

*Colorado Legislative Council Staff Fiscal Note*

**STATE  
REVISED FISCAL IMPACT**

(replaces fiscal note dated February 28, 2014)

<b>Drafting Number:</b> LLS 14-0712	<b>Date:</b> March 17, 2014
<b>Prime Sponsor(s):</b> Rep. Primavera; Young Sen. Heath; Scheffel	<b>Bill Status:</b> House Finance <b>Fiscal Analyst:</b> Marc Carey (303-866-4102)

**SHORT TITLE:** INCOME TAX CREDIT FOR BUSINESS PERSONAL PROPERTY

<b>Fiscal Impact Summary*</b>	<b>FY 2013-2014</b>	<b>FY 2014-2015</b>	<b>FY 2015-2016</b>	<b>FY 2016-2017</b>
<b>State Revenue</b>	<b>(\$6.7 million)</b>	<b>(\$15.3 million)</b>	<b>(\$17.2 million)</b>	<b>(\$19.9 million)</b>
<i>Revenue Change</i> General Fund	(\$6.7 million)	(\$15.3 million)	(\$17.2 million)	(\$19.9 million)
<b>State Expenditures</b>		<b>\$235,830</b>	<b>\$134,938</b>	<b>\$134,938</b>
General Fund		\$203,580	\$112,638	\$112,638
Centrally Appropriated Costs**		\$32,250	\$22,300	\$22,300
<b>FTE Position Change</b>		3.6 FTE	2.3 FTE	2.3 FTE
<b>Appropriation Required:</b> \$203,580 - Department of Revenue (FY 2014-15)				

\* This summary shows changes from current law under the bill for each fiscal year.

\*\* These costs are not included in the bill's appropriation. See the State Expenditures section for more information.

**Summary of Legislation**

Beginning January 1, 2014, for the next five income tax years, this bill creates a state income tax credit for businesses for the amount of business personal property tax paid in Colorado. The credit is equal to the amount of business personal property tax paid, less the value of the tax benefit received by the taxpayer from deducting these taxes from his or her federal taxable income. This is accomplished by multiplying the amount of business personal property tax paid times 100 percent minus the taxpayer's federal marginal income tax rate minus the state's income tax rate of 4.63 percent.

The credit is available in tax year 2014 only to businesses with \$25,000 or less of personal property, but this threshold is adjusted annually for inflation thereafter. The tax credit is refundable, meaning that any portion of the credit exceeding a taxpayer's income tax liability must be refunded to the taxpayer. To claim the credit, the taxpayer must submit a copy of his relevant property tax statement for his business personal property to the Department of Revenue (DOR).

**Background**

The business personal property tax is administered by and paid to local governments for certain taxable personal property. Taxable personal property generally consists of any equipment that is used in an income-generating enterprise, including machinery, furniture, and computers as well as cable, pipelines, utility and phone lines, and similar assets. Under current law, the first

\$7,000 in actual value of business personal property is exempt from property tax. Beginning in property tax year 2015, the amount of the exemption is increased biennially by the consumer price index for the Denver-Boulder-Greeley area.

Under current law, business personal property begins to be taxed the year *after* it is first used. For example, new personal property first used in 2013 will appear on the tax rolls in 2014, and have taxes paid on it in 2015. Based on a 2012 survey of county assessors and information from the Division of Property Taxation, personal property for firms with business personal property with an actual value between \$7,000 and \$25,000 totaled \$723 million in actual value or \$210 million in assessed value.

### **State Revenue**

**This bill will reduce General Fund revenue by up to \$6.7 million in FY 2013-14, \$15.3 million in FY 2014-15, \$17.2 million in FY 2015-16, \$19.9 million in FY 2016-17, and \$23.6 million in FY 2017-18.** The FY 2013-14 estimate is for one-half year on an accrual accounting basis. This fiscal note assumes that 100 percent of eligible businesses will claim this newly available income tax credit. To the extent that some do not, the estimated revenue losses could be lower.

Based on 2012 data from county assessors, roughly 45,300 Colorado firms paid property tax on personal property with an actual value between \$7,000 and \$25,000. The actual value of this personal property statewide totaled \$723 million or \$210 million in assessed value.

