S CORP

Defending America's Small & Family Owned Businesses

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Testimony before the Ohio Senate Ways & Means Committee
SB 246 – SUPPORT
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Chairman Blessing and Members of the Committee:

My name is Brian Reardon and I am the President of the S Corporation Association. I respectfully submit the following testimony in **support of Senate Bill 246**.

This legislation would benefit thousands of family businesses operating in Ohio by restoring their ability to fully deduct the State and local taxes (SALT) they pay on their business income. The bill is intended to be revenue neutral, and its effect would be to make these businesses more competitive and Ohio a more attractive place to do business.

It's a win-win for Ohio and the family businesses who operate here.

SALT and S Corporations

Like C corporations, S corporations and other pass-through businesses are subject to SALT on their business income. Unlike C corporations, however, where SALT is always incurred *and* paid at the entity level, only a minority of states tax pass-through businesses directly. Most, including Ohio, tax pass-through business profits at the shareholder level.

This disparity took on new significance with the 2017 tax overhaul. The legislative history of the Tax Cuts and Jobs Act makes clear that for pass-through businesses operating in states that tax income at the entity level, those taxes remain deductible. In states like Ohio where pass-through profits are taxed at the shareholder level, however, those taxes are subject to the new, $10,000 cap on SALT deductions.

This new policy results in two disparities for family businesses residing in Ohio. First, they are disadvantaged compared to businesses operating in the state as C corporations. Under the new law, C corporations continue to fully deduct these taxes while pass-through businesses do not. There is no good policy rational for this disparity.

Second, these Ohio businesses are disadvantaged compared to businesses operating in other states or localities with either no State or local income taxes or an entity-level tax that remains deductible.

How significant is the loss of SALT for Ohio S Corporations and other pass-through businesses? For successful businesses, SALT raised tax rates for Ohio pass through entities by 1.3% - 1.6%.

How many Ohio businesses are affected? According to the IRS Statistics of Income, there are nearly 250,000 Ohio main street businesses organized as pass through entities.

Senate Bill 246

Senate Bill 246 would address this disparity and help level the playing field between pass-through businesses organized as S corporations and partnerships and those organized as C corporations. Specifically, the bill would:

- Allow Ohio S corporations and partnerships an election to pay their SALT at the entity level;
- Provide the owners of these electing businesses a credit on the tax paid on income earned by the business to avoid double taxation; and

The bill effectively restores the deductibility of SALT to Ohio pass-through businesses that make the election. Moreover, it is designed to be revenue neutral. The tax paid by the electing businesses would be equal to the tax otherwise paid by their shareholders or partners. The math works like this:

Example of PTE Tax/ Federal Individual Tax Combined Impact	Current Ohio Law PTE	SALT Parity Reform Proposal
Assumed business income for an individual	$200,000	$200,000
Less proposed Direct Elective Ohio PTE Tax deduction	N/A	$10,000
Taxable income for Federal Individual Income Tax	$200,000	$190,000
Ohio PTE Tax, if applicable	$10,000	N/A
Federal Income Tax	$36,042	$33,642
New Direct Elective Ohio PTE Tax Proposal	N/A	$10,000
Total Tax	$46,042	$43,642
SALT PARITY RELIEF		$2,400

NOTES:

The example does not include the possible BID impact. Although the impact of the BID is not illustrated by this example, the federal tax relief is the same as shown. Ohio tax revenue will not be impacted.

Summary:	Current Law	Proposal
Federal Tax	$46,042	$43,642
Ohio Tax	$10,000	$10,000
TOTAL:	**$56,042**	**$53,642**

Activity by Other States

If Ohio successfully enacts this reform, it would not be alone. Since the tax overhaul was passed, and since the IRS has recognized this approach, several states have either adopted or are in the process of adopting legislation similar to Senate Bill 246.

19 States have adopted SALT parity:
Connecticut
Wisconsin
Oklahoma
Louisiana
Rhode Island
New Jersey
Maryland
Alabama
Arkansas
New York
Georgia
South Carolina
Illinois
Colorado
Arizona
Minnesota
California
Oregon
Massachusetts

Additional states are currently considering SALT parity:
Michigan
North Carolina
Pennsylvania
Virginia

While some of the details of these bills differ, the goal of all these efforts is the same -- to level the rules between owners of C corporations and owners of pass-through business entities as it relates to their ability to deduct SALT from their federal taxes. S-Corp continues to work with allies in additional states to increase the number of states acting on SALT parity legislation.

Conclusion

There is no valid reason for the federal Tax Code to allow one group of businesses – C corporations – to deduct their state and local taxes while blocking other businesses – S corporations and partnerships – from doing the same. These taxes are an obvious cost of doing business and should be treated as such.

With Senate Bill 246, Ohio has an opportunity to address this unfairness and make its tax policies more attractive to family businesses. Shifting the incidence of pass-through entity taxation from the shareholder to the entity will reduce the effective tax rates paid by Ohio businesses sharply while making the state a more attractive place to do business, all while remaining revenue neutral to Ohio's general revenue fund. More importantly, it will also help keep revenue earned by Ohio's nearly 250,000 businesses organized as pass through entities at work in Ohio.

We strongly encourage you to move forward on this legislation.