

22ND DISTRICT
JOHN P. BLAKE

SENATE BOX 203022
THE STATE CAPITOL
HARRISBURG, PA 17120-3022
TELEPHONE: (717) 787-6481
FAX: (717) 783-5198

MAIN DISTRICT OFFICE

OPPENHEIM BUILDING
409 LACKAWANNA AVE., SUITE 210
SCRANTON, PA 18503
TELEPHONE: (570) 207-2881
FAX: (570) 207-2897

ARCHBALD OFFICE

400 CHURCH STREET, SUITE 3201
ARCHBALD, PA 18403
TELEPHONE: (570) 876-5322
FAX: (570) 876-5332

senatorblake@pasenate.com
www.senatorblake.com



Senate of Pennsylvania

COMMITTEES

INTERGOVERNMENTAL OPERATIONS,
DEMOCRATIC CHAIRMAN
LOCAL GOVERNMENT,
DEMOCRATIC CHAIRMAN
APPROPRIATIONS
COMMUNITY, ECONOMIC AND
RECREATIONAL DEVELOPMENT
LABOR AND INDUSTRY
URBAN AFFAIRS AND HOUSING
POLICY

CAPITOL PRESERVATION COMMITTEE
LOCAL GOVERNMENT COMMISSION

TO: All Senators

DATE: January 25, 2012

FROM: Senator John P. Blake

SUBJECT: Corporate Net Income Tax reduction and phase-in of Mandatory Combined Reporting

In the near future, I will introduce legislation to reduce Pennsylvania's Corporate Net Income Tax and that would ensure large, multi-state corporations no longer be permitted to avoid payment of this tax. Specifically, the bill would gradually reduce the Corporate Net Income Tax over a five-year period from its current 9.99%, to 6.99%. The bill would also provide for a phased closing of the so called "Delaware Loophole" by implementing mandatory combined reporting.

Under current law, large and sophisticated corporations are able to avoid some or all of their PA Corporate Net Income Tax liability by transferring their profits to subsidiaries in Delaware or other out-of-state locales which do not levy a corporate net income tax thus allowing these companies to report no taxable, corporate income on their Pennsylvania state tax return. Combined reporting, as is currently required by federal tax law, would require these large companies and their subsidiaries to file a single tax return for Corporate Net Income Tax purposes.

During year one of my proposed legislation, companies subject to the CNI would file two tax returns: an informational return using combined reporting and their regular state tax return. The Department of Revenue would use this informational return to estimate the amount of CNI tax revenue unpaid to the Commonwealth for that year due to the transfer of in-state profits to outside subsidiaries. Companies would continue to pay the 9.99% CNI rate in that first year. In years 2-6, companies would continue to file the informational combined reporting return and the regular return. In those years, the CNI would be reduced by .6% annually to the eventual 6.99%. Mandatory Combined Reporting would take effect after year six.

Each corporation required to submit a return under the new law shall compute its CNI liability under current law. Then the corporation would be required to calculate its CNI tax liability on a combined basis. The corporation will then pay a surtax on the difference between these two calculated CNI tax liabilities. To avoid uniformity issues in the imposition of this surcharge on the higher tax liability, the surtax would ONLY be paid when there is a higher tax liability under the combined return. The Department of Revenue would issue a credit if and when the combined return calculation results in a lower tax payment due to the Commonwealth. The surtax schedule would be as follows: For 2014, 20% of the difference between the tax liability and tax paid to the department. For 2015: 40%. For 2016: 60%. For 2017: 80%. For 2018: 100%. This schedule, which could be adjusted by the Department of Revenue, is designed to ensure revenue neutrality by funding the annual .6% reduction in the overall CNI rate.

In the past several years there have been many legislative initiatives focused on tax fairness and, specifically, calling for mandatory combined reporting. I believe that a swift (i.e., one year) or immediate transition from current tax reporting practices to mandatory combined reporting could be punitive to corporations. As we continue to struggle in a weak economy, such a swift transition could serve to contract our gross state product and exacerbate a fragile economic recovery by forcing layoffs or delaying capital investments planned by Pennsylvania corporations. Further, there is wide, bi-partisan consensus that PA's Corporate Net Income tax is too high and presents a non-competitive message to companies considering investment here. A gradual transition would avoid adverse shock to our economy and allow tax fairness to be achieved without that short term risk. The reduction in the CNI will send a powerful message that Pennsylvania is open for business.

Of the 45 states that levy a corporate net income tax, 24 require combined reporting and again, federal corporate income tax filings to the U.S. Internal Revenue Service require such reporting. Recent public commentary from the Department of Revenue evidences an intention for an aggressive posture on companies trying to evade our CNI. I commend the Corbett Administration and the Department of Revenue for these efforts. I firmly believe, however, that it would be better to simply prohibit these evasive practices by law than to incur added administrative expense trying to identify or prosecute such conduct. Because large corporations can and do avoid CNI liability under current law, we are currently imposing an unfair tax burden on the balance of our taxpayers to meet the cost of providing essential state services including the costs of public education, public welfare, corrections and environmental protection. This is unfair and it is unnecessary. My legislation will correct this inequity by leveling the playing field for all taxpayers while at the same time achieving revenue neutrality; an improved business climate; and an enhanced competitive position for the Commonwealth in the national and global economy.

If you would like to co-sponsor this legislation, please contact my office at 717-787-6481. If you have any questions, please contact Kyle Mullins at kmullins@pasenate.com.