

June 7, 2018

Fiscal Research Center

Tax Policy in Georgia's 2018 Legislative Session

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with

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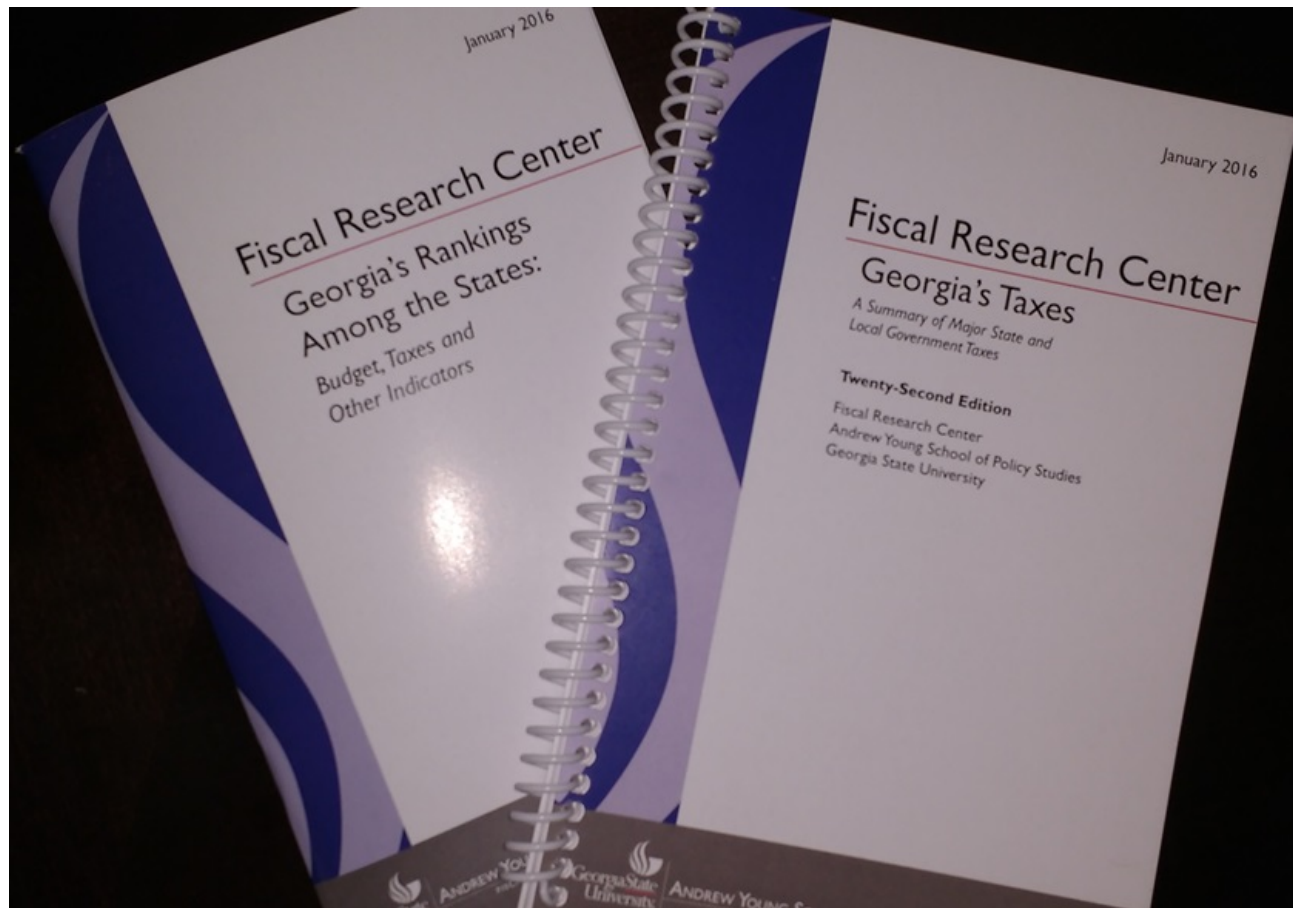
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About the Fiscal Research Center (FRC)

Nonpartisan academic think tank that leverages the Andrew Young School of Policy Studies' public finance expertise to assist Georgia's state and local policymakers on questions of tax and economic policy.

