

Testimony on Substitute House Bill 49

Lee Beall, CPA on behalf of

The Ohio Society of CPAs

For

Ohio Senate Finance General Government and Agency Review Subcommittee

May 23, 2017

Chairman Jordan, Vice Chair O'Brien and members of the Subcommittee, thank you for this opportunity to speak on behalf of The Ohio Society of CPAs (OSCPA) in favor of the municipal taxation changes proposed for Substitute House Bill 49. I'm Lee Beall, an Ohio CPA and executive vice president and board chair of Rea & Associates, a regional accounting firm with offices in 11 cities across the state (Cambridge, Coshocton, Dublin, Lima, Marietta, Medina, Mentor, Millersburg, New Philadelphia, Wooster and Zanesville). Our firm employs over 200 accounting professionals and serves thousands of clients. OSCPAs is a community of 25,000 members, leading important initiatives that protect the public and create a healthy and sustainable business climate in Ohio.

Five elements are widely accepted as key tenets of a quality tax system: competitiveness, simplicity, stability, equity/fairness and neutrality. There are also two key cost components associated with tax policy that should be considered: the tax rates themselves and the compliance costs, impacting both taxpayers and government entities receiving tax dollars. These principles provide the basic standard for reforming and modernizing Ohio's tax laws and should be considered as you decide how best to design our state's tax structure under House Bill 49 and for the future. These tenets also guided our Ohio Tax Reform Task Force when we issued our 2016 white paper, "Improving Ohio's Tax Climate."

Where Ohio's major state taxes as contained in the House-passed bill are concerned, we support the consolidation of Ohio's nine income tax brackets down to seven, which should bring greater simplicity and lead to better compliance. We also support keeping the sales tax at its current rate and base. And we appreciate Governor Kasich's proposal to keep the CAT at a single rate of .26% and to keep the base broad, as kept by the House.

Today, however we want to focus our comments on one of the most impactful changes you can make to save business owners significant time and money on compliance costs: centralized collection involving the payment and administration of city and village net profits tax through the Ohio Business Gateway and Ohio Department of Taxation, as originally proposed by the Kasich Administration.

Over 600 cities and villages assess an income tax in two ways: 1) on individuals living and working within its boundaries (individual income tax), and 2) on businesses providing goods or services within its boundaries (net profits tax). HB 49 impacts only the net profits tax.

As a leading member of the Municipal Tax Reform Coalition, which represents 30 statewide and regional associations, OSCPAs knows firsthand that Ohio is at a significant disadvantage regarding municipal income taxes since only 10 other states have a system whereby cities and villages can assess tax both where you work and live. OSCPAs's primary concern is the compliance cost associated with filing in multiple jurisdictions.

The centralized collection proposal in the as-introduced version and the revised, House-passed version of HB 49 applies solely to the business net profits tax, estimated by the Ohio Department of Taxation (ODT) to produce on average just 14% of total municipal income tax collections. As a result, the typical municipality would retain direct control over the remaining 86% of their income tax revenue, usually derived from employee withholding. While it's true that current law allows taxpayers to file net profits returns and make payments via the Ohio Business Gateway (OBG), each return needs to be filed individually and paid separately, commercial software cannot be uploaded, and taxpayers are required to mail proof of the filings to each tax administrator separately. As a result, most businesses don't use it for net profits filings.

HB 49 as introduced sought to streamline the process by allowing businesses to file just one form, to make a single payment online through OBG for ODT to distribute to cities, and for ODT to administer the tax for cities and fund needed changes. We were disappointed to see that the House-passed version is more limited than the as-introduced version in that administration (audits, appeals, etc.) continues to be performed by the individual cities, and uploading of commercial tax preparation software is not included – meaning most businesses will continue to avoid it.

However, a compromise proposal arose toward the end of House consideration that we believe will meet the concerns of many cities regarding losing contact with many of their small businesses operating in just one or two cities, and also greatly improve the current system: the mandate has been removed and replaced with an “opt-in” approach whereby business owners who prefer working directly with their local tax administrators can continue to do so, and multi-city filers that want a more streamlined approach can opt to file via the OBG/administration by the state. This proposal is NOT yet in the bill.

Filing through the OBG would allow businesses to file on a single form and pay all of the cities via a single transaction, be able to upload the commercial software they already use, and have the Ohio Department of Taxation administer the net profits for all municipalities where the tax is owed. Per the Ohio Municipal League in comments before the House, 87% of Ohio businesses currently file in three or fewer cities. Having this OBG/ODT “opt in” will provide meaningful relief to the remaining 13% of businesses, many of which file in dozens – even hundreds - of cities.

While the amount of tax businesses owe will not change, centralized collection, payment and administration will cut down the paperwork burden, allowing business owners to devote the significant time and money now spent on compliance with multiple different cities to instead growing their business. Further, having the ODT administer the net profits tax for those who opt in will ensure consistency and predictability of treatment from city to city.

Speaking on behalf of my firm and the clients we serve, it makes no sense for business owners to be forced to continue to spend so much money on accounting professionals like me to prepare dozens of separate city net profits filings and arrange for dozens of separate payments. Just as burdensome are the many and varied notices business owners receive from cities they may or may not work in asking for more information. It's such a drain of time and money for businesses operating in multiple jurisdictions to have to deal with the widely varying interpretations of municipal ordinances and policies – resources that would be much better used growing Ohio businesses.

OSCPA also supports the House-passed provision eliminating municipal “throwback” rules, which states that sales of goods shipped to a customer in another tax jurisdiction where the seller does not have an employee that regularly engages in the solicitation of sales are “thrown back” to the jurisdiction from which the goods are shipped. An example would be a distribution warehouse like Amazon mailing goods to someone’s home. Am. Sub. H.B. 49 repeals the throwback rule, but maintains the current apportionment of sales to a municipality.

In summary, we urge you to support inclusion of the “opt in” net profits tax proposal. Please know that The Ohio Society of CPAs and I stand ready to work with members of the Ohio General Assembly and the Kasich Administration on your ongoing effort to make Ohio a destination state for employers and skilled workers alike. I appreciate your time, and would be happy to answer any questions you might have.