

Proponent Testimony
Prepared for House Bill 467
The Ohio House Ways & Means Committee
February 4, 2020

Chair Merrin, Vice Chair LaRe, Ranking Member Rogers, and Members of the Ohio House Ways & Means Committee, thank you for this opportunity to offer proponent testimony on House Bill 467. I'm Greg Saul, Director of Tax Policy for The Ohio Society of CPAs (OSCPA).

The OSCPAs is pleased to support H.B. 467, and its objectives regarding Ohio's taxation of income generated from pass-through entities (PTEs), such as partnerships and S-corporations. H.B. 467 provides language to streamline the remittance of tax paid on behalf of nonresident investors in Ohio-operating PTEs. The purpose of this bill is to more closely unify the Ohio income tax and PTE withholding provisions.

Ohio Amended Sub. H.B. 64 (131st GA) in 2015 enacted a highest marginal income tax rate of 3% to be applied to an individual's share of PTE business income. The individual's first \$250,000 of business income is excluded via a deduction (BID), so the marginal income tax rate of 3% is only applied to the individual's share of business income in excess of \$250,000. One intention of the 3% flat rate is that it put PTEs on a more equitable playing field as other forms of business entities such as C corporations, who only pay the Commercial Activity Tax (CAT).

However, the current statute provides that PTEs must withhold on behalf of nonresident individuals at 5% and other PTEs (nonindividuals) at 8.5% – a rate dating back to Ohio's Corporate Franchise Tax, which has not been imposed for over 10 years. This rate disparity has led to an upfront and unnecessary tax burden – PTEs must withhold at a rate far higher than what the individuals will be ultimately taxed at, and then, the individuals must personally file with Ohio in order to be refunded back their own money months later (usually at least a year).

First, S.B. 288 from the 131st GA proposed providing a single withholding rate of 3% to replace the current 5% and 8.5%. At the time, the LSC said S.B. 288's rate reduction paid by PTEs on their income appears likely to be revenue neutral (no net fiscal effect). The House version of H.B. 166 also included the single 3% withholding rate (TAXCD35), but it was later removed in the budget process. During H.B. 166, the LSC noted the fiscal effect does not actually change any taxpayer's tax liability, but merely reduces the amount of withholding taxes collected.

The proposed 4% withholding rate strikes a balance between the two state income tax rates: currently 3% on business income above \$250,000, and the top individual rate on nonbusiness income of 4.797% (starting tax year 2019). Although a PTE withholding rate equal to 3% would be the most ideal rate, we commend Rep. Scherer for starting the process again of closing the rate gap and beginning to unify Ohio's income tax code and the PTE withholding rate regime.

On behalf of the OSCPAs, thank you for allowing me the opportunity to share our support for House Bill 467. I would be happy to answer any of your questions.