- *Technical assistance to state government*
 - *Fiscal Notes*
 - *Georgia Tax Expenditure Report*
<http://opb.georgia.gov/tax-expenditure-reports>
 - *Study committee support and other*
- *Technical assistance to local governments*
 - *Incorporation studies*
 - *Revenue analysis and forecasting*
- *Technical assistance projects outside Georgia*
- *Academic research*

Annual publications

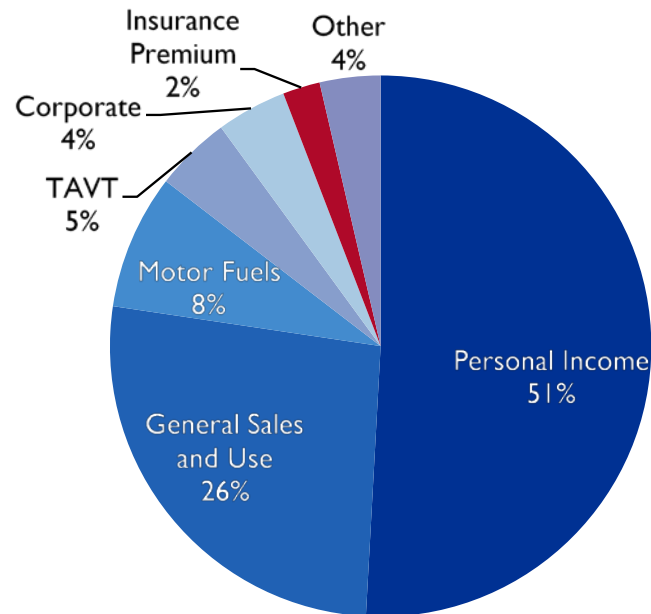


Annual publications: Georgia's Taxes

STATE & LOCAL REVENUE SOURCES

State General Fund Tax Collections

Fiscal Year Ending June 30, 2017



Annual publications: Georgia's Taxes

For each state and local tax:

- *Tax base and rate structure*
- *Major exemptions and special provisions (if any)*
- *Administrative responsibilities and payment dates*
- *History of major changes*
- *Revenue production (5 years)*
- *Comparisons with other states*
- *Georgia Code references*

Annual publications: Georgia's Rankings Among the States



Per Capita State & Local Taxes, FY 2014

RANK	STATE	IN \$	RANK	STATE	IN \$
1	North Dakota	9,753	25	Ohio	4,208
2	New York	8,411	26	Virginia	4,205
3	Alaska	7,558	27	Oregon	4,101
4	Connecticut	7,245	28	Texas	4,048
5	New Jersey	6,448	29	New Mexico	3,967
►	50-State Average	4,607	42	Mississippi	3,501
18	Wisconsin	4,585	43	Missouri	3,473
19	Washington	4,558	44	Georgia	3,377
20	Iowa	4,427	45	Arizona	3,344
21	Delaware	4,408	46	Florida	3,324

Fiscal Notes

- *Analysis of impact of proposed legislation on the state budget*
- *Responsibility of the Office of Planning and Budget and the state auditor*
- *For revenue related fiscal notes, the state contracts with FRC for the analysis and estimates necessary.*
- *FRC has been preparing such revenue fiscal notes since 2005.*

Tax Policy in the 2018 Legislative Session

Tax bills that were enacted

- ***Purpose of the bill***
- ***What it changed in the tax code***
- ***How it affects the state budget***

With particular attention to

- ***The Tax Cuts and Jobs Act***
- ***State income tax changes***

Plus, an update on taxation of online sales

Tax Policy in the 2018 Legislative Session

Enacted Legislation, by Tax and Purpose:

- ***Income tax, targeted incentives/relief***
 - ***HB 217 (part) – Qualified Education Tax Credit, increase cap***
 - ***HB 735 – Railroad Track Maintenance Tax Credit***
 - ***HB 749 – Exclude military survivor benefits from income tax***
- ***Income tax, broader investment and jobs incentives***
 - ***HB 843 – Job credit for less-developed areas, counties with military bases***
- ***Income tax, general reforms***
 - ***SB 328 – Repeal of three underutilized credits***
 - ***HB 918 – Internal Revenue Code (IRC) conformity and phased-in income tax changes***

Tax Policy in the 2018 Legislative Session

Enacted Legislation, by Tax and Purpose:

