



Legislative
Council Staff

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SB 19-233

FISCAL NOTE

Drafting Number: LLS 19-1074
Prime Sponsors: Sen. Lee

Date: April 9, 2019
Bill Status: Senate Finance
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Bill Topic: HOLDING COMPANY INCOME TAX COMBINED REPORT

Summary of Fiscal Impact:

<input checked="" type="checkbox"/> State Revenue (potential)	<input type="checkbox"/> TABOR Refund
<input type="checkbox"/> State Expenditure	<input type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

This bill clarifies when companies without property or payroll are required to be included in a combined corporate tax return.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: This fiscal note reflects the introduced bill.

Summary of Legislation

For corporations that are required to file a combined corporate income tax return, this bill clarifies that holding companies formed in any state without property or payroll are required to be included in the combined corporate income tax return. Foreign corporations without any domestic property or payroll do not have to be included in the combined report.

Background

For income tax purposes, corporate income is apportioned to Colorado based on the percent of sales that occur in Colorado relative to the total sales of the corporation. Corporations are required to report total domestic sales and income for an affiliated group of companies, while not including sales and income from foreign companies. In *Oracle Corp. v. Department of Revenue* and *Agilent Technologies, Inc. v. Department of Revenue*, the Colorado Court of Appeals recently interpreted existing law to exclude all holding companies without property or payroll from combined reports. The appeals court decisions were appealed to the Colorado Supreme Court and are under review.

State Revenue

This bill clarifies that domestic holding companies without property or payroll must be included in combined corporate income tax returns. This represents the Department of Revenue's historical interpretation of the statute and is consistent with the March Legislative Council Staff corporate

income tax revenue forecast. If the Supreme Court rules in favor of the Department of Revenue, there is no revenue impact as a result of the bill. If the Supreme Court rules that holding companies without property or payroll are excluded from combined reports this bill will result in an indeterminate corporate income tax revenue increase.

Effective Date

The bill takes effect August 2, 2019, if the General Assembly adjourns on May 3, 2019, as scheduled, and no referendum petition is filed.

State and Local Government Contacts

Revenue