

### Business Tax Credit Carry Over Limitation

Section 102 and 103 of HB 2 amends the Business Profits Tax (BPT) and the Business Enterprise Tax (BET) to limit the amount of any overpayment that a taxpayer may claim as a credit to 50% of the total tax liability for the taxable period. The remainder of any overpayment shall be refunded to the taxpayer. Section 102 and 103 are applicable to taxable periods ending on or after December 31, 2022.

The charts below show a range for the fiscal impact that could be experienced in each fiscal year. To create these ranges, the DRA evaluated two scenarios. The first scenario assumed that no adjustments would be made to estimate payments and that the first impact of the Credit Carry Over (CCO) cap would be realized through refund requests. The second scenario assumed that the historic breakdown of fiscal year revenue into tax years will determine how the impact of the CCO cap will be realized, with taxpayers adjusting their estimate, return, and extension payments, and also claiming refunds. Using TY 2018 data, the cumulative fiscal impact will not exceed (\$137.3m) for the 50% cap and (\$92.3m) for the 100% cap. Therefore, to the extent that the actual fiscal impact is towards the higher end of the range in earlier fiscal years, the fiscal impact will fall towards the lower end of the range in later fiscal years. Alternatively, to the extent that the actual fiscal impact is towards the lower end of the range in earlier fiscal years, the fiscal impact will fall towards the higher end of the range in later fiscal years.

The DRA is unable to estimate the exact future impact of this proposed change because the DRA cannot predict what the total requested CCO amount from the Business Taxes will be in future years. However, relying on the most recently reported Business Tax data, the DRA can calculate the fiscal impact had the legislation been in place during TY 2018, as follows:

#### **Sections 102 and 103 of HB 2**

On TY 2018 tax returns, 19,418 taxpayers claimed \$279.7m in overpayments. If the allowable CCO had been limited to 50% of their TY 2018 liability, 9,847 taxpayers would have had their overpayments reduced by (\$137.3m). This represents the fiscal impact if sections 102 and 103 of HB 2 had it been in place for TY 2018.

| <b>Credit Carry Over 50% Cap</b> |  |  |
|----------------------------------|--|--|
| <b>Fiscal Year</b>               | <b>Estimated Fiscal Impact Range Per Year<br/>Dependent on Taxpayer Behavior</b> | <b>Estimated Cumulative Fiscal Impact<br/>(Proposed Legislation Compared to<br/>Current Law)</b> |
| 2022                             | \$ - to \$ (30,206,000)  | \$ - to \$ (30,206,000)  |
| 2023                             | \$ (4,907,192) to \$ (86,499,000)  | \$ (4,907,192) to \$ (116,705,000)   |
| 2024                             | \$ (20,595,000) to \$ (107,000,244)  | \$ (111,907,435) to \$ (137,300,000)   |
| 2025                             | \$ - to \$ (25,392,565)  | \$ (137,300,000) to \$ (137,300,000)   |

### Alternative Options

Each option below is based on TY 2018 data. Out of the total number of CCO taxpayers:

- 35% had a CCO in excess of 100% of their TY 2018 tax liability, which equates to \$92.3m of the total fiscal impact;
- 24% had a CCO in excess of 200% of their TY 2018 tax liability which equates to \$56.4m of the total fiscal impact;
- 21% had a CCO in excess of 250% of their TY 2018 tax liability, which equates to \$47.5m of the total fiscal impact; and
- 16% had a CCO in excess of 500% of their TY 2018 tax liability, which equates to \$22.4m of the total fiscal impact.

As you can see from this data an additional way to limit the fiscal impact while ensuring that the largest outstanding CCOs are eliminated would be to select 100% to 500% of total tax liability for the taxable period, instead of the 50% cap currently in HB 2. In the alternative options below we have reduced the CCO to be equal to stated liability limits to calculate the possible fiscal impact.

