



BEFORE THE OHIO SENATE FINANCE COMMITTEE
TESTIMONY ON HOUSE BILL 166
May 23, 2019

Good Afternoon Chairman Dolan, Vice Chair Burke, Ranking member Sykes, and members of the Committee. My name is Tony Long, and I am the Director of Tax & Economic Policy for the Ohio Chamber of Commerce. The Ohio Chamber is the state's leading business advocate, and we represent nearly 8,000 companies that do business in Ohio. Our mission is to champion free enterprise, economic competitiveness, and growth for the benefit of all Ohioans.

On behalf of the Ohio Chamber, I am testifying as an interested party of HB 166. My testimony will cover lines 4742-4874 (support); 67795-67879 (support); lines 726582-72686, 72827-72841, and 72927-72994 (support in concept); lines 73733-73751, 74420-74430, and 106916-106919 (oppose) of the House approved version of HB 166.

We are pleased to see the Opportunity Zone tax credit language in the House passed version of HB 166. The Ohio Chamber has supported the effort to include a state tax credit for investment in opportunity zones to go along with the federal tax benefits. The Ohio Chamber submitted letters of support in both the Senate and the House as SB 8 moved through the legislative process.

The Ohio Chamber also supports the concept of putting in place a statutory framework that defines taxable selling by remote sellers. One that defines nexus, seller, and facilitators. We do not have any comments on the specific provisions, and we defer to those Ohio Chamber members most impacted by the inclusion of the language to provide commentary on the technical language.

For lines 67795-67879 we support the inclusion of language that adds more transparency to the real property valuation complaint process. It gives an owner notification when a third party is attempting to question the County Auditor's valuation of real property.

The remaining lines outlined in my witness form all concern the adjustments made by the House to the Business Investment Income Deduction or (BIID). The Ohio Chamber of Commerce urges the Senate to remove these provisions and restore the program back to its original form.

During the debate over each of the previous three state budgets, the Ohio Chamber raised concerns over the major tax shifting originally proposed in all three. We agreed that Ohio's personal income tax burden was too high and that across-the-board rate reductions were desirable. However, we didn't support reductions if they were coupled with corresponding tax increases on businesses that resulted in an overall unhealthy shift in tax burden to Ohio's employers. It is our belief that such tax shifting makes Ohio less, not more, competitive.

Nothing has changed with respect to our concerns over tax shifting. Unfortunately, that's what the tax changes now included in the House passed version of HB 166 represent. Currently, small business owners of pass-through entities can deduct 100% of the first \$250,000 of business income from their personal income tax return, with additional income above \$250,000 taxed at a rate of 3%. The change made in the sub-bill substantially reduces the BIID, from \$250,000 to \$100,000, and the remainder is taxed at the individual's marginal rate instead of the current 3%. The all funds impact of these changes is a tax increase of over \$1 billion on Ohio businesses during the biennium. If these changes remain, they would harm our business climate, weaken the state's economic competitiveness, and provide questionable overall benefit to the state's economy.

In 2013 the BIID was created to boost Ohio's small businesses. It was noted at the time that the BIID would be a critical incentive to small business creation and also allow these businesses to invest more of their hard-earned dollars into things like equipment needs, expansion plans, and employee payroll. All of which would lead to stronger economic activity in Ohio benefiting all Ohioans. After my testimony today you will hear from several of our member companies on what the BIID has meant for their business. Their testimony will confirm that the BIID has been utilized as intended by small businesses across Ohio. Also included in my testimony are exhibits of written statements from member businesses who could attend today's hearing.

The creation of this incentive also achieved two other results. First, it brought some parity in business taxes. Both C-Corps and pass through entities pay the Commercial Activity Tax (CAT). However, only pass through entities pay tax on their business income, which is paid on the individual income tax returns of the business owners, partners or members.

Second, and more importantly, the new incentive closed the tax rate gap between Ohio and its neighboring states. Ohio city income tax rates can add up to 2.5% to the Ohio state rate of tax. This overall tax burden can impede economic development and growth in Ohio. The House changes to the BIID would result in Ohio having the second highest tax rates on income when compared to our neighboring states. Only West Virginia would have a higher rate of tax and that really depends on what city in Ohio a business is located in.

Has the BIID worked? In short, yes.

According to the monthly financial reports published by the Ohio Office of Budget and Management (OBM), Ohio's unemployment rate stood at 6.9% in January 2013. That rate dropped to 4.4% in March of 2019. According to the Ohio Secretary of State's Office, in 2017 Ohio had 117,429 new business filings, and 2018 Ohio had 125,207 new business filings. And finally, according to the US Small Business Administration – in 2018 over 2 million Ohioans were employed by small businesses which equates to 46% of the private workforce in Ohio.

Moreover, according to the 2018 Annual Report from the Ohio Department of Taxation, individual income tax collection for fiscal year 2016 stood at \$8.16 billion and then rose to \$8.79 billion by fiscal year 2018. I am not here to say all of these economic numbers are the direct result of the BIID. However, Ohio's economy has improved since 2013 and we believe the BIID contributed to this economic success.

Finally, making changes to the BIID after only three tax years of full utilization creates uncertainty in the tax code. Businesses and individual owners need a stable and predictable tax code. Without a stable and predictable tax code, operational and administrative costs rise, and planning for the future becomes significantly more difficult to accomplish. And adding a retroactive start date to the proposed change in the BIID simply escalates the instability and unpredictability of the tax code.

While we agree with the House's vision to lower income tax rates for all Ohioans. We disagree with its method in HB 166. Shifting tax burden onto business to then lower the marginal rate is not the right approach. Not only is this simply shifting cost onto Ohio's businesses, it also adds tax cost to business operations which is then either passed onto consumers or is internalized and absorbed by a business with cost cutting measures in other areas.