- ***Sales tax, reform***
 - *HB 61 – Economic nexus (online sales)*
- ***Sales tax, targeted incentives/relief***
 - *HB 217 (part) – Exempt written material purchases by nonprofits*
 - *HB 332 – Georgia Outdoor Stewardship Trust Act*
 - *HB 696 – High-tech data center equipment exemption*
 - *HB 697 – Exemption for nonprofit health centers, extend*
 - *HB 871 – Partial exemption for manufactured homes*
- ***Other taxes, reform***
 - *HB 329 – Title Ad Valorem Tax (TAVT) revisions*

Tax Policy in the 2018 Legislative Session

Noteworthy Legislation Not Passed:

- ***Income tax***
 - ***HB 664 - Georgia Higher Education Savings Plan deduction increase***
- ***Sales and franchise tax reforms***
 - ***HB 887 – Georgia Communications Services Tax Act***
- ***Other***
 - ***HB 118 – Registered Fantasy Contest Operators Act, again***
 - ***SB 432/HB 93 – Georgia Tax Credit Business Case Act / Georgia Measuring Success Act***

Tax Policy in the 2018 Legislative Session

■ HB 217 – Two tax provisions

- Increased aggregate cap on the Qualified Education Tax Credit**
 - 100 percent credit for contributions to student scholarship organizations**
 - Cap increased from \$58 million per year to \$100 million, effective TY 2019 – TY 2028**

Estimated state revenue impact, FY19-23: (\$175) mil

- Creates a new sales and use tax exemption for “noncommercial written materials or mailings” purchased by nonprofits, effective FY 2019-21**

Estimated state revenue impact, FY19-21: (\$17-30) mil

Tax Policy in the 2018 Legislative Session

- ***HB 329 – Title Ad Valorem Tax (TAVT) revisions***
 - *Modifies distribution of TAVT revenues between the state and local governments*
 - *Reduces TAVT rate on out-of-state vehicles when registered in Georgia to 3 percent*
 - *Reduces TAVT rate on vehicles transferred through divorce to 1 percent*
 - *Modifies taxation of kit cars and pre-1963 vehicles, and payment of tax on certain buses*

Estimated state revenue impact, FY19-23: (\$92) mil

Tax Policy in the 2018 Legislative Session

- ***HB 332 – Georgia Outdoor Stewardship Trust Act***
 - *Dedicates a portion of sales tax collections from sporting goods retailers to the Georgia Outdoor Stewardship Trust Fund*
 - *Initially 40 percent of collections beginning FY 2020, may be increased to as much as 80 percent by future legislation*
 - *Subject to a voter referendum in November 2018.*

Estimated state revenue impact, FY20-23: (\$82) mil

Tax Policy in the 2018 Legislative Session

- ***HB 696 – High-tech data center exemption***
 - ***Creates new sales tax exemption for high-technology data center (HTDC) equipment, subject to:***
 - ***A minimum investment threshold of between \$100 million and \$250 million over seven years, depending on county size***
 - ***Creating a minimum of 20 new quality jobs***

Estimated state revenue impact, FY19-23: (\$50-75) mil

Tax Policy in the 2018 Legislative Session

- ***HB 697 – Nonprofit health centers exemption***
 - ***Extends expiration of existing sales tax exemption for nonprofit health centers and volunteer health clinics***
 - ***From June 30, 2018 to June 30, 2019***

Estimated state revenue impact, FY19: (\$2) mil

Tax Policy in the 2018 Legislative Session

- ***HB 735 – Railroad Track Maintenance Tax Credit***
 - ***Credit for maintenance expenditures related to railroad track owned or leased by Class III railroads***
 - ***Equal to 50 percent of railroad track maintenance expenditures, subject to a maximum credit of \$3,500 per track mile per year***
 - ***Effective Jan. 1, 2019; expires Dec. 31, 2023***

Estimated state revenue impact, FY19-23: (\$9-17) mil

Tax Policy in the 2018 Legislative Session

- ***HB 749 – Military survivor benefits exclusion***
 - *Exempts benefits received by a surviving family member of a deceased service member from income tax*
 - *Retroactive to Jan. 1, 2018*

Estimated state revenue impact, FY18-23: (\$7-25) mil

Tax Policy in the 2018 Legislative Session

- ***HB 843 – Job credit for less-developed areas***
 - ***Extends existing credit to certain counties with a military base with 5,000 personnel or more, and***
 - ***An industrial park owned/operated by a governmental entity***
 - ***Credit of \$3,500 per year for up to five years for each newly-created job, subject to***
 - ***A minimum of two newly created jobs in the year and other conditions***

