

Proponent Testimony
Prepared for House Bill 86
The Ohio House Ways & Means Committee
May 25, 2021

Chair Merrin, Vice Chair Riedel, Ranking Member Sobecki, and Members of the Ohio House Ways & Means Committee, thank you for this opportunity to offer proponent testimony on House Bill 86 on behalf of our 27,000 members. I am Greg Saul, Director of Tax Policy for The Ohio Society of CPAs (OSCPA).

The OSCPAs is pleased to support H.B. 86 (formerly H.B. 749, 133rd GA), and its objectives to assist Ohio taxpayers who are being adversely affected economically during the COVID-19 pandemic. In some cases, taxpayers are facing state income tax liabilities that are greater than anticipated because of the interplay between recent federal tax changes and existing Ohio tax law provisions. To correct this inequity, this bill allows Ohio businesses to retain funds caused by pandemic losses.

The LSC analysis summarizes the original intent behind the enactment of “bonus depreciation.” Federal income tax law gives “enhanced depreciation allowances” for businesses that invest in certain depreciable business assets, i.e., tangible personal property and certain real property. They are intended to encourage increased business investment by permitting businesses to accelerate the tax benefit of asset depreciation deductions, moving it into earlier years than customarily allowed under traditional depreciation schedules. Congress originally enacted them in 2002 as temporary measures to combat the recessionary economic trends.

Currently, Ohio decouples from (does not conform to) federal tax laws on certain facets of accelerated depreciation and net operating loss (NOL) rules. Due to several pro-taxpayer provisions enacted in the 2020 federal CARES Act, some Ohio businesses will be required to add back even more to their Ohio tax returns, resulting in an additional state tax burden. To prevent this unintended tax due to Ohio sooner than anticipated, H.B. 86 would temporarily suspend, for taxable years 2020 and 2021, and for taxable years with a federal NOL carryback from taxable years 2020 and 2021, special provisions relating to Ohio’s bonus depreciation adjustments in years when a taxpayer has an NOL.

In essence, a provision in current law triggers a cash-flow issue for Ohio businesses, so the legislation would instead allow businesses to continue to compute their Ohio tax liability based upon previous methodology – taking the depreciation sooner rather than later and retaining much needed dollars in Ohio’s economy. Additionally, over a six-year time frame, there is virtually no adverse revenue impact – the State of Ohio still gets the same amount of money but over a longer time period. This would just allow businesses to depreciate assets quicker over a five-year timeframe (commonly referred to as the 5/6 add back – 1/6 deductions per year), rather than over six years (the 6/6 add back – no deduction in the first year and 1/6 deductions the following five years).

Further, the LSC fiscal note makes clear that the State of Ohio will eventually be made whole revenue-wise. Consequently, this change in the short-term would currently increase taxpayer refunds and decrease state tax revenues, but in the long-term Ohio's revenues would be offset by taxes recouped later resulting in higher state tax revenues in future years. Taxpayers would benefit on a net basis from these changes because of the time value of money – allowing businesses to retain essential cash-flow now when they need it the most.

Finally, time is of the essence. The bill proposes to change the law beginning in tax year 2020, so it needs to be enacted soon for those taxpayers who have requested a filing extension to October 15, otherwise taxpayers will need to file amended returns if they have already filed their income tax returns for the 2021 tax season.

On behalf of the OSCPA, thank you for allowing me the opportunity to share our support for House Bill 86. I would be happy to answer any of your questions.