

April 19, 2021

Ways and Means Committee
77 South High Street
Columbus, Ohio 43215

Chairman Merrin, Vice-Chairman Riedel, Ranking Member Sobecki and members of the House Ways and Means Committee, my name is Paula Boggs Muething and I am submitting testimony on behalf of the City of Cincinnati on the substitute version of HB 157. The retroactive provisions in the substitute bill would be devastating to Cincinnati and for many municipalities throughout Ohio.

The University of Cincinnati Economics Center Research and Consulting analyzed the potential impacts of refunds due to increased levels of work from home and hybrid work environments due to the mandated quarantine in March 2020. As of April 2021, many companies are still operating as a hybrid environment. Based on national and local research, approximately 40 to 50 percent of individual and withholding tax collections, or \$171 million to \$213 million, could be at risk of potentially needing to be refunded from collections in FY2021 and FY 2022.

It is the simplicity of the local tax system that makes municipal taxation so successful. The employer withholds the tax from qualifying wages at the local tax rate based on work location, the tax is remitted on a regularly scheduled basis to the municipality where the services are performed, an annual Employee Form W-2 is prepared and submitted with the Annual Withholding Reconciliation (W-3) by February 28 of the following year. Cincinnati, as do most municipalities, accepts the W-2 submitted by the employer as the employee's tax return. This process was left unchanged with the emergency order and most employers, employees and tax administrators remained in compliance.

The so called "remedy" proposed in substitute bill for HB 157 legislation will necessitate additional administrative burdens for the employers, the employees, and the municipalities. The employees will be required to file refund claims with the city where they regularly performed services prior to the emergency order and where the taxes were withheld and remitted. They will then have to file a return with the municipality of their remote work location and/or resident city and remit an amount of tax to that locality. The 2020 returns were due by May 17, 2021, so Amended Returns may need to be filed with one or more of these municipalities.

Most municipalities will require the employee to obtain verification from their employer before they issue a refund. This is a requirement because the employer filed at the time were true and accurate W-3's by February 28, 2021. The employers did not have to monitor work locations during the emergency because they obeyed the order and treated the employees as working from the principal place of business. The look-back provisions in substitute bill for HB 157 legislation will require employers to retroactively verify facts presented by their employees.

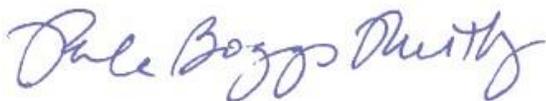
In a "normal" tax year the Cincinnati Income Tax Division processes approximately 6,000 claims for roughly \$10 million in refunds to employees who travel during the tax year. The Cincinnati Income Tax Division estimates that the change in employee taxation proposed in the substitute bill could result in an estimated 54,000 additional claims being filed for each of the two tax years. To meet the current ninety-day deadline to issue refund checks, the Cincinnati Tax Commissioner anticipates hiring an additional five tax examiners to process these claims over a two-year period.

The "work from home" model has proven to be successful in some industries and made some companies more productive. The assignment of work locations should always remain between the employer and employee. Therefore, the parts of the bill that provide employers and employees guidance on how to proceed in the future is beneficial for all parties. The January 1, 2022 date will allow municipalities and employers the time needed to adjust to the financial impacts brought forth by this new work environment. The University of Cincinnati Economics Center Research and Consulting determined the expected loss of revenue from individuals and withholding taxes is expected to be approximately 16.4 to 24 percent annually moving forward. However, many factors ranging from individual company policies to the national vaccine rollout could affect these estimates.

The provisions proposed in substitute bill for HB 157 legislation concerning the three-step allocation method for apportioning net profit taxes requires additional analysis of the long term financial and administrative burdens placed on businesses and municipalities. The January 1, 2022 start date will allow all parties time to evaluate their options and prepare for the ramifications. The original emergency order was clear on how to compute the allocation method. The retroactive provisions in the substitute bill does not offer a remedy, but instead provides more uncertainty and adds instability to an already complex issue.

We respectfully request that HB 157 be amended to remove the retroactive provisions.

Sincerely,

A handwritten signature in blue ink that reads "Paula Boggs Muething". The signature is written in a cursive, flowing style.

Paula Boggs Muething
City Manager