



The Voice of Small Business.®

HOUSE BILL 49 – STATE OPERATING BUDGET – MUNICIPAL INCOME TAX COLLECTION

PROPONENT TESTIMONY

OHIO SENATE FINANCE – GENERAL GOVERNMENT & AGENCY REVIEW SUBCOMMITTEE

MAY 23, 2017

Chairman Jordan, Vice-Chair O'Brien, and members of the Ohio Senate Finance General Government and Agency Review Subcommittee, my name is Chris Ferruso, and I serve as Legislative Director for the National Federation of Independent Business/Ohio (NFIB/Ohio). Thank you for the opportunity to provide testimony on behalf of the nearly 25,000 governing members of the National Federation of Independent Business to express our support for the municipal income collection concept put forth last week by Tax Commissioner Testa. We believe the proposal has the potential to save many employers a significant amount of time and money in complying with the current filing process for municipal net profit returns.

By way of background, a typical NFIB/Ohio member employs 25 or fewer and does less than \$2 million in annual sales. Our members come from every industry type, and our organization looks like Main Street in any legislative district across Ohio. We set policy based upon a unique member balloting process. The positions we take before the Ohio General Assembly are directly related to this process.

We also have the NFIB Research Foundation which is constantly surveying our members on a host of topics. Late last year, we released our quadrennial publication *Problems & Priorities*. This publication captures our members' responses to a list of 75 small business issues, asking them to rank them based upon the biggest impediment to job creation/expansion/growth. Over the past 8 years, taxes and general government compliance have become more prevalent answers in these surveys. In fact, taxes are 4 of the top 11 issues raised by our members, including tax complexity at number 3, and state/local paperwork at number 7.¹

While strides were made in House Bill 5 of the 130th General Assembly to bring about more uniformity in deadlines and rules across Ohio's nearly 600 different cities and villages that levy municipal income taxes, reducing complexity on net profit returns remains an issue. House Bill 5 did establish a de minimus amount of ten dollars whereby neither payment nor refund is due. However, a business still must file a return to each of those municipalities, incurring the cost of determining apportionment. Then, in many instances, pay their accountant to complete and file a return, and when necessary remit payment to each municipality.

¹ <http://www.nfib.com/assets/NFIB-Problems-and-Priorities-2016.pdf>

House Bill 49, as introduced, contained a proposal requiring all municipal net profits returns to be filed through the Ohio Business Gateway (OBG). The Ohio Department of Taxation(Tax) would be responsible for the collection, remittance of 99 percent of the liability to respective municipalities, and audit and appeals on these filings. The intent was one form, one payment, and one appeals process. While NFIB supported this original proposal, some concerns were raised. We heard several common concerns with the original proposal including: businesses have a good relationship with their tax administrators and should not be mandated to use OBG, remittance of tax back to municipalities was too infrequent resulting in cash-flow issues, the language was drafted in Ohio Revised Code Chapter 57 and thus this municipal tax revenue would become assets of the state, inability to see tax filings, effective date, and loss of audit authority. This list does not encompass every concern raised, just those most frequently cited. The new "opt-in" proposal reflects the attempt to address most of the concerns raised with the initial proposal.

First, the proposal eliminates the mandate and allows businesses to decide what is best for their operations. So, for those businesses that may file in only one municipality or have a relationship with their tax administrator(s), nothing changes, and they continue to file directly with their local tax department(s) or third-party administrator. However, for those businesses filing in multiple jurisdictions, they will be afforded the opportunity to file one form and make one payment through the OBG. For many of our members, the time and cost associated with complying with the current system can be and is burdensome. Tax recently ran an analysis to determine the potential cost savings for businesses. If every business filing in multiple jurisdictions were to opt-in, Tax estimates the annual savings to be \$800 million.² This figure is staggering considering testimony delivered before the House Ways and Means Committee that the municipal net profits tax generates \$600 million annually.³

Second, the proposal requires Tax to remit back to municipalities on a monthly, instead of quarterly, basis 99 percent of their tax including any interest accrued. This proposal does not in any way impact the municipal income tax withholdings on employee earnings which constitute, on average, 85 percent of municipal income tax revenues.⁴

Next, the proposal is placed in Ohio Revised Code Chapter 718, the municipal income tax chapter. We believe Tax has made it clear they in no way intend, nor desire, to make these municipal net profit taxes assets of the state. There is no state takeover of the municipal income tax system. Tax currently collects, administers, and remits the school district income tax, sales tax, and municipal income tax for electric light companies and local exchange telephone companies. I am unaware of any issues on lack of remittance by Tax to the appropriate entities.

Finally, municipalities will have the ability to review taxpayer filings. Thus, the lack of access to information has been addressed. In conjunction, although audit authority remains with the Tax Commissioner, if a municipality identifies an issue with a taxpayer they may request Tax to evaluate further, potentially leading to an audit of the taxpayer.

What this proposal and the original as introduced version of House Bill 49 does not do is impact in any way the ability of a municipality to levy an income tax or restrict the rate currently charged. Municipalities retain the ability to maintain their rates and credits subject to local councils and voters. Nothing in this proposal aims to limit their municipal income tax revenue.

² <http://www.ohio.com/news/politics/2016/kasich-to-cite-800m-business-cost-in-tax-fight-1.756550>

³ Ohio Municipal League testimony before Ohio House Ways & Means Committee March 7, 2017

⁴ Ohio Municipal League testimony before Ohio House Ways & Means Committee March 7, 2017

While we are still waiting to review LSC drafted language, we believe the opt-in concept to collect and remit municipal income tax by the Ohio Department of Taxation through the OBG has the potential to save our members significant resources, in both time and money. We also feel that most of the concerns have been addressed. This proposal gives businesses the choice in how they file and pay their net-profit taxes while balancing the needs of municipalities to ensure taxpayer compliance.

Mr. Chairman and members of the Ohio Senate Finance General Government and Agency Review Subcommittee, thank you for the opportunity to provide comments on the opt-in proposal for collection of municipal net-profits tax. I am happy to try and address any questions you have.