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## Bill Analysis

**Version:** As Introduced

**Primary Sponsor:** Sen. Schaffer

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### SUMMARY

#### Property tax

- Delays the first date that a foreclosure action can be brought to collect delinquent property taxes by six months.
- Similarly delays the date on which delinquent property taxes begin to accrue interest.
- Expands the mandatory opportunity to enter delinquent property tax contracts to all properties, not just residential and agricultural property.

#### Tax administration

- Prohibits the Tax Commissioner and municipal income tax administrators from imposing penalties or interest for the failure to file sales and use tax, state or municipal income tax, or commercial activity tax returns when no tax is due for the reporting period.
- Exempts certain taxpayers from penalties and interest for the taxpayer's first failure to pay estimated taxes.
- Requires that taxpayers be provided an opportunity to pay delinquent taxes and fees administered by the Tax Commissioner by entering into a delinquent tax contract.
- Imposes a one-year deadline for the Board of Tax Appeals (BTA) to issue decisions on tax appeals.
- Makes several changes to the procedures for taxpayers to challenge certain Tax Commissioner decisions.
- Adds new requirements related to the duties of the Department of Taxation problem resolution officers (PROs).
- Modifies the information required in the Department of Taxation's annual report.

## Sales and use tax

- Modifies a sales tax exemption for coin-operated, automated car wash services.

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## DETAILED ANALYSIS

### Property tax

#### Extension of tax foreclosure timeline

The bill delays, by six months, the timeline for certifying unpaid property taxes as delinquent, which is the first step in the foreclosure process. Essentially, the bill moves back the first date that a foreclosure action can be initiated by six months. In addition, the bill extends the date on which delinquent taxes begin to accrue interest.

#### Foreclosure timeline

Under continuing law, property taxes are paid in two annual installments – generally, the first-half payment is due in January or February and the second-half payment is due in June or July. If the taxes remain unpaid after that second due date, the taxes are considered delinquent.

Under current law, after the second-half payment due date is missed, taxes are certified as delinquent on a “delinquent tax list” in the middle of August. A county may file a foreclosure action beginning 60 days after this delinquent tax list is published (i.e., mid-October). The bill imposes a six-month delay in the compilation of the delinquent tax list, so that the list would not be published until mid-February of the following year, and foreclosure actions could not be initiated until 60 days thereafter, or mid-April of the following year.<sup>1</sup>

#### Interest accrual

Also under current law, interest begins to accrue on delinquent taxes beginning on the first day of the month following the missed second-half payment due date. It is charged to the taxpayer twice per year thereafter, on the first day of December and on the first day of the month after each next second-half payment due date. The bill provides, instead, that interest would not begin to accrue until the first day of December after the missed second-half payment, which gives taxpayers four to five months during which delinquent taxes would not accrue any interest.

Continuing law also imposes a 10% penalty on delinquent taxes, which is generally charged ten days after a missed payment date. The bill does not modify this penalty.<sup>2</sup>

#### Application date

These changes apply to tax years ending after the bill’s 90-day effective date, in the case of real property, or tax years beginning after that date, in the case of manufactured homes. The

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<sup>1</sup> R.C. 5721.011.

<sup>2</sup> R.C. 323.121, 323.132, and 4503.06.

difference in application is due to the fact that real property taxes are paid in arrears, whereas manufactured home taxes are paid on a current year basis.<sup>3</sup>

### **Delinquent property tax contracts**

Delinquent tax contracts allow taxpayers to enter into a contract with the county treasurer to pay delinquent or current but unpaid property taxes over installments. The bill expands the availability of these contracts.

