

**STATE OPERATING BUDGET
INTERESTED PARTY TESTIMONY
SENATE FINANCE COMMITTEE
MAY 23, 2019**

Chairman Dolan, Vice-chair Burke, Ranking Member Sykes, and members of the Ohio Senate Finance Committee.....

My name is Robert Sielschott. I am the founding partner of the CPA firm of Sielschott, Walsh, Keifer, Regula & Sherer CPAs. My firm employs depending on the time of year over 30 people. I am a small business employer, a Bath Township Trustee, and the chairman of the Allen County Area Action Council of the NFIB. More importantly, my firm this year prepared the tax returns of 425 small businesses, not including proprietors reporting as individuals on Sch C's and farmers reporting on Sch. F's. Of my 425 small business clients, 275 had employees in 2018, employing over 6,200 of my neighbors from my community. My small business employer clients average 24 employees per entity. Our NFIB area action council membership is a similar population, and employs even more. These groups are by far the biggest employer in our region. As a group this employer is the fastest growing, most vibrant, most generous, most charitable, and most active in our community. We ordered 5,000 W-2's for our clients when filing their fourth quarter 2017 payroll reports, and we ran out. This year we ordered 6,500. These groups of employers are indeed a meaningful sample of the reality of the small business employer, and they are not even remotely close to the group described to you by those hostile to the small business BID.

It is fair to say that, having just completed my 40'th tax season, that I am relatively well versed in tax law. I am here to clear up some misconceptions and false premises of which you should be aware as you decide whether or not to target this group of small business employers with this massive tax increase. Thank you for that opportunity. Please consider the following:

- The original reason for inventing the BID was to correct an accidental inequity. Outstanding public policy in the elimination of highly targeted taxes against Ohio employers (Corporate income tax, personal property tax) and replacement with the CAT tax was one of many pro-employment policies that helped stem the tidal wave of employment and population leaving Ohio. But it also accidentally created a situation where small business employers continued to pay income taxes where their big business cousins did not. The BID was created to correct this inequity.
- You have been told that the \$100,000 BID level will protect 86% of small businesses. This is a completely false premise. BID coverage includes the tiniest of activities, including small "side business" schedule C's, small rental properties, rental farms, and hobby schedule C's. You must include these tiny businesses to get the "protection" number to 86%, totally skewing the impact on true small business employers.

- You have been told, as was reported in the Lima News when quoting House members, that the BID is a “LLC Loophole”. This shows a really fascinating lack of any understanding of how the BID is calculated and applied. A “limited liability company” or LLC, has nothing to do with the BID. It is a disregarded entity under law for tax purposes. A small business employer who reports as a Schedule C unincorporated business, and then organizes as an LLC receives the same BID. If he owns the business and organizes as a Sub S corporation, paying himself a wage, he gets the same BID. If he has a partnership and reports on a 1065, he gets the same BID. The BID is based on income from self employment and pass thru sources as defined by federal law. LLC’s are disregarded entities in federal law, and there is no such thing as an “LLC return”, nor is there any such thing as an “LLC loophole”.
- People who are really the employees of unrelated employers, who then conspire to have themselves treated as self employed people, are violating existing federal and state law. They are caught by the IRS, the Labor Department, the BWC, and the ODJFS auditors every day, and when they are caught they pay back taxes, huge penalties, and interest, as do their actual employers. This issue is in no way related to the BID, and is not an excuse to selectively target small business employers for this huge tax increase.
- You have been told that the BID is “free money”, that to Quote Professor David McClough of Ohio Northern University that “chances are that no significant portion of that \$250,000 in business income is being put back into the business. That is going back into the owner’s pocket.” No disrespect to Professor McClough, but there is no data to support his personal opinion. My experience over 40 years with small business owners in fact is that their business is “their pocket”. As they age and try to retire, there is significant data confirming that they work years longer than the employee population because almost all their wealth is tied up in a lifetime of reinvesting almost everything they earn and own into their business. In fact, current Ohio law limits the new capital investment and Sect. 179 first year equipment deductions to \$25,000 per year, and requires the balance to be added back and amortized. This add back often offsets the BID and creates current year income tax for Ohio small business employers because they reinvested in their business.
- You have been told that the BID isn’t pro employment because the tax savings isn’t big enough to employ even one person. This statement shows a remarkable lack of understanding of how marginal tax rates impact a macro economy. The Ohio Dept. of Taxation indicates that 700,000 returns claimed the BID for 2018 for a deduction of \$29 billion. If you presume an average tax rate of 3% and you reduce the BID by the proposed 60%, you are specifically targeting the fastest growing sector of our economy and removing \$350 million of cash capital from the most vibrant group of employers. How can one have an economic conversation with someone who would not admit that such policy would impact those employers?

I care deeply about my small business employers. Helping them succeed and employ their neighbors has been my professional life’s purpose. They are good people, good employers, and they believe like I do that the creation of a job brings self sufficiency, pride, purpose, and dignity where there once was none. I believe with all my heart that the creation of a job for a neighbor is a near religious act, and I take great pride in having done it myself and having helped others to do it. My small business employers are hurt and confused that they would be specifically targeted for a huge tax increase. They send billions of dollars to Ohio in sales tax, employee income tax, CAT tax, unemployment tax, workman’s comp tax, and a myriad of license and permit taxes, all stemming from the running of their businesses and employing of their neighbors. There are so many ways you could preserve the BID and still make it a better incentive for employment and fairer to other Ohioans who pay taxes on wages. But a draconian cut and a targeted tax increase against small business employers is not one of them. Please pause and give us a chance to show you how.

711 Dean Avenue Lima, Ohio 45804

113 North Main Street Bluffton, Ohio 45817

Lima Office: 419-222-2001 Lima Fax: 419-222-1570 Bluffton Office: 419-369-9001 Bluffton Fax: 419-369-1570

www.swkrca.com

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