Estimated state revenue impact, FY19-23: (\$2-12) mil

Tax Policy in the 2018 Legislative Session

- ***HB 871 – Manufactured homes exemption***
 - ***Creates a partial (50 percent) sales tax exemption on the sale of manufactured homes***
 - ***Home must be converted to real property within 30 days of sale***

Estimated state revenue impact, FY19-23: (\$17) mil

Tax Policy in the 2018 Legislative Session

- ***SB 328 – Repeal of three underutilized credits***
 - ***Repeals, effective Dec. 31, 2018, income tax credits for***
 - ***Qualified transportation fringe benefits***
 - ***Private driver education courses***
 - ***Diesel particulate emission reduction technology equipment***
 - ***Few taxpayers have utilized these credits since they were first offered.***

Estimated state revenue impact, FY19-23: \$6 mil

Tax Policy in the 2018 Legislative Session

■ *HB 61 – Economic nexus bill*

- *Objective is to increase collection of taxes already owed on online sales***
- *Estimated untaxed online sales in Georgia:***
 - Approximately \$5.7 billion in FY 2017***
 - Representing \approx \$228 million in lost state revenues***
- *Projected to grow > 8 percent per year through FY 2022***

Est'd state revenue impact, FY19-23: NA

HB 61 Georgia Online Sales Act and Federal Tax Cuts and Jobs Act

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School of Accountancy
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June 7, 2018

GEORGIA'S NEW ONLINE SALES TAX LAW

HB 61 adopts an economic nexus test for taxing online sales.

Businesses would be subject to the nexus rule if they have

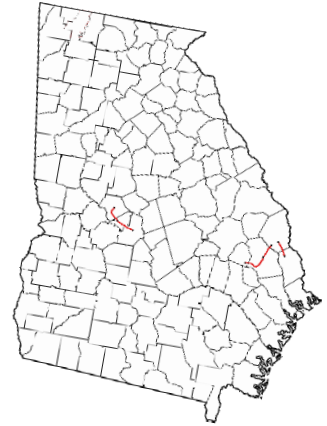
- \$250,000 of in-state sales in total in the previous year

OR

- 200 or more in-state transactions per year

- Sellers would be required to collect and remit Georgia sales tax *or* provide the state with sales records for Georgia citizens and notify purchasers in Georgia that they must file and pay the use tax. Effective Jan. 1, 2019.

- Annual sales and use tax statements would go to buyers *and* must be filed with the Georgia Department of Revenue, with a \$500 threshold.



CAN STATES REQUIRE OUT-OF-STATE SELLERS TO COLLECT AND REMIT SALES AND USE TAX?

This is an unsettled, complex constitutional question.

Yes, if the remote seller has ‘nexus’ with the taxing state.

WHAT IS ‘NEXUS’?

From Latin, *nexus* means ‘a binding together.’

Indicates the connection a taxpayer has with a state that allows the state to exercise its taxing powers.

Legal uncertainty about enforceability of Georgia’s law pending Supreme Court decision in a South Dakota case.

SOUTH DAKOTA LAW BEFORE THE SUPREME COURT

South Dakota v. Wayfair

1992 *Quill v. North Dakota* case held that an out-of-state seller must have a “physical presence” in a state to establish sufficient nexus for requiring the seller to collect and remit sales tax on goods sold within the state.

South Dakota Senate Bill 106 looks to a retailer’s economic presence rather than its physical presence within the state.

Retailers must register with the state and collect sales taxes if:

- a) They have more than \$100,000 in sales; or
- b) They have more than 200 transactions in South Dakota.
- c) No retroactive liability.

- **Georgia’s law is very similar to the South Dakota law.**

SOUTH DAKOTA v. WAYFAIR

U.S. Supreme Court

- South Dakota SB 106 was effective May 1, 2016, but in March 2017 it was found to be unconstitutional by a state circuit court. State Supreme Court affirmed in September 2017. U.S. Supreme Court granted certiorari in January 2018.
- Oral arguments go before the U.S. Supreme Court on April 17, 2018.
- Justices seemed to indicate it is more appropriate for Congress to act.
- South Dakota has the most “reasonable incarnation” of sales tax scheme.
- There are concerns about small business, burdens on commerce, minimum thresholds, and retroactivity.
- There are unexpected coalitions of judges, i.e., Gorsuch and Ginsburg.
- Expect a decision by end of June. A reversal kills *Quill*.