Currently, JobsOhio touts Ohio's business-friendly approach as a reason for innovation and growth in the buckeye state. We agree with JobsOhio and think Ohio should continue to foster innovation, development, and growth. The BIID should stay in place to assist in achieving those goals.

The Ohio Chamber is asking the Ohio Senate to restore the BIID to its current form. Such a fundamental change to the Ohio income tax structure deserves more time for analysis, debate, and testimony before changes are introduced and enacted.

Thank you for your time today. I look forward to answering any questions you may have.

May 20, 2019

Dear Member of the Ohio Legislature,

On behalf of our associations and our thousands of small business members, we are writing to respectfully request the removal of language added to House Bill 166 that reduces the business income deduction (BID) from \$250,000 to \$100,000 and removes the cap of 3% on business income over \$100,000.

The business income deduction was enacted to create tax parity between pass-through entities and general business C-Corps. Pass-through entities have to pay both, the Commercial Activity Tax (CAT) and the Individual Income Tax, while C-Corps simply pay taxes on receipts under the CAT. The proposed change in HB 166 impacts the parity between Ohio businesses.

We are concerned about the negative impact the reduction of the BID and removal of the 3% cap on business income will have on our small businesses. The Legislative Service Commission has indicated a \$528 million annual tax increase as a result of this change. The reduction may well result in having less money for investments in improvements to our facilities, training, technology, new equipment, and/or increased wages, all of which would be detrimental to Ohio's overall economic growth.

The BID has been in place in its current form just since Tax Year 2016 and, this substantial change was put forth quickly, unexpectedly and without input from Ohio's impacted business community. Therefore, we believe that such a significant change warrants a more comprehensive analysis and more in-depth conversations with stakeholders.

Thank you for your consideration.

Sincerely,

Ohio Chamber of Commerce
National Federation of Independent Business (NFIB)
Ohio Society of CPAs
Ohio Automobile Dealers Association
Ohio Insurance Agents Association, Inc.
Ohio Grocers Association
Ohio Farm Bureau Federation
Wholesale Beer and Wine Association of Ohio
Manufacturing Policy Alliance
Ohio REALTORS
Ohio Poultry Association
Ohio Equipment Distributors Association
United Equipment Dealers Association
Ohio Contractors Association
Ohio Lawn Care Association
Ohio Manufactured Homes Association
Ohio Cattlemen's Association
American Council of Engineering Companies of Ohio
Ohio Trucking Association
Toledo Area Small Business Association
Greater Cleveland Partnership/Council of Smaller Enterprises
Ohio Council of Retail Merchants

Ohio Land Title Association
Ohio Real Estate Investors Association

May 20, 2019

The Honorable Larry Obhof
President, Ohio Senate
1 Capitol Square, 2nd Floor
Columbus, OH 43215

The Honorable Larry Householder
Speaker, Ohio House of Representatives
77 South High Street, 14th Floor
Columbus, OH 43215

Dear President Obhof and Speaker Householder:

We are writing to respectfully request you remove a few provisions included in the proposed Operating Budget. Specifically, the language that reduced the business income deduction (BID) from \$250,000 to \$100,000 and the language that removes the 3% cap on pass-through income above the deduction. The fiscal impact of this budget change is a \$1 billion tax increase on pass-through entities in Ohio, most of which are small businesses.

We are concerned about the negative impact the reduction of the BID will have on our small businesses. We fear taking money out of businesses that they would otherwise use to buy equipment, expand operations, and/or increase wages will be detrimental to Ohio's overall economic growth.

The business income deduction was enacted to create tax parity between pass-through entities and general business C-Corps. Pass-through entities must pay both the Commercial Activity Tax (CAT) and the Individual Income Tax, while C-Corps simply pay taxes on receipts under the CAT. The proposed change in the House-passed budget impacts the parity between Ohio businesses.

These substantial changes were done quickly and unexpectedly. The BID has been in place in its current form since 2015, therefore we believe that such significant changes warrant a more robust analysis.

Thank you for your consideration.

Sincerely,

Ohio Chamber of Commerce
Greater Akron Chamber of Commerce
Ashland Area Chamber of Commerce
Greater Ashtabula Chamber of Commerce
Central Ohio African-American Chamber of Commerce
Southwestern Auglaize Chamber of Commerce
Canton Regional Chamber of Commerce
Chillicothe Ross Chamber of Commerce
Cincinnati Regional Chamber of Commerce
Greater Cleveland Partnership
Columbus Chamber of Commerce
Darke County Chamber of Commerce
Dayton Area Chamber of Commerce
Delaware Area Chamber of Commerce

Dublin Chamber of Commerce
Findlay Hancock County Chamber of Commerce
Gahanna Area Chamber of Commerce
Galion-Crestline Chamber of Commerce
Hilliard Area Chamber of Commerce
Hispanic Chamber of Columbus
Hocking Hills Chamber of Commerce
Eastern Lake County Chamber of Commerce
Willoughby Western Lake County Chamber of Commerce
Lancaster Fairfield County Chamber of Commerce
Lima / Allen County Chamber of Commerce
Marion Area Chamber of Commerce
Mason Deerfield Chamber of Commerce
Greater Medina Chamber of Commerce
New Albany Chamber of Commerce
Noble County Chamber of Commerce
Northmont Area Chamber of Commerce
Pickerington Area Chamber of Commerce
Richland Area Chamber & Economic Development
The Chamber of Commerce serving Middletown, Monroe and Trenton
The Chamber of Commerce of Sandusky County
The Chamber of Commerce of Greater Springfield
Toledo Regional Chamber of Commerce
Trotwood Chamber of Commerce

CC: Members of the Ohio Senate, Members of the Ohio House of Representatives