REVISED: Adding Up the Fiscal Notes 2011

House Renews Two Exemptions, but Takes No Action on Comprehensive Tax Reform by Crossover Day

By Sarah Beth Gehl, Deputy Director

Summary

Three tax bills passed by the House of Representatives will cost an estimated $93 million in FY 2012, according to GSU Fiscal Research Center's official fiscal notes on the bills (Table 1).

The revision to the policy brief released on March 21st is the inclusion of the cost of two provisions in House Bill (HB) 168—the R&D credit and the expanded itemized deductions for the wealthiest taxpayers. These two provisions are already in the revenue estimate; however, lawmakers could choose not to maintain them for 2012 and gain $46 million in revenue.

Although this year's tax bills have a much lower cost than the normal package of bills moving to the Senate, Georgia still confronts $500 million in cuts to services in FY 2012 on top of the $2.5 billion in cuts from recent years. The House did not move forward on tax reform by Crossover Day; however, tax reform bills relating to the Special Council on Tax Reform and Fairness for Georgians' recommendations are not thought to be subject to the 30th Day requirement. There is still time to take action on reforming Georgia's outdated tax system.

Table 1 **Revenue Bills Passed by the House Cost $47 million**

Tax Bills	FY 2011 (in millions)	FY 2012 (in millions)	FY 2013 (in millions)
HB 168: Annual federal conformity bill; Streamlined Sales Tax Agreement changes*	- $45	- $65	- $35
HB 234: Sales tax exemption renewal for aircraft repair (Gulfstream)**	--	- $7.5	- $7.9
HB 322: Sales tax exemption renewal for jet fuel (Delta)	--	- $20	- $10
TOTAL IMPACT	**- $45 million**	**- $93 million**	**- $53 million**

Source: Official fiscal notes for the bills as presented by the Georgia Department of Audits and Accounts and produced by the Georgia State University Fiscal Research Center.

**The substitute bill passed by the House did not include an updated fiscal note. Two additional sections were included in the bill that was not reflected in the fiscal note; it is unclear whether those new sections will have fiscal impacts.*

***The fiscal note provides a range of estimates ($3.8 million to $7.5 million state revenue loss in FY 2012).*

Description of Revenue Bills Passed by the House

Below is a short summary of tax bills passed by the House that will affect state revenue. Revenue loss is from the information in the fiscal notes produced by Georgia State University Fiscal Research Center and attached to the bill as of their passage by the House. Bills might have been revised and passed without a corresponding revision to the fiscal note.

HB 168: Annual federal conformity bill; Sales tax definition changes for Streamlined Sales Tax Agreement

Summary: The bill conforms the Georgia tax code to the federal tax code with certain exceptions.

- The bill does not fully conform to section 179 of the federal code relating to business deductions. Instead of the federal allowances, the bill allows for a maximum deduction of $250,000 with a phase-out threshold of $800,000.
- The bill does not accept the bonus depreciation provisions from the federal code, which would have meant a revenue loss of more than $200 million.
- The bill maintains the R&D credit.

The bill also provides a personal income tax break for the best off Georgians by conforming to a recent federal tax cut allowing top earners to take itemized deductions without limits. In the past, the amount of allowable itemized deductions was phased out as income increased. That limit was removed in 2010 and was supposed to resume in 2011; however, federal tax changes have extended the limitless itemized deductions for another two years. HB 168 continues the repeal of the limit as well. This provision, along with the continuation of the R&D credit, will cost $46 million and is already included in the FY 2012 revenue estimate.

In addition to federal conformity, the bill contains several sections that change definitions in the sales tax to conform to the Streamlined Sales Tax Agreement (SSTA). Georgia passed SSTA legislation in 2010, but has not been accepted as a full member yet.

Sections 7, 8, and 9 were added to the bill after the fiscal note was produced. An updated fiscal note has not been produced, thus it is unclear whether these new sections have a fiscal impact.

FY 2012 Revenue Loss: $93 million (Most of the loss is already incorporated into the FY 2012 revenue estimate. There is a $28 revenue loss beyond what the revenue estimate already includes.)

HB 234: Sales tax exemption renewal for aircraft parts

Summary: The sales tax exemption on parts used in aircraft maintenance and repair is set to expire on June 30, 2011. The bill extends the sunset date to 2013. The exemption goes to owners of aircraft registered out-of-state that are being repaired by companies such as Gulfstream.