Under continuing law, agricultural and residential property owners must be given at least one opportunity to pay delinquent or unpaid current property taxes through a delinquent tax contract, before sale of a tax lien certificate or judgment of foreclosure. Under current law, commercial property owners may be offered delinquent tax contracts, but only at the discretion of the county treasurer. In all cases, additional opportunities for delinquent tax contracts are at the treasurer's discretion. The bill requires all property owners to be offered at least one opportunity to enter a delinquent tax contract.<sup>4</sup>

## **Tax administration**

### **Penalty waiver for failure to file returns**

The bill prohibits the Tax Commissioner and municipal income tax administrators from imposing any penalty or interest for a taxpayer's failure to file certain tax returns if no tax is due with that return. The bill maintains existing penalties for late filing, late payment, underpayment, fraudulent returns, and false refund claims.<sup>5</sup>

Under continuing law, taxpayers must file returns for sales and use tax, state and municipal income taxes, and commercial activity tax (CAT) for each filing period, sometimes even when no tax is due. Under current law, if no required return is filed, the taxpayer may be subject to a penalty.

Current penalties for failure to file a return vary by tax type. For the CAT and sales and use taxes, the penalty equals the greater of \$50 or 10% of the tax required to be paid for the tax period.<sup>6</sup> For the state income tax, the penalty equals the greater of \$50 per month, with a maximum of \$500, or 5% per month, with a maximum of 50%, of the tax required to be shown on the return.<sup>7</sup> The municipal income tax penalty generally equals \$25. The bill also prohibits the Tax Commissioner from taking enforcement action with respect to sales and use tax returns based solely on the failure to file a return when no tax is due.<sup>8</sup>

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<sup>3</sup> Section 3(E).

<sup>4</sup> R.C. 323.31(A).

<sup>5</sup> R.C. 718.27, 718.89, 5739.125, 5747.15, and 5751.06.

<sup>6</sup> R.C. 5739.12(D) and 5741.12, not in the bill, and R.C. 5751.06(A).

<sup>7</sup> R.C. 5747.15(A)(1).

<sup>8</sup> R.C. 5739.125.

The bill applies to tax returns required to be filed on or after the bill's 90-day effective date.<sup>9</sup>

### **Underpaid estimated tax penalty forgiveness**

Continuing law requires most taxpayers who will owe municipal or state income taxes to report and pay estimated taxes equal to 22.5% of annual liability on a quarterly basis. Similarly, businesses that pay the financial institutions tax (FIT) must make three estimated payments annually, each generally equal to one third of the business' tax liability. Underpayments or a failure to file a required return or report of estimated taxes may be subject to penalties and interest. The bill exempts a taxpayer's failure to file such a return or report or underpayment of estimated taxes from these penalties if the taxpayer has neither failed to report nor underpaid estimated taxes in any preceding year.<sup>10</sup> The exemption applies to taxable years beginning on and after January 1, 2026.<sup>11</sup>

### **Delinquent tax contracts**

The bill expands the use of delinquent tax contracts beyond the collection of real property taxes, to which they are currently limited. Under the bill, a taxpayer must have at least one opportunity to pay the amount of any delinquent tax or fee administered by the Tax Commissioner by delinquent tax contract, provided the amount has not been certified to the Attorney General for collection. Additional opportunities for nonproperty tax delinquent tax contracts are at the Commissioner's discretion.

Taxes and fees administered by the Commissioner include state and local sales and use taxes, state income taxes, school district income taxes, commercial activity tax, gaming taxes, financial institutions taxes, and motor fuel taxes. The bill allows payment under a nonproperty tax delinquent tax contract for up to six years, at the taxpayer's election, beginning on the date of the first payment. Each contract must specify the number of installments, the amount of each installment, and a payment schedule. Failure to timely pay voids the contract unless the Commissioner permits the taxpayer to enter a new contract.<sup>12</sup>

### **Board of Tax Appeals decision deadline**

Under continuing law, the Board of Tax Appeals (BTA) is a quasi-judicial agency that acts as the state's administrative tax court. The BTA resolves appeals from decisions and orders of county boards of revision (BORs), county budget commissions, municipal boards of tax appeal, and the Tax Commissioner. The BTA may decide cases on the evidence certified to it or may order a hearing of additional evidence.

The bill imposes a one-year deadline for the BTA to issue decisions. If a hearing is held, the BTA must issue its decision within one year of the hearing. If no hearing is held, the BTA must

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<sup>9</sup> Section 3(D).

