

March 10, 2021

The Honorable Derek Merrin, Chair  
House Ways & Means Committee  
Ohio House of Representatives  
77 S. High Street, 13<sup>th</sup> Floor  
Columbus, OH 43215

Re: H.B. No. 157

Chair Merrin, Vice-Chair Riedel, Ranking Member Sobecki and members of the House Ways and Means Committee, I appreciate the opportunity to provide testimony regarding House Bill 157.

My name is Don Smith, Executive Director of the Regional Income Tax Agency, commonly referred to as RITA, and I am writing to express our concern with House Bill 157, which repeals Section 29 of H.B. 197—a temporary rule governing the municipal income taxation of employees who are working at a temporary worksite – including their home – due to the COVID-19 pandemic<sup>1</sup>.

RITA was formed in 1971 by a regional council of governments to foster cooperation between municipalities through the sharing of facilities and services for their common benefit, and specifically, to administer the income tax ordinance of any Ohio municipality that joins the council of governments. Today, more than 330 Ohio cities and villages and 39 JEDDs, JEDZs and Enterprise Zones in 77 counties (approximately 50% of Ohio municipalities with an income tax) use RITA to handle their municipal income tax collection and administration.

Section 29 of Ohio House Bill 197 provided stability and certainty to Ohio businesses and municipalities alike; ensuring that while employees are working from home or another location during the COVID-19 pandemic, municipal income tax withholding continues as if those employees are performing work in their principal place of work municipalities. Employers were not forced to adjust their payroll practices to begin withholding tax in all of the locations where their employees live, or to prematurely call them back to the workplace to avoid having to do this, and municipalities saw income tax revenues remain stable at a time when they were called upon to support efforts to respond to the pandemic in their communities.

Immediate repeal of Section 29, as called for in House Bill 157, would end that stability and certainty for Ohio businesses and municipalities with little or no time to prepare.

For businesses, the passage of House Bill 157 will result in their having a municipal income tax withholding, filing and payment obligation in every city and village where they have employees

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<sup>1</sup> The temporary rule was enacted in Section 29 of Am. Sub. H.B. 197 of the 133<sup>rd</sup> General Assembly.

working from home. In addition to imposing new, immediate income tax withholding requirements on businesses, House Bill 157 may create taxable nexus for businesses in the cities and villages where they have employees working from home.

For municipalities, House Bill 157 means a shift in revenue that will begin to be felt within weeks of its passage. RITA recently conducted an analysis of the potential revenue shift that could occur if 10%, 20% or 30% of employees continue to work from home permanently and income tax dollars leave their former workplace communities and follow those employees to their home communities. We estimate that across our membership that could mean a loss of \$105 million annually. And, these losses in revenue are not limited to large communities. Of the ten RITA member municipalities that are estimated to see the most significant loss of income tax revenue, one has a population of less than 8,000 and another less than 4,000. This is an every community issue.

As the pandemic approaches its one-year anniversary and businesses and employees have adapted to employees working from home, it is clear that businesses are considering permanent work from home arrangements or hybrid office/work from home models for their employees. No one can deny that such a fundamental shift in where work is performed will have an impact on municipal income tax.

I urge the General Assembly to move slowly and deliberately in considering any legislation that attempts to address the shift in work models, and most importantly, give businesses and municipalities sufficient time to prepare for changes.

Something that can be considered now to help both businesses and municipalities is to provide the certainty of an end date to the Section 29 provision. Currently Section 29 will expire 30 days after the State of Emergency is lifted, which is an unknown for businesses and municipalities. While a prescribed end date will be helpful, it *must* provide adequate time for all interested parties to study workplace shifts, develop recommendations to address those shifts and allow businesses and municipalities time to prepare and adjust their operations accordingly.

As the income tax administrator for nearly half of all municipal taxing jurisdictions, RITA stands ready to assist all interested parties in studying this issue and working toward a solution for the future.

Sincerely,



Donald W. Smith, CPA  
Executive Director