

Amendment No. 3 to SB2103

Yarbro
Signature of Sponsor

AMEND Senate Bill No. 2103

House Bill No. 1893*

by deleting all language after the enacting clause and substituting:

SECTION 1. Tennessee Code Annotated, Section 67-4-2108, is amended by inserting the following new subsection:

(c)

(1) A taxpayer whose tax is calculated pursuant to this section may reduce the tax levied by this part by application of a tax limitation credit, as provided in subdivision (c)(2); provided, however, that application of the credit must not reduce the tax below the amount levied pursuant to § 67-4-2106. The purpose of the credit is to ensure that a taxpayer does not pay franchise taxes in this state and other states that subject the taxpayer to taxation on more than one hundred percent (100%) of either the taxpayer's net worth or the taxpayer's real and tangible personal property.

(2) The tax limitation credit equals the amount by which the total national franchise tax, as provided in subdivision (c)(4), exceeds the allowable national franchise tax, as provided in subdivision (c)(3). If the total national franchise tax is less than or equal to the allowable national franchise tax, then the tax limitation credit is zero.

(3) The allowable national franchise tax equals the greater of:

(A) An amount equal to twenty-five cents (25¢) per one hundred dollars (\$100), or major fraction thereof, of the portion of a taxpayer's net worth, as calculated pursuant to § 67-4-2106, that would be apportioned

to any state by application of the apportionment method specified in § 67-4-2110; or

(B) An amount equal to twenty-five cents (25¢) per one hundred dollars (\$100), or a major fraction thereof, of the actual value of the taxpayer's real or tangible property owned or used in any state within the United States subject to the exceptions and exclusions provided in this section.

(4) The total national franchise tax equals the sum of the tax imposed by this part plus the amount of a franchise tax measured by the taxpayer's net worth or by the taxpayer's real or tangible personal property in another state; provided, that, if the tax imposed by another state is levied at a rate greater than twenty-five cents (25¢) per one hundred dollars (\$100), or major fraction thereof, then only a fraction of the other state's franchise tax reflecting the amount levied by a rate of twenty-five cents (25¢) per one hundred dollars (\$100), or major fraction thereof, is included in the total national franchise tax.

(5) As used in this subsection (c):

(A) "Any state" and "other state" includes the District of Columbia;

and

(B) "Net worth" has the same meaning as defined in § 67-4-2106(b).

SECTION 2. Tennessee Code Annotated, Title 67, Chapter 4, Part 21, is amended by adding the following as a new section:

67-4-2122.

If a taxpayer receives a final court adjudication determining that the tax imposed pursuant to this part for a tax year ending prior to January 1, 2024, violates the Commerce Clause of the United States Constitution by subjecting the taxpayer to multiple taxation, then the sole remedy for the taxpayer is the issuance of a tax limitation

credit for that tax year, which must be calculated as if Section 1 had been in effect for that tax year.

SECTION 3. If any provision of this act or its application to any person or circumstance is held invalid, then the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end, the provisions of this act are severable.

SECTION 4. Section 1 of this act takes effect upon becoming a law, the public welfare requiring it, and applies to tax years ending on or after January 1, 2024. All remaining sections take effect upon becoming a law, the public welfare requiring it.