OUTLOOK

- Congressional proposals are pending but have not seen much action.
- Key House Judiciary Committee Chairman Bob Goodlatte (R-Va.) has blocked consideration of federal legislation.
- Members of Congress filed amicus briefs on both sides of the issue in the *Wayfair* case.
- Supreme Court could reach a decision that would force Congress to act by overturning *Quill* with no guidelines or by simply affirming.
- Amazon has conceded. Amazon has pursued state incentives for locating facilities. Large sellers may follow Amazon and stop fighting.
- Consumers and online retailers should prepare themselves for state taxation of online sales. Sellers will need to develop compliance systems to calculate, collect and remit taxes collected on internet sales.
- If South Dakota law is upheld, Georgia's law will be validated.

TAX CUTS AND JOBS ACT (TCJA)

P.L. 115-97

- Comprehensive act with tax cuts of \$1.5 trillion over the next decade. The changes affect all individuals and every type of business.
- The complex legislation took effect on Jan. 1, 2018 and is designed to be a 10-year plan.
- The corporate rate reduction is permanent while the deduction for passthrough entities and the individual rate reductions expire after 2025.

CHANGES FOR INDIVIDUALS

Individual Tax Rates and Brackets

- Retains seven brackets while reducing tax rates to 10%, 12%, 22%, 24%, 32%, 35%, and 37%.
- The 37% rate is for single taxpayers with taxable income over \$500,000 and married taxpayers filing jointly with taxable income over \$600,000.
- Previously, the top rate was 39.6% at about \$400,000 of income.
- **Note:** These lower rates expire after 2025 and revert to 2017 tax rates unless Congress acts before then.

STANDARD DEDUCTION and PERSONAL EXEMPTION

The standard deduction is increased to:

- \$12,000 for single filers
- \$18,000 for heads of household
- \$24,000 for joint filers

Indexed to chained Consumer Price Index (CPI).

Note: These increases expire after 2025.

- Personal exemptions eliminated

DEDUCTIONS

For adjusted gross income (AGI) deductions: **Alimony and Moving Expenses** no longer deductible.

Restricts or eliminates most **Itemized Deductions**.

Mortgage Interest: Deduction for mortgage interest limited to aggregate debt of \$750,000 or less for first and second homes and home equity loans, prospective only.

Charitable Deductions: Increases the deduction for donations of cash to public charities by raising the AGI percentage limit from 50% to 60%.

Athletic Tickets: Taxpayers can no longer get a deduction for donations to colleges or universities for the right to purchase sports tickets.

State and Local Taxes: Personal deductions for all state and local taxes combined are capped at \$10,000 per year. This includes income taxes, real property taxes, personal property taxes, and sales taxes.

Itemized Deduction Phase-out: The phaseout of itemized deductions for high-income taxpayers (the “Pease” limitations) is suspended.

Miscellaneous Itemized Deductions no longer allowed, such as unreimbursed employee business expenses.

CHILD AND FAMILY TAX CREDITS

- The child tax credit is increased to \$2,000 and allowed for children up to age 17.
- It raises the threshold for phase-out of the credit to \$200,000 for singles and \$400,000 for married taxpayers.
- Up to \$1,400 per child is refundable for lower-income taxpayers.
- A new \$500 credit is allowed for dependents who are not children of the taxpayer.

PASSTHROUGH DEDUCTION

- Covers sole proprietorships, partnerships, LLCs, and S corporations
- 20% deduction against “qualified business income”, not compensation income
- With a maximum individual rate of 37%, the tax rate on qualified passthrough income is 29.6%

The deduction is phased out for professional services businesses if the owners’ taxable income is more than \$157,500 for single filers and \$315,000 for joint filers. Deduction is completely lost at \$207,500 for single filers and \$415,000 for joint filers.

This rule does not apply to architects and engineers.

DEDUCTION BASED ON W-2 WAGES AND DEPRECIABLE ASSETS

For non-service businesses above income thresholds,
deduction is limited by:

- W-2 wages paid by the business
- Cost of tangible depreciable property held by the business

These limitations are computed on a business-by-business basis, so you cannot use W-2 wages from one business to compute the deduction for a different business.