FY 2012 Revenue Loss: $3.8 million to $7.5 million

HB 322: Sales tax exemption renewal for jet fuel
Summary: The sales tax exemption on jet fuel for Delta Air Lines is set to expire on June 30, 2011. The bill extends the tax exemption for two years and places a cap of $20 million on the exemption for 2012 and $10 million for 2013. The bill makes the current exemption from local option sales tax permanent.

In addition, the bill references Georgia code section relating to the proposed regional transportation sales tax. When that measure was passed last year, "qualifying airlines" were exempt from paying the new transportation tax. HB 322 clarifies qualifying airlines to restrict it to Delta Air Lines for both the jet fuel exemption and the transportation sales tax exemption.

FY 2012 Revenue Loss: $20 million

Additional Revenue Bills Passed by the House and Senate

- **HB 117**: Clarifies withholding tax requirements for nonresidents.
- **HB 133**: Waives the income tax refund or payment if it totals less than $1.
- **HB 164**: Clarifies regulations and definitions relating to coin-operated gaming machines. (The fiscal note for an earlier version of the bill estimates a revenue gain of $0.9 million in FY 2014.)
- **HB 325**: Revises the tax credit program for donations to student scholarship organizations. The bill originally proposed to expand the tax credit program, but was modified. The bill as passed by the House requires additional reporting, including identification of how many students receiving scholarships live below the poverty line and 200 percent of poverty.
- **HB 346**: Revises provisions relating to deferred compensation for nonresidents.
- **HB 462**: Revises provisions relating to coin operated machines to make tickets and tokens redeemable for merchandise valued at less than $5.
- **SR 20**: Limits state spending to an arbitrary formula of population plus government inflation. The constitutional amendment is a modified version of Colorado's TABOR restriction. (More information is available at www.gbpi.org.)

Local Sales and Property Tax Bills

- **HB 48**: Allows local governments to hold a referendum on offering freeport exemptions of 20, 40, 60, 80, and 100 percent. Freeport exemptions apply to inventory taxes. Similar legislation was vetoed in 2010 by Governor Sonny Perdue.
- **HB 95**: Revises forest land conservation use property provisions relating to landowners breaching the covenant. Similar legislation was vetoed in 2010 by Governor Perdue.
- **HB 228**: Allows the Revenue Commissioner to distribute sales and use tax that has not been identified with a particular locale.
- **HB 240**: Allows local governments to hold a referendum on how to use special purpose local option sales tax dollars when these projects are found to be infeasible.
- **HB 382**: Allows the city of Atlanta to levy an additional hotel/motel tax.

Conclusion and Recommendations

Policymakers are choosing to limit their responses to the state's fiscal challenges to cuts in services followed by still more cuts. Rather than continue to pass exemptions, policymakers should bring all existing tax breaks into the budget discussion. Some serve a valid policy purpose and will stand up to evaluation and scrutiny. Others, however, will likely be shown to have less benefit than other uses for those dollars.

Beyond bringing tax code spending into the budget discussion, there is still time for tax reform based on the Special Council for Tax Reform and Fairness' recommendations. The Council's recommendations would help align Georgia revenues with a 21st century economy and meet the current and future needs of Georgians – very important for the state's ability to offer competitive jobs and be a good place to raise a family.

In calling for the state sales tax to extend to more services – people today spend more on services than things – and for a reduction in income tax exemptions, deductions, and credits, the Council recognized the need for a more productive, sustainable tax system. The fastest growing elements of consumer spending and personal income would be incorporated into the tax base.

The Council's recommendations would shift the tax burden down the income ladder. Fortunately, though, the negative aspects of the Council's recommendations can be changed while still keeping the basic principles. Legislators could make the following adjustments to the Council's recommendations to lessen the tax shift:

- Maintain the sales tax exemption on groceries rather than eliminating the exemption as the Council recommends;
- Reduce the top income tax rate from the current 6 percent to a flat 4.5 percent rate rather than the 4 percent recommended by the Council;
- Re-craft the proposed personal income tax credit to give more protection to seniors and working families.

These kinds of adjustments would preserve the Council's achievements in modernization and simplification and improve the overall tax system. Options exist to move forward with tax reform – inaction cannot be one of those options.

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