Over the last 10 years, actual value of business personal property has grown 2.63 percent annually. Assuming this growth rate continues, the assessed value of qualifying business personal property will total of \$227 million in 2014, and grow to \$363 million by 2018. Assuming a statewide average mill levy of 77.685 yields an estimate of total property taxes paid of \$17.6 million in 2014, growing to \$28.2 million in 2018.

The tax credit in this bill is only available for a portion of business personal property taxes paid, depending on the taxpayer's federal marginal income tax rate. This fiscal note assumes an average federal marginal income tax rate for qualifying firms of 19.2 percent, based on 2010 corporate income tax data from the Department of Revenue, and assuming a positive correlation between a firm's taxable income and the actual value of its business personal property.

### **State Expenditures**

**Department of Revenue — General Fund expenditures will increase by \$235,830 in FY 2014-15 and \$134,938 in FY 2015-16 and beyond.**

*Income Tax and Audit Sections.* The income tax and audit sections of the DOR will require \$95,084 and 2.3 FTE in FY 2014-15 and \$70,280 and 1.7 FTE in FY 2015-16 and beyond for auditing and verification costs. Based on the experience of the Internal Revenue Service, refundable tax credits have a higher rate of fraud and carry higher auditing requirements. Assuming an estimated 47,700 businesses will claim the credit in 2014, the income tax and audit section expects to review 50 percent of this amount, or about 23,850 returns, before authorizing the credits. The required audit percentage is expected to drop to 35 percent in FY 2015-16 and beyond as firms become familiar with the credit. This fiscal note assumes that each audit will be performed by a Tax Examiner I and require 12 minutes to complete.

*Call Center.* It is expected that, of the potentially eligible businesses, 35 percent or 16,704 businesses will contact the DOR to better understand the credit in FY 2014-15. This number will drop to 18 percent in FY 2015-16 as the nature of the credit becomes better understood. These phone calls are expected to average 6 minutes each. This is expected to require \$53,743 and 1.3 FTE in FY 2014-15, and \$28,939 and 0.7 FTE in FY 2015-16 and beyond.

*Central Departmental Operations.* The DOR will experience an increase in central departmental operations (CDO) costs which include data processing, data entry, mailing, and postage totaling \$15,862 in FY 2014-15 and \$11,139 in FY 2015-16 and beyond.

*Programming costs.* HB 14-1279 will require \$18,540 in onetime GenTax programming costs for FY 2014-15. The costs are estimated at 90 hours at \$206 per hour.

<b>Table 1. Expenditures Under House Bill 14-1279</b>			
<b>Cost Components</b>	<b>FY 2014-15</b>	<b>FY 2015-16</b>	<b>FY 2016-17</b>
Personal Services - Auditing Services and Call Center	\$148,827	\$99,219	\$99,219
FTE	3.6	2.4	2.4
Operating Expenses and Capital Outlay Costs	\$20,351	\$2,280	\$2,280
Central Departmental Operations	\$15,862	\$11,139	\$11,139
Programming Costs	\$18,540	\$0	\$0
Centrally Appropriated Costs*	\$32,250	\$22,300	\$22,300
<b>TOTAL</b>	<b>\$235,830</b>	<b>\$134,938</b>	<b>\$134,938</b>

\* Centrally appropriated costs are not included in the bill's appropriation.

**Centrally appropriated costs.** Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. The centrally appropriated costs subject to this policy are estimated in the fiscal note for informational purposes and summarized in Table 2.

<b>Table 2. Centrally Appropriated Costs Under House Bill 14-1279*</b>			
<b>Cost Components</b>	<b>FY 2014-15</b>	<b>FY 2015-16</b>	<b>FY 2016-17</b>
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$21,915	\$14,610	\$14,610
Supplemental Employee Retirement Payments	\$10,335	\$7,690	\$7,690
<b>TOTAL</b>	<b>\$32,250</b>	<b>\$22,300</b>	<b>\$22,300</b>

\*More information is available at: <http://colorado.gov/fiscalnotes>

**Effective Date**

The bill takes effect August 6, 2014, if the General Assembly adjourns on May 7, 2014, as scheduled, and no referendum petition is filed.

**State Appropriations**

For FY 2014-15, the Department of Revenue will require a General Fund appropriation of \$203,580 for credit audits, call center requests, central departmental operations and computer programming.

**State and Local Government Contacts**

Division of Property Taxation	Revenue
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