The Ohio Manufacturers' Association

May 23, 2019

The Honorable Matt Dolan
Chairman, Finance Committee
Ohio Senate
1 Capitol Square, 1st Floor
Columbus, OH 43215

RE House Bill 166 – OMA Written Interested Party Testimony: Taxation

Dear Chairman Dolan:

I write to provide written testimony relative to four tax provisions, three of which are in the House-passed version of House Bill 166.

Ohio's sales tax was first enacted as a temporary measure in the depths of the Great Depression in the 1930s. At that time, it was conceived as a tax on final personal consumption of tangible goods. One year after initial enactment, the use tax was enacted; the two taxes were eventually made permanent and the first exemption for machinery and equipment used to produce tangible personal property for sale by manufacturing was subsequently passed.

The rationale for exclusions is simple: Sales taxes are intended to be imposed upon the final consumption of goods and, now, also on certain services. Intermediate transactions preceding the final sale of the product, including the acquisition of machinery and equipment and the raw materials that are incorporated into the final product, are not intended to be taxed.

The current version of House Bill 166 includes two provisions that add much needed parity and clarity to the state's manufacturing sales and use tax exemption. The bill provides parity by exempting from sales tax equipment and supplies used to clean equipment used to produce or process food for human consumption. Currently the law only allows the exemption if the food being produced or processed is a *dairy product*. Today, more than ever, it is important that food for human consumption is free from contamination and this provision provides parity for Ohio's booming food processing industry. In fact, Ohio is the largest frozen food processor in the country.

A second provision provides much needed clarity for the entire manufacturing sector. The House-passed version of House Bill 166 exempts from the sales and use tax any supplies or janitorial services purchased to clean machinery in a manufacturing facility.

Manufacturers have found themselves being audited by – or in court against - the Ohio Department of Taxation over this issue as various administrations have had different interpretations of current law and policies. Without the required cleaning, repairs and maintenance, machinery breaks down and complicates the process of producing quality parts and products for sale to customers. Cleaning industrial assets is critical to the manufacturing process. As certainty is one of the most important aspects of a prosperous business climate, codifying this sales exemption into law will eliminate the costly guessing game that has taken place.

At the end of the House Finance Committee budget deliberations, revisions to what has been referred to as the Business Income Tax Deduction (BID) were included in the current version of House Bill 166. The bill now reduces the BID from $250,000 to $100,000 and eliminates the 3% flat rate on business income above those amounts.

The OMA urges the Senate to reinstate the current thresholds and flat rate regarding the BID. The tax savings generated by the deduction allow Ohio's manufacturers to reinvest in their operations by purchasing new equipment, expanding production lines, hiring new employees, and raising wages.

Finally, the purpose of Ohio's Job Retention Tax Credit ("JRTC"), as its name implies, is to foster job retention through increased capital investment in Ohio. However, over the years, too few Ohio job creators have taken advantage of the JRTC. The qualifying criteria with respect to applicants' minimum workforce size and capital investment threshold are too high and have been a barrier for most companies to apply for the credit.

In order to ensure we are supporting Ohio companies that are competing globally, we would like to see the Senate include the recently introduced Senate Bill 153 amended into House Bill 166. That bill is designed to increase the number of manufacturers and eligible Foreign Trade Zone companies to apply for the JRTC, thereby creating an incentive for Ohio employers to make capital investments that preserve existing jobs.

While the provision does expand the number of companies and projects eligible to apply for a JRTC, it would not alter the existing cap on the amount of credits that may be awarded annually by the tax credit authority.

Thank you for the committee's consideration of each of these important tax recommendations that would contribute to Ohio's competitiveness.

Sincerely,

Robert A Brundrett

Robert Brundrett
Director, Public Policy Services