SB 22-124

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Revised Fiscal Note

(replaces fiscal note dated May 3, 2022)

Drafting Number:	LLS 22-0769	**Date:**	May 4, 2022
Prime Sponsors:	Sen. Woodward; Kolker Rep. Ortiz; Van Winkle	**Bill Status:**	House Appropriations
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Bill Topic: **SALT PARITY ACT**

Summary of Fiscal Impact:

☐ State Revenue
☒ State Expenditure
☐ State Transfer
☐ TABOR Refund
☐ Local Government
☐ Statutory Public Entity

The bill allows pass-through businesses to elect to retroactively pay their state income tax at the entity level, rather than the individual level, beginning in tax year 2018, and creates a tax credit for owners of electing pass-through businesses. The bill increases state expenditures beginning in FY 2022-23.

Appropriation Summary: For FY 2022-23, the bill requires and includes an appropriation of $550,446 to the Department of Revenue.

Fiscal Note Status: The fiscal note reflects the reengrossed bill, as amended by the House Business Committee.

Table 1
State Fiscal Impacts Under SB 22-124

		Budget Year FY 2022-23	Out Year FY 2023-24
Revenue		-	-
Expenditures	General Fund	$550,446	$12,800
	Centrally Appropriated	$64,310	-
	Total Expenditures	**$614,756**	**$12,800**
	Total FTE	**4.4 FTE**	-
Transfers		-	-
Other Budget Impacts	General Fund Reserve	$82,567	$1,920

Summary of Legislation

Beginning in tax year 2018, the bill allows S-corporations and partnerships (pass-through businesses) to retroactively elect to pay their state income tax at the entity level, rather than the individual level. Additionally, the bill repeals the state income tax deduction for electing pass-through owners created by HB 21-1327, and replaces this deduction with a refundable tax credit equal to the electing pass-through business owner's distributive share of the state income tax imposed on the electing pass-through entity.

Background

The federal Tax Cuts and Jobs Act of 2017 placed a temporary $10,000 annual cap on the federal income tax deduction for state and local taxes ("SALT" deduction) for individual income taxpayers. No cap exists for this deduction for C-corporations. The cap expires on December 31, 2025. This bill allows Colorado owners of partnerships and S-corporations to file taxes at the entity level instead of the individual level, which may allow taxpayers a larger SALT deduction.

State Revenue

The bill is not expected to affect state revenue. Under Colorado law, taxpayers are required to add back any state and local taxes deducted at the federal level to their Colorado taxable income. As such, total Colorado taxable income is not expected to change under this bill.

State Expenditures

The bill increases state expenditures in the Department of Revenue by $614,756 in FY 2022-23 and $12,800 beginning in FY 2023-24 from the General Fund. Expenditures are shown in Table 2 and detailed below.

Table 2
Expenditures Under SB 22-124

	FY 2022-23	FY 2023-24
Department of Revenue		
Personal Services	$225,789	-
Operating Expenses	$6,345	-
Capital Outlay Costs	$31,000	-
GenTax Programming	$135,000	-
Computer and User Acceptance Testing	$138,516	-
Document Management and Form Changes	$996	-
Data Reporting	$12,800	$12,800
Centrally Appropriated Costs	$64,310	-
Total Cost	**$614,756**	**$12,800**
Total FTE	**4.4 FTE**	**-**

Department of Revenue. In FY 2022-23 only, the DOR will require an additional 4.4 FTE tax examiners to review refunds issued to taxpayers as a result of the bill's tax credit.

- **Computer programming and testing.** For FY 2022-23 only, the bill will require changes to the DOR's GenTax software system and additional testing. The DOR will implement a new online tax form exclusively for taxpayers electing to file their taxes at the entity level. This new form will allow the DOR to automate the review of most taxpayers' amended returns. Changes are programmed by a contractor at a cost of $225 per hour. Approximately 600 hours of computer programming are required to implement this new form, totaling $135,000. Additional computer and user acceptance testing are required to ensure programming changes are tested and functioning properly, resulting in an additional $138,516 in expenditures by the department.

- **Document management and form changes.** The bill requires $996 in FY 2022-23 only for expenditures related to document management, data entry, and tax form changes. These expenditures take place in the Department of Personnel and Administration using reappropriated funds from the DOR.

- **Data reporting.** Beginning in FY 2022-23, the Office of Research and Analysis within the DOR will expend $12,800 annually to collect and report data related to the changes in this bill.

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. These costs, which include employee insurance and supplemental employee retirement payments, are shown in Table 2.

Other Budget Impacts

General Fund reserve. Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve beginning in FY 2022-23. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by the amounts shown in Table 1.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State Appropriations

For FY 2022-23, the bill requires and includes a General Fund appropriation of $550,446 to the Department of Revenue, and 4.4 FTE. Of this amount, $996 is reappropriated to the Department of Personnel and Administration.

State and Local Government Contacts

Information Technology	Law
Personnel	Revenue