OTHER IMPORTANT POINTS

- The 20% passthrough deduction is a below-the-line deduction but is not treated as an itemized deduction. That means taxpayers can take it even if they do not itemize.
- The deduction will not lower a taxpayer's adjusted gross income (AGI). This means AGI for purposes of Georgia income taxation will not be affected.
- Georgia did not adopt the 20% passthrough deduction.

DEPRECIATION and CAPITAL INVESTMENT

100% Bonus Depreciation:

100% write-off of business assets for five years, through 2022.

Purchases of both new *and used* property qualify.

Phase-down and Expiration: Beginning in 2023, bonus depreciation is reduced 20% each year to:

- 80% for property placed in service in 2023.
- 60% for property placed in service in 2024.
- 40% for property placed in service in 2025.
- 20% for property placed in service in 2026.

After 2026, bonus depreciation expires.

SECTION 179 EXPENSING

- Expensing limit of \$1 million of business assets
- \$2.5 million purchase limitation
- These higher expensing limits expire after five years.

Building Improvements

- 15-year recovery period for an expanded class of property improvements.
- These building improvements now qualify for both bonus depreciation and Section 179 expensing.

CORPORATE TAX RATE

- Rate reduced from 35% to 21%, effective in 2018.
- The 21% is a flat rate with no brackets.
- The corporate dividends received deduction is reduced to reflect lower tax rate.

OTHER DEDUCTIONS COULD IMPACT GEORGIA INCOME

Meals and Entertainment

- Deduction for business entertainment expenses is repealed
- Business meals still deductible.

Net Operating Losses

- Restricts net operating loss (NOL) deductions to 80% of taxable income, starting in 2018.
- Carryback of NOLs is no longer allowed, but they can be carried forward indefinitely.

Interest Deduction

- Deduction limited to 30% of taxable income (real estate exception).

INTERNATIONAL PROVISIONS

Moves the U.S. to a modified territorial system of international taxation. Multinational corporations that own 10% or more of a foreign corporation would receive a 100% exemption on the foreign-sourced dividends.

DEEMED REPATRIATION

- Deemed Repatriation of Offshore Profits: As a transition to the lower corporate tax rate and the territorial tax system, profits now held offshore will face a one-time tax of 15.5% for liquid assets and 8% for illiquid assets.
- The tax may be paid over an 8-year period, with 8% paid in each of the first five years, 15% in the 6th year, 20% in the 7th year, and 25% in the 8th year.

TCJA AND GEORGIA LAW

Georgia uses federal AGI as starting point for individuals.

Georgia uses federal taxable income as starting point for corporations.

TCJA generally expands the federal income tax base, which could result in higher state taxes in Georgia.

The response: Georgia's TCJA Conformity Act, HB 918

Tax Policy in the 2018 Legislative Session

- ***HB 918 – IRC conformity and phased-in tax reform***
 - ***Updates the conformity of Georgia's corporate and personal income tax to the federal tax code, reflecting all relevant changes adopted in the TCJA and other acts through Feb. 9, 2018 except for the following:***
 - ***20 percent deduction from qualified business income***
 - ***Bonus depreciation***
 - ***Expansion of qualified property under section 179***
 - ***Changes to depreciation rules for new farm equipment***
 - ***Modifications related to contributions of capital***
 - ***Limitations on the deduction of net business income***

Tax Policy in the 2018 Legislative Session

- ***HB 918 – IRC conformity and phased-in tax reform***
 - ***For TY 2018, doubles the state standard deduction for personal income tax (PIT)***
 - ***For TY 2019, cuts corporate income tax (CIT) rate and top PIT rate from 6.0 to 5.75 percent***
 - ***Subject to ratification by the General Assembly and governor in January 2020, cuts CIT rate and top PIT rate from 5.75 to 5.50 percent***

