BEFORE THE GOVERNMENT ACCOUNTABILITY AND OVERSIGHT COMMITTEE
OF THE OHIO HOUSE OF REPRESENTATIVES
REPRESENTATIVE LOUIS BLESSING III, CHAIRMAN

TESTIMONY
OF
ROB BRUNDRETT
DIRECTOR, PUBLIC POLICY SERVICES
THE OHIO MANUFACTURERS' ASSOCIATION

MARCH 20, 2018

Mr. Chairman and members of the Committee, my name is Rob Brundrett. I am the Director of Public Policy Services for The Ohio Manufacturers' Association (OMA). I am providing interested party testimony today on behalf of OMA regarding House Bill 525. The OMA was created in 1910 to advocate for Ohio's manufacturers; today, it has nearly 1,400 members. Its mission is to protect and grow Ohio manufacturing.

Manufacturing is the powerhouse in Ohio's economy. In addition to copies of my testimony I have provided committee members with a copy of "2017 Ohio Manufacturing Counts." This book is prepared annually by the OMA to provide facts about the importance of manufacturing to Ohio's economy.

Manufacturing is the largest of the state's 20 industry sectors. Manufacturing contributed more than $108 billion in GDP in 2016, the most recent year represented in this publication. This amounts to nearly 18% of the state's economy. The second largest industry sector is government at 11%. Ohio is the third largest manufacturing state in the U.S. following only California and Texas.

Almost 700,000 Ohioans work in manufacturing and these workers earn an average $58,000 per year.

For Ohio to be successful in a global economy, the state's tax structure must encourage investment and growth and be competitive nationally and internationally. A globally competitive tax system is characterized by (a) certainty, (b) equity, (c) simplicity and (d) transparency. Economy of collections and convenience of payment also are important considerations.

Major tax reforms approved by the Ohio General Assembly in 2005 and additional reforms from 2011-2016 have led to significant improvements to Ohio's tax system. Reforms included reducing overall tax rates, eliminating tax on investment, broadening the tax base, providing more stable and predictable revenues, and simplifying compliance.

The elimination of the tangible personal property tax, the corporate franchise tax, and the estate tax has strengthened the competitiveness of Ohio's tax system. So has the reduction of the personal income tax rate as well as the creation of a broad-based, low-rate commercial activity tax.

The strength of the CAT is its broad base, its low rate, and its broad application to virtually all business entities. Those attributes can only be maintained when the state stands firm against individual carve-outs and exemptions for narrow interests.

When it was first enacted, there were few exclusions and credits from the CAT. The tax expenditure associated with those exclusions in 2010, the first year the tax was fully phased in, totaled approximately $300 million. Those exclusions were built into the tax as enacted and the 0.26 percent rate was established with those exclusions in mind.

In its fiscal year 2018 tax expenditure report, the Department of Taxation lists a larger number of exclusions and credits to the CAT. The total cost of those expenditures, without consideration of the credits, is more than $700 million! Thus, in just a little more than 10 years, additional credits and exclusions were added to the tax that doubled the amount of the tax expenditure.

The CAT is a stable tax. Although it is a gross receipts tax that pyramids along the economic chain, it is tolerated because of its broad base and low, low rate. However tax expenditures associated with the tax have doubled. Chipping away at the base can only continue so long before an increase in the rate becomes the only way to continue to collect comparable revenues. Ohio traveled down this path before with the franchise and personal property taxes. Ohio should not venture down that path with the CAT.

The CAT was enacted as a tax on commercial activity. *All* enterprises engaged in such activity should pay the CAT; in fact, equality in the burden of taxation demands that they all remain subject to the tax. Exemptions, exclusions and credits violate the rule of equality and render the tax less clear, less fair and more complicated.

House Bill 525 more than doubles the amount of CAT credits available under the motion picture tax credit. The more credits that are added to the tax the more pressure is on the remaining businesses subject to the CAT. With more exemptions and credits, pressure builds to raise the low rate to make up for the loss in revenue. If you review the attachment I have included with my testimony you will see that enacting this credit would have the fourth largest impact to the CAT.

It is important to understand where CAT exemption savings are invested. Does that money stay in Ohio or does it go to outside interests in New York, California, or some other state? If Ohio is looking to drive business in Ohio it should be creating tax credits for capital projects in Ohio for the benefit of Ohioans. These types of projects require investment from local businesses already on the ground, and the business is much less likely to walk away from Ohio at the completion of the credit because it has invested capital in the state.

