



HOUSE BILL 138 – (CLASSIFY CERTAIN PASS-THROUGH ENTITY PAYMENTS AS BUSINESS INCOME)

WRITTEN TESTIMONY- OHIO HOUSE WAYS & MEANS COMMITTEE

MAY 2, 2023

Chairman Roemer, Vice-Chairman Merrin, Ranking Member Troy, and members of the Ohio House Ways and Means Committee, I am writing on behalf of the nearly 21,000 members of the National Federation of Independent Business in Ohio (NFIB) to lend our support for House Bill 138.

For reference, NFIB is a small business trade association founded 80 years ago that is dedicated to representing the interests of small and independent businesses across our state and nation. NFIB's mission is to promote the right of our members to own, operate and grow their businesses. NFIB members come from all industry sectors and each of the 88 counties across Ohio. Our average member has 20 or fewer employees and has less than \$2 million in annual gross receipts.

HB 138 would classify income earned through guaranteed payments as business income for business owners of pass-through entities such as sole proprietorships, partnerships, and LLCs, no matter what percentage stake of the business they own. According to the Tax foundation, 90% of businesses nationwide are structured as pass-through entities, whereby the business owners pay their business income as part of their personal income tax filings.¹ Under current law, a business owner must have at least a 20% ownership stake in the business to qualify for the Business Investor Deduction (BID) if receiving their income through guaranteed payments. HB 138 would enable business owners with any ownership stake to qualify for the BID as long as the individual reports the guaranteed payments as self-employment income on their federal tax filings.

This legislation would provide conformity and clarification regarding which business owners qualify for the BID. The BID has been a significant, positive addition to Ohio tax law that has helped spur business development and job growth in Ohio since its inception 10 years ago. Small business owners have been able to reinvest in their business to hire more employees, increase wages, and increase benefits because of the savings realized via the BID. Likewise, businesses across all industries have been able to grow and expand their operations and thus continue to grow the economy of Ohio and their local communities.

A frequent practice in the business community is for the majority owners to grant increased ownership stake over time to the next generation and employees with valuable skills who contribute to the enterprises' success. Why should a junior owner with, for instance, an 18% stake in their business, not be able to recognize these important tax savings when they too have a personal stake in the business and its operations? This legislation will correct a discrepancy and establish fairness for Ohio's entrepreneurs who operate the nearly 1 million small business in Ohio.

Furthermore, if enacted, HB 138 would bring Ohio's business tax deduction into alignment with the federal tax code as it relates to small business. Since it became law in 2018, the federal *Small Business Deduction* does not place an ownership stake on business owners in order for them to qualify for the 20% federal income tax deduction. NFIB's most recent *Problems and Priorities* survey of members showed that both federal and state tax complexity ranked 3rd and 7th, respectively, of most severe issues they faced.² Business owners across Ohio would be better served by state and federal tax codes that apply the same standard across their business income.

As of March, 59% percent of NFIB members reported hiring or trying to hire and 43% said they were having difficulty filling positions.³ Small business owners must put together competitive benefits packages in order to attract talent. The savings realized through deductions like the BID play a vital role in allowing business owners to offer good-paying jobs with good benefits for current and future employees and this legislation will enhance that ability.

NFIB supports HB 138 as we believe it will remedy an oversight in the Ohio tax code that allowed some business owners to recognize the savings from the Business Investor Deduction while arbitrarily forbidding other business owners with a lower share of ownership in the business from its benefits. We look forward to the General Assembly adopting this measure and appreciate the committee's consideration.

Sincerely,



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¹ https://taxfoundation.org/pass-through-businesses-data-and-policy/#_ftnref1

² <https://www.nfib.com/content/analysis/national/announcing-the-2020-small-business-problems-and-priorities-every-four-years-report/>

³ <https://www.nfib.com/surveys/small-business-economic-trends/>