Tax Policy in the 2018 Legislative Session

■ *State revenue effects of IRC conformity only*

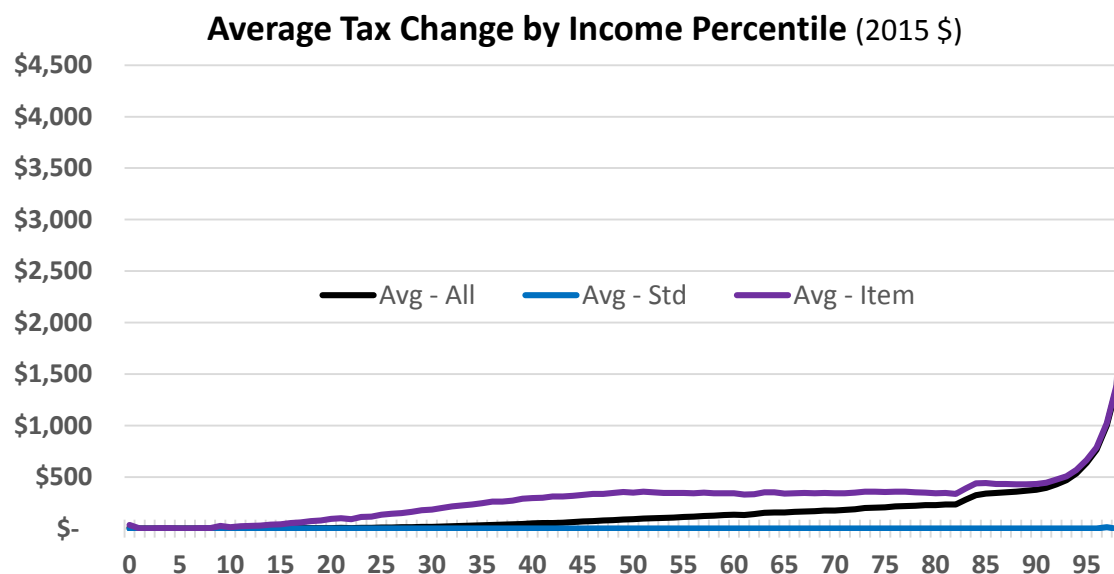
(\$ millions)	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023	FY 2018-2023
Personal Conformity Effects	\$90	\$774	\$1,201	\$1,156	\$1,136	\$1,154	\$5,510
Business Conformity Effects	\$161	\$249	\$144	\$159	\$240	\$320	\$1,274
Total Conformity Effects	\$251	\$1,023	\$1,345	\$1,315	\$1,376	\$1,474	\$6,784

■ *State revenue effects with phased-in reforms*

(\$ millions)	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023	FY 2018-2023
Personal Net Tax Changes	\$28	\$252	\$24	(\$520)	(\$466)	(\$453)	(\$1,134)
Business Net Tax Changes	\$45	\$13	\$369	\$53	\$126	\$198	\$804
Net Revenue Effects of HB 918	\$73	\$265	\$393	(\$467)	(\$340)	(\$255)	(\$330)

Tax Policy in the 2018 Legislative Session

- **Distributional effects of PIT changes**
 - **Effects of IRC conformity only, select provisions incl.**
 - **Itemized deduction changes except changes to**
 - **Mortgage interest deduction and charitable contributions limit**
 - **Repeal of moving expense deduction**

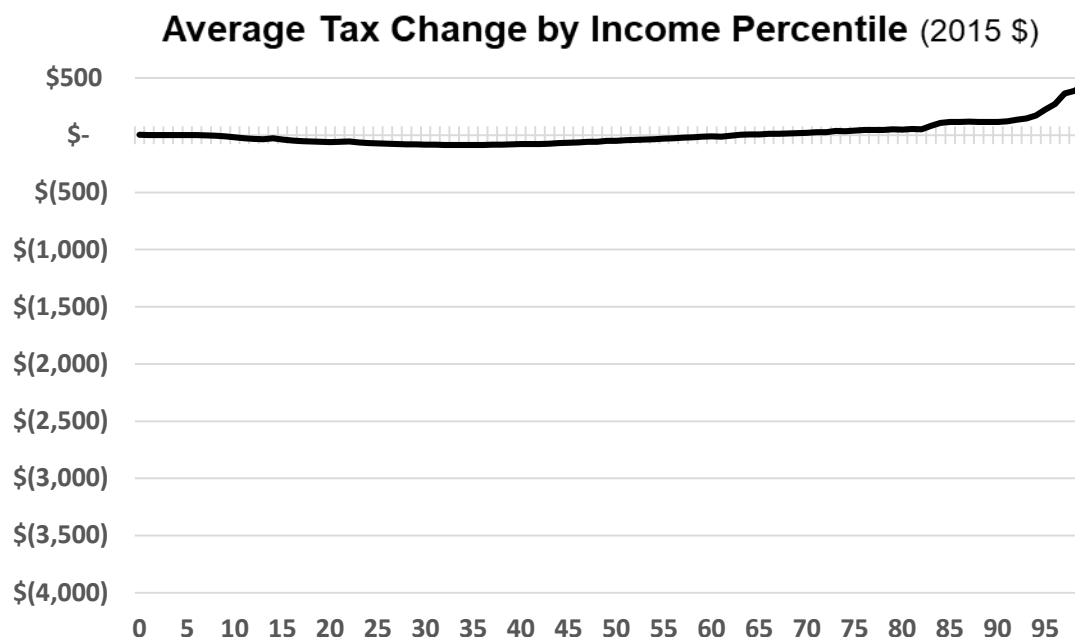


Note: Results reflect effect of higher federal standard deduction on decisions to itemized deductions.

