

**Testimony Before The Ohio House of Representatives**  
**Ways & Means Committee**  
**October 10, 2017**

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**Carlisle Plastics Company, Inc.**

Thank you Chairman Representative Schaffer, Vice Chair Representative Scherer and all other members of this committee for the opportunity to speak today about Senate Bill 334.

My name is Cynthia Clay Thomas. I am the 100% owner of Carlisle Plastics Company, Inc., a sub-chapter S Corporation, which is a small business located in New Carlisle, Ohio. I am here to express the concerns of the Small Businesses of Ohio in reference to the recent audits and misinterpretation by the Ohio Department of Taxation of the Small Business Tax Deduction which began in 2013 and has now evolved into the Ohio Business Tax Deduction.

On March 6, 2017, the Ohio State Department of Taxation requested my tax returns for the years 2013, 2014 & 2015 of which I immediately had sent to them. On May 5, 2017, I received a letter from the Ohio Department of Taxation stating that I, Carlisle Plastics, was not eligible for the Small Business Tax Deduction created in 2013 because I had used the service of a "PEO". The letter received on May 5<sup>th</sup> also stated that I owed past due taxes that were already accruing interest. This amount had to be paid within 17 days, by May 22<sup>nd</sup>, or I would be charged penalties and accrue additional interest. This was a great shock to me and I promptly paid the amount that the letter stated was owed, as I, or my company have never been late with a tax payment.

My small business has been in existence since 1958 and has always been located in New Carlisle, Ohio. We have a total of 6 employees which includes myself. My business was the prime example of who the Small Business Tax Deduction was created for. There was never a question that this deduction would not apply to me or my business.

After receiving these letters I began to contact our State Representatives and Senators as well as Governor Kasich. I reached out to tax attorneys and CPA's. I also reached out to other Ohio small businesses that are being adversely affected by the conflicting Ohio Revised Codes of 4125.042 and 5733.40. Several of us have met and/or discussed this absurd situation.

Many small businesses use either a PEO (Professional Employment Organization) or a payroll service as we do not have the resources to have our own payroll or human resource departments. They were simply a "service provider" to us. I would submit the hours worked of my employees, including myself, on a weekly basis and they would handle the action of my payroll services. Every week they would draw their administrative cost/service fee as well as the cost of my payroll, payroll taxes, worker's compensation, etc. from my corporate bank account. All payroll checks had Carlisle Plastic's name on them. In addition to the payroll submitted for myself through the PEO I also was taking distributions directly from my company as compensation.

All worker's compensation has been paid under my Carlisle Plastics Company's account number since the 1<sup>st</sup> quarter of 2011. If the PEO had not paid the taxes due, the PEO would not be held liable for them. My company, Carlisle Plastics, would have been responsible. Again, the PEO was simply a vendor for my company, no different than any other service vendors we use; SEO services, equipment maintenance services, etc. so that I could focus and spend time on my business and my customer's needs.

We, The Small Businesses of Ohio, are very concerned that the correction to this ridiculous misinterpretation by the Ohio Department of Taxation will not be a "RETRO" fix. To correct this wrong, this needs to be a retro fix back to 2013, the first year of the deduction and for all years following. We need your help to make this correction happen.

When the tax credit initially went into effect in 2013, my business was able to put funds toward the research and development for equipment that would help my aging workforce to be able to remain working, as well as to help train new employees. This has resulted in the creation of 7 proprietary "production stations" that my company is currently using and plans to continue making. If the money from the tax credit is taken away, we will no longer be able to continue this activity.

The purpose of this tax credit was to help us, The Small Businesses of Ohio. To help us stay in business and remain in the State of Ohio producing goods, providing services and employing residents of this state. Some of us are now being penalized, discriminated against and threatened with having the tax credit taken away only because we used a different method to process our payroll. The way we processed payroll is the only difference between the small businesses that were allowed to keep the deduction and those of us that are being told we do not qualify for the deduction. Carlisle Plastics earns all of its revenue, pays all of its taxes (Ohio CAT, Federal, State, Local, EPA costs, etc.) and pays all of its payroll by using a service provider that allows us to focus on and stay in business. As of the 2<sup>nd</sup> quarter of 2016, the State of Ohio had 939,317 small businesses. We are the bread and butter of this State. We need House Bill 334 passed with the retro going back to 2013.

I appreciate your time and the opportunity to voice my concerns and the concerns of the Small Businesses of Ohio.

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