Since the enactment of tax reform in 2005, OMA has maintained a principled, consistent approach to tax policy in Ohio. That approach insists on certainty, equity, simplicity, and transparency. The erosion of the tax reform legislation, in the form of carve-outs and exclusions to the CAT, creates disparity by selecting winners and losers, renders the tax more complicated, and reduces transparency as it becomes more difficult to determine who is entitled to which exclusions.

Thank you very much for the opportunity to appear here today. I’d be pleased to try to answer any questions that you might have.

###

The Ohio Manufacturers' Association

Commercial Activity Tax Impact

The Commercial Activity Tax (CAT), which took effect on July 1, 2005, is an annual tax imposed on the privilege of doing business in Ohio and is measured by gross receipts from business activities in the state. The CAT applies to business entities with taxable gross receipts of more than $150,000 per calendar year, and is levied on a tiered basis:

Taxable Gross Receipts	CAT
$150,000 - $1 million	$150 minimum tax
$1 million - $2 million	$800 plus 0.26% of gross receipts greater than $1 million
$2 million - $4 million	$2,100 plus 0.26% of gross receipts greater than $1 million
$4 million or more	$2,600 plus 0.26% of gross receipts greater than $1 million

Impact on Manufacturers

According to Ohio Department of Taxation *Fiscal Year 2017 Commercial Activity Tax Returns* data, manufacturers are the second-largest group of CAT taxpayers, **representing 10.5% of all taxpayers** (retail trade is the largest). And yet . . .

- In terms of **CAT revenues** based only on the 0.26% CAT rate for gross receipts in excess of $1 million, **manufacturers pay 28.2% of the state's total –** far more than any other group.

- In terms of **total CAT revenues** paid, including the minimum tax, manufacturers still pay the most as a group – **27.6% of all CAT** before credits and **24% of all CAT** after credits – generally twenty-two percent more than the next largest taxpayer group (retail trade).

See next page for the financial impact of CAT exclusions, deductions and credits.

Foregone Revenue from CAT Exclusions, Deductions and Credits

Below are estimates of revenue foregone in FY 2018 by the state General Revenue Fund from various CAT exclusions, deductions and credits.[1] Dollar amounts are millions.

Exclusion of first $1 million of taxable gross receipts	$252.2
Qualified distribution center receipts exclusion	$169.0
Job creation credit	$113.0
Job retention tax credit	$63.6
Motion picture credit	$40.0
Credit for increased qualified research and development expenses	$36.9
Casino receipts in excess of "gross casino revenue"	>$10.0 [2]
Agricultural receipts	$8.0
Professional employer organization exclusion	$7.2
Credit for net operating loss carry forwards and other deferred tax assets	$4.5
State and federal cigarette tax exclusion	$4.1
Motor vehicle transfer exclusion	$2.3
Exclusion of real estate brokerage gross receipts not retained	$1.7
Consumer product integrated supply chain exclusion	$1.6
Exclusion of certain services to financial institutions	$1.5
State and federal alcoholic beverage excise tax exclusion	$1.3
Exclusion for tax differential of CAT/PAT for railroads	$1.0
Anti-neoplastic drug exclusion	$1.0
Exemption for pre-1972 trusts	<$1.0 [3]
Horse racing taxes and purse exclusion	<$1.0
Receipts from sale of uranium from qualifying uranium enrichment zone	<$1.0
Providing public services exclusion	No Estimate Available
Petroleum receipts [4]	No Estimate Available
Ohio Historic Preservation Tax Credit Program	No Estimate Available
Estimated Total Foregone Revenues	**More than $718.9 million**

NOTE: Actual total foregone revenues will be higher than estimated total forgone revenues, which reflect indefinite revenues for casino receipts and undetermined revenues for the public services exclusion, petroleum receipts and motion picture credit.

---

[1] Unless otherwise noted, the source for the data listed above is the Ohio Department of Taxation Tax Expenditure Report (Fiscal Years 2018-2019).

[2] Ohio Legislative Service Commission estimates foregone revenue from casino receipts in excess of "gross casino revenue" will be "tens of millions of dollars."

[3] The Ohio Department of Taxation Tax Expenditure Report provides only general "less than $1 million" estimates for three items in this list (rather than precise estimates as provided for the other items). For this reason, we have chosen not to include any foregone revenue for the three items with estimated foregone revenues of less than $1 million each.

[4] Motor vehicle fuel dealers pay a one-time tax of 0.65% on their sales of petroleum products.