

Municipal Home Rule Amendment to the Ohio Constitution

Article XVIII, Section 03 Powers

“Municipalities shall have authority to exercise all powers of local self-government and to adopt and enforce within their limits such local police, sanitary and other similar regulations, *as are not in conflict with general laws.*” (emphasis added)

The General Assembly has the authority to impose specific limits on that power:

Article XIII, Section 06 Organization of cities, etc.

“The General Assembly shall provide for the organization of cities, and incorporated villages, by general laws, *and restrict their power of taxation*, assessment, borrowing money, contracting debts and loaning their credit, so as to prevent the abuse of such power.” (emphasis added)

Article XVIII, Section 13 Taxation, debts, reports, and accounts

“*Laws may be passed to limit the power of municipalities to levy taxes* and incur debts for local purposes, and may require reports from municipalities as to their financial condition and transactions, in such form as may be provided by law, and may provide for the examination of the vouchers, books and accounts of all municipal authorities, or of public undertakings conducted by such authorities.” (emphasis added)

From the Ohio Supreme Court:

In *Cincinnati Bell Tel. Co. v. City of Cincinnati*, (1998), 81 Ohio St.3d 599, the Ohio Supreme Court addressed the ability of the General Assembly to enact laws regarding municipal income taxes in light of the Home Rule found in Article 18, Section 3 of the Ohio Constitution. The Court concluded that the General Assembly may exercise its constitutional prerogative pursuant to Article 13, Section 6 of the Ohio Constitution. By way of example, the Court pointed to R.C. 718.01(C), where the General Assembly has limited the ability of a municipality to tax: military pay (C)(1), social security benefits (C)(3), certain income from tax-exempt organizations (C)(4), precinct election officials (C)(5), etc. (There are 20 separate subsections found in R.C. 718.01(C).)

See, also, *Gesler v. City of Worthington Income Tax Bd. Of Appeals*, (2013), 138 Ohio St.3d 76: “The power to impose a municipal income tax is a power of local self-government, and when considering an exercise of municipal taxing power, the analysis turns on whether the General Assembly exercises its power to limit or restrict the municipal taxing authority.” *Id.* ¶19. “[T]he Constitution grants the General Assembly the power to limit or restrict the municipal power to tax.” *Id.* at ¶21.