



# SENATE BILL 105: 2021 Appropriations Act, Sec. 42.3: Franchise Tax Reduction and Simplification

2021-2022 General Assembly

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<b>Committee:</b>		<b>Date:</b>	January 26, 2022
<b>Introduced by:</b>		<b>Prepared by:</b>	Finance Team
<b>Analysis of:</b>	Sec. 42.3 of S.L. 2021-180		

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**OVERVIEW:** *Section 42.3 of S.L. 2021-180 simplifies the franchise tax base calculation and, for some taxpayers reduces the franchise tax amount, by eliminating the two tax bases calculated using property values.*

*This section is effective for taxable years beginning on or after January 1, 2023, and applicable to the calculation of franchise tax reported on the 2022 and later corporate income tax returns.*

**CURRENT LAW:** The franchise tax is imposed on C corporations and S corporations for the privilege of engaging in business in this State. The tax does not apply to a business organized as a limited liability company, unless the LLC elects to be taxed as a corporation for franchise tax purposes, or to a general partnership or sole proprietorship. The rate of tax is \$1.50 per \$1,000, subject to a minimum tax of \$200.<sup>1</sup> The tax rate applies to the highest of three bases. The three bases are:

- Net worth as computed in accordance with generally accepted accounting principles.<sup>2</sup> *As a result of the changes in this section, this base becomes the franchise tax base for all taxpayers. Most taxpayers use this base and will not see any change in their tax liability.*
- Book value of North Carolina real and tangible personal property, less outstanding debt created to acquire or improve the real property. *This section eliminates this base and taxpayers currently using this base will probably see a reduction in their tax liability.*
- 55% of the appraised value of North Carolina real and tangible personal property. *This section eliminates this base and taxpayers currently using this base will probably see a reduction in their tax liability.*

**BILL ANALYSIS:** Section 42.3 of S.L. 2021-180 simplifies the franchise tax base calculation and, for some taxpayers, reduces the franchise tax amount by eliminating the two tax bases calculated using property values. The elimination of the two property bases will reduce the franchise tax liability of corporations that have significant real and personal property investments in the State.

**EFFECTIVE DATE:** This section is effective for taxable years beginning on or after January 1, 2023, and applicable to the calculation of franchise tax reported on the 2022 and later corporate income tax returns.

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<sup>1</sup> The maximum franchise tax on a holding company is \$150,000. A S-corporation pays a flat rate of \$200 on the first \$1,000,000 of net worth and \$1.50 for every \$1,000 of net worth over \$1,000,000. The General Assembly reduced the franchise tax on S-corporations for taxable years beginning on or after January 1, 2019.

<sup>2</sup> The General Assembly significantly simplified the franchise tax base calculation when it moved from the capital base calculation to the net worth base calculation, effective for franchise tax returns due in 2017.

Jeffrey Hudson  
Director



Legislative Analysis  
Division  
919-733-2578