<sup>10</sup> R.C. 718.08, 718.88, 5726.21, 5745.04, 5747.09, and 5747.43.

<sup>11</sup> Section 3(B).

<sup>12</sup> R.C. 5703.59.

issue its decision within one year after the last brief was filed in the case. In either situation, the deadline can be extended if all the parties to the appeal agree.<sup>13</sup>

The one-year deadline applies to appeals filed on or after December 31, 2026.<sup>14</sup>

## **Changes to administrative tax appeal process**

The bill also modifies the procedure for taxpayers to challenge certain Tax Commissioner decisions. Under continuing law, if the Commissioner determines that a taxpayer has underpaid a tax, the Commissioner will issue an assessment. The taxpayer may appeal this assessment by filing a “petition for reassessment.” Similarly, if a taxpayer applies for a refund, and the Commissioner denies the request, continuing law provides for an appeal process.

### **Hearings on appeals**

Under continuing law, a taxpayer can request a hearing on an assessment or refund appeal. Currently, there is no specific timeline for such hearings. The Tax Commissioner assigns a hearing date and, under current law, may continue the hearing “from time to time as necessary.”

The bill establishes a new deadline for such hearings. Under the bill, a hearing must be held within 180 days after the hearing is requested. However, this deadline can be extended as follows: (1) for 90 days, at the taxpayer’s sole request, (2) for 180 days, if both the taxpayer and Tax Commissioner agree, or (3) if a settlement conference is held, as discussed below.<sup>15</sup>

### **Settlement conferences**

The bill specifically authorizes the Commissioner to request, within 60 days after a petition is filed or hearing requested, that the taxpayer attend a settlement conference to resolve an appeal. The taxpayer is not required to attend the conference, but if they do, the conference must be held within 180 days after the appeal is filed. Any scheduled conference will extend the date for holding a hearing, as described above, if the parties do not reach a settlement.

The bill also specifically allows the Commissioner to negotiate and enter into a settlement agreement with a taxpayer without a formal conference.<sup>16</sup>

### **Proposed decisions**

When the Commissioner makes a decision regarding an assessment or refund appeal, that decision is issued as a “final determination.” The bill would allow taxpayers to request a “proposed” final determination during the hearing on their appeal.

Upon a taxpayer’s request, the Commissioner must provide the proposed determination and cannot issue a final determination until 30 days after the proposed determination is sent.

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<sup>13</sup> R.C. 5717.01, 5717.011, and 5717.02.

<sup>14</sup> Section 3(A).

<sup>15</sup> R.C. 5703.60(A)(3) and 5703.70(C)(1) and (3).

<sup>16</sup> R.C. 5703.60(A)(5) and (G) and 5703.70(C)(5) and (E).

During that 30-day period, the taxpayer can respond or provide additional supporting documentation. If the taxpayer does not respond, the proposed determination automatically becomes the final determination. If the taxpayer does respond, the Commissioner must then issue a final determination within 30 days or, if the taxpayer requests an extension, within 60 days. If that deadline expires without action from the Commissioner, the proposed determination automatically becomes the final determination.<sup>17</sup>

### **Appeal to Board of Tax Appeals**

The bill allows a taxpayer to appeal a case to the BTA if the Tax Commissioner does not issue a final determination in the taxpayer's case within one year after (a) the hearing on the case or, (b) if no hearing was held, the appeal petition was filed. If the taxpayer files an appeal with the BTA, the Commissioner must file a response in support of the Commissioner's position, which can only include arguments disclosed to the taxpayer in writing before the filing of the BTA appeal. The BTA can only deny a taxpayer's appeal on the basis of an issue raised by the Commissioner.

The bill also establishes a standard of proof for such appeals. If the taxpayer makes a prima facie showing of the facts necessary to support the taxpayer's case, the burden of proof is on the Commissioner to prove the Commissioner's case by clear and convincing evidence.<sup>18</sup>

### **Interest on assessments**

The bill also limits the accrual of interest on assessments for unpaid taxes. Under continuing law, if the Commissioner issues an assessment, interest will generally begin to accrue on the unpaid tax from the date the Commissioner issues the assessment.

