date the Commissioner receives the refund claim and proper proof to verify that the refund or credit is due and payable. All refunds would be required to be paid through an appropriately designated fund established by the Commissioner of Finance and Administration. The fiscal note for the bill notes that the total sum of refunds eligible to be claimed is estimated to be \$1,551,717,134. Please contact [John Harper](#) or [Taylor Sorrells](#) with questions.

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