

MINNESOTA • REVENUE

CORPORATE FRANCHISE TAX Throwback Rule

February 13, 2013

	Yes	No
DOR Administrative Costs/Savings		X

Department of Revenue
Analysis of H.F.37 (Mullery)

	Fund Impact			
	<u>F.Y. 2014</u>	<u>F.Y. 2015</u>	<u>F.Y. 2016</u>	<u>F.Y. 2017</u>
		(000's)		
General Fund	\$50,000	\$37,100	\$36,600	\$36,400

Effective beginning with tax year 2013.

EXPLANATION OF THE BILL

Beginning in tax year 2014, the Minnesota portion of the entire income of a corporation is determined by the ratio between Minnesota sales and the sales everywhere. Minnesota sales are determined by the destination of the sale.

For the purpose of apportionment, the throwback provision in the bill allows certain sales shipped from Minnesota to customers who are located out of state to be reclassified as a Minnesota sale. Current law lacks such a provision. The effect of sales reclassified as Minnesota sales increases the portion of total income apportioned to Minnesota.

A throwback provision is an exception to the general rule that attributes sales to the destination state. This exception would be triggered if tangible property is shipped from Minnesota to a purchaser in a state where the taxpayer, the selling corporation, is not taxable. Also, the throwback provisions would be triggered if tangible property is shipped from Minnesota and the customer is the United States government. Such sales are not attributed to Minnesota under current law.

This analysis assumes that one of the main reasons why the selling corporation is not taxable in another state is due to the prohibition against state taxation under federal law, P.L. 86-272. This law prohibits the government of the destination state to tax a corporation where its only connection to the destination state is the sale of tangible personal property.

The throwback provision also applies to the sale of services. Under current law sales of services are attributed to the state where the customer receives the services. In general, services are received at the customer's place of business. Under the bill, sales of services would be subject to throwback to Minnesota if a corporation is not taxable in the state of the purchaser and it performs the greater proportion of the service in Minnesota.

REVENUE ANALYSIS DETAIL

- The estimates are based on the estimates in the 2012 Tax Expenditure Budget. These estimates used data from corporate income tax returns received in calendar year 2010. The estimates were adjusted to reflect the change in projected corporate tax revenue according to the November 2012 forecast.
- The tax expenditure estimate recalculates the apportionment percentage of corporations with a high portion of their property and payroll in Minnesota and a low portion of Minnesota sales.
- The full effect of the phase-in to 100% sales weighting increases the size of the revenue gain. Except for fiscal year 2014, the estimates reflect the full effect of the phase-in to 100% sales weighting which is complete in tax year 2014. The majority of the estimate for fiscal year 2014 estimate includes activities from tax year 2013 where the sales weighting was 96%.
- All of tax year 2013 is allocated to fiscal year 2014. Other tax years were allocated 30/70 to fiscal years.

Number of Taxpayers: About 700 taxpayers.

Source: Minnesota Department of Revenue
Tax Research Division
http://www.revenue.state.mn.us/research_stats/Pages/Revenue-Analyses.aspx