**CCOs capped at 200% of the tax liability in TY 2022, 100% of the tax liability in TY 2023, 75% of the tax liability in TY 2024 and 50% of the tax liability in TY 2025.**

| Credit Carry Over Phased Cap from 200% to 50% Cap |  |   |
|---|--|---|
| Fiscal Year                                       | Estimated Fiscal Impact Range Per Year<br>Dependent on Taxpayer Behavior | Estimated Cumulative Fiscal Impact<br><i>(Proposed Legislation Compared to<br/>Current Law)</i> |
| 2022  | \$ - to \$ (12,410,186)  | \$ - to \$ (12,410,186)   |
| 2023  | \$ (2,016,128) to \$ (43,426,634)  | \$ (2,016,128) to \$ (55,836,820)   |
| 2024  | \$ (36,004,648) to \$ (45,242,755)                                       | \$ (47,258,883) to \$ (91,841,468)  |
| 2025  | \$ (24,517,808) to \$ (39,180,738)                                       | \$ (86,439,621) to \$ (116,359,277)   |
| 2026  | \$ (17,563,187) to \$ (24,983,915)                                       | \$ (111,423,536) to \$ (133,922,464)  |
| 2025  | \$ (3,377,536) to \$ (21,712,138)  | \$ (133,135,674) to \$ (137,300,000)  |
| 2026  | \$ - to \$ (4,164,326)   | \$ (137,300,000) to \$ (137,300,000)  |

**CCOs capped at 200% of the tax liability in TY 2022, 100% of the tax liability in TY 2023.**

| <b>Credit Carry Over Phased Cap from 200% to 100% Cap</b> |  |  |
|---|--|--|
| <b>Fiscal Year</b>  | <b>Estimated Fiscal Impact Range Per Year<br/>Dependent on Taxpayer Behavior</b> | <b>Estimated Cumulative Fiscal Impact<br/>(Proposed Legislation Compared to<br/>Current Law)</b> |
| 2022  | \$ - to \$ (12,410,186)  | \$ - to \$ (12,410,186)  |
| 2023  | \$ (2,016,128) to \$ (43,426,634)  | \$ (2,016,128) to \$ (55,836,820)  |
| 2024  | \$ (31,050,929) to \$ (45,242,755)   | \$ (47,258,883) to \$ (86,887,749)   |
| 2025  | \$ (5,378,438) to \$ (38,375,969)  | \$ (85,634,853) to \$ (92,266,187)   |
| 2026  | \$ - to \$ (6,631,334)   | \$ (92,266,187) to \$ (92,266,187)   |

**CCOs capped at 500% of the tax liability in TY 2022, 250% of the tax liability in TY 2025,  
and 100% of the tax liability in TY 2027.**

| <b>Credit Carry Over Phased Reduction from 500% to 100%</b> |  |  |
|---|--|--|
| <b>Fiscal Year</b>  | <b>Estimated Fiscal Impact Range Per Year<br/>Dependent on Taxpayer Behavior</b> | <b>Estimated Cumulative Fiscal Impact<br/>(Proposed Legislation Compared to<br/>Current Law)</b> |
| 2022  | \$ - to \$ (4,938,888)   | \$ - to \$ (4,938,888)   |
| 2023  | \$ (802,360) to \$ (14,143,180)  | \$ (802,360) to \$ (19,082,068)  |
| 2024  | \$ (3,367,424) to \$ (17,495,274)  | \$ (18,297,633) to \$ (22,449,492)   |
| 2025  | \$ (4,151,858) to \$ (5,519,057)   | \$ (22,449,492) to \$ (27,968,548)   |
| 2026  | \$ (896,612) to \$ (15,804,572)  | \$ (23,346,104) to \$ (43,773,120)   |
| 2027  | \$ (13,603,609) to \$ (19,550,434)   | \$ (42,896,538) to \$ (57,376,730)   |
| 2028  | \$ (6,238,257) to \$ (28,179,946)  | \$ (49,134,796) to \$ (85,556,676)   |
| 2029  | \$ (6,709,511) to \$ (34,858,913)  | \$ (83,993,708) to \$ (92,266,187)   |
| 2030  | \$ - to \$ (8,272,478)   | \$ (92,266,187) to \$ (92,266,187)   |