Tax Policy in the 2018 Legislative Session

■ *Distributional effects of PIT changes*

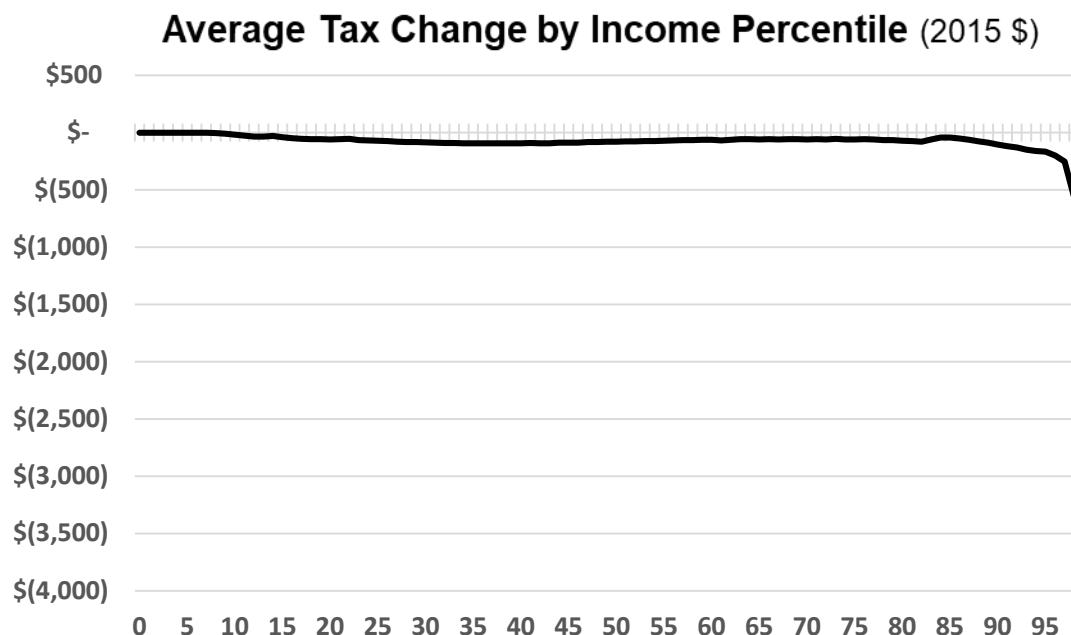
- *Effects with TY 2018 and 2019 phased-in reforms*
 - *Doubled standard deduction and 5.75 percent top rate*



Note: Results reflect effect of higher federal standard deduction on decisions to itemized deductions.

Tax Policy in the 2018 Legislative Session

- ***Distributional effects of PIT changes***
 - ***Effects with all phased-in reforms***
 - ***Doubled standard deduction and 5.50 percent top rate***



Note: Results reflect effect of higher federal standard deduction on decisions to itemized deductions.

Tax Policy in the 2018 Legislative Session

Adopted Legislation – Projected revenue impact

(\$ millions)	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023	
HB 217	(\$42)	(\$43)	(\$43)	(\$35)	(\$35)	*
HB 329	(2)	(24)	(25)	(19)	(22)	
HB 332	-	(20)	(20)	(21)	(21)	
HB 696	(8)	(15)	(15)	(12)	(13)	*
HB 697	(2)	-	-	-	-	
HB 735	-	(2)	(4)	(4)	(4)	*
HB 749	(3)	(3)	(3)	(3)	(3)	*
HB 843	(0)	(1)	(2)	(2)	(3)	*
HB 871	(3)	(3)	(3)	(4)	(4)	
HB 918	265	393	(467)	(340)	(255)	
SB 328	1	1	1	1	1	
Total	\$205	\$283	(\$582)	(\$438)	(\$358)	
* midpoint of low and high estimates						

Tax Policy in the 2018 Legislative Session

Questions?

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