Under the bill, if a taxpayer appeals the assessment and the assessment remains unresolved one year later, interest stops accruing on the unpaid amount after that one-year mark until the appeal is resolved and the Commissioner issues a final determination.<sup>19</sup>

### **Notice of refund denials**

Under continuing law, if a taxpayer requests a tax refund, and the Tax Commissioner denies all or part of the refund claim, the Commissioner must notify the taxpayer of that decision either electronically or by ordinary mail. The bill requires, instead, that this notice be made either electronically or by certified mail.<sup>20</sup>

### **Problem resolution officers**

Under continuing law, the Tax Commissioner must appoint one or more problem resolution officers (PROs) from among the Department of Taxation's employees to review

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<sup>17</sup> R.C. 5703.60(A)(4) and 5703.70(C)(4).

<sup>18</sup> R.C. 5717.021.

<sup>19</sup> R.C. 5703.60(F).

<sup>20</sup> R.C. 5703.70(A).

taxpayer inquiries or complaints that have been pending for an unreasonable time or for which the taxpayer has been unable to obtain a satisfactory response after repeated attempts.

The bill makes several changes to the law governing PROs. First, the bill requires that at least one employee be assigned to serve as a PRO as the employee's full-time duty.

Second, the bill requires the Department to make available, on the home page of its website, an electronic form that taxpayers may use to request assistance from a PRO or otherwise communicate with one. When a form is submitted, the PRO must transmit a copy to any Department employee involved in the matter identified on the form.

Third, the bill requires the Department's website to host a directory listing each PRO's name, telephone number, and email address, and indicating whether the PRO serves as a full-time officer. This directory must be kept current.

Finally, the bill requires the Department to include this directory information in communications sent to individuals who have registered to receive Department updates and to provide updated information in subsequent communications whenever PRO contact information changes.<sup>21</sup>

### **Annual report changes**

Continuing law requires the Department of Taxation to produce an annual report. Among other information regarding the Department's operations, this report must include information about the number and kinds of audits conducted during the year.

The bill requires the Department to provide each member of the General Assembly with a copy of that annual report. The bill also expands the contents of the annual report. Under the bill, the report must include the length of time audits and appeals take, both of which may be compiled into statistics. In addition, the report must state the number of audits and the number of appeals that remain unresolved at the end of the year. These unresolved matters must be categorized by how long they have been pending: less than one year, one to two years, two to three years, or more than four years. Finally, the bill requires the audit and appeals statistics to be arranged by tax and by whether the taxpayer involved is an individual or a business.<sup>22</sup>

### **Sales tax exemption**

Under continuing law, washing or cleaning motor vehicles is generally a taxable service for purposes of the sales tax. However, transactions at a coin-operated car wash are exempt from tax, as long as no other goods or services are provided with the car wash. If any good or service is included in the transaction, such as an air freshener or complimentary candy, the entire transaction becomes fully taxable.

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<sup>21</sup> R.C. 5703.52

<sup>22</sup> R.C. 5703.42 and 5703.52.

The bill removes the prohibition on providing items as part of the car wash service. Consequently, a transaction at an automatic car wash will remain exempt even if items are provided with the car wash.

The bill also modifies the language related to car wash services, from exempting “coin-operated” services to exempting “automatic” services, possibly codifying current practice.<sup>23</sup>

These changes apply beginning on the first day of the first month occurring on or after the bill’s 90-day effective date.<sup>24</sup>

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## HISTORY

Action	Date
Introduced	02-10-26

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ANSB0359IN-136/sb

<sup>23</sup> [Automated Car Washes](#), Ohio Department of Taxation Information Release ST-2024-03 (2024), available by conducting a keyword “car wash” search on the Department of Taxation’s website: [www.tax.ohio.gov](http://www.tax.ohio.gov).

<sup>24</sup> R.C. 5739.02; Section 3(C).