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March 22, 2022

Representative Derek Merrin
Chair, Ohio House Ways & Means Committee
77 South High Street, 13th Floor
Columbus, OH 43215

Dear Chairman Merrin:

I am writing on behalf of our nearly 22,000 small business members in support of House Bill 515. This important bill will clarify when the sale of business ownership interest is considered business income, creating certainty and predictability for sellers, and allow for the benefits of the business investor deduction (BID) and lower tax rate on business income to apply. As the Legislative Service Commission (LSC) analysis notes, there is ambiguity surrounding how the sale of ownership interest is treated based upon, existing state statutes, Supreme Court precedent, and Ohio Department of Taxation guidance.

Currently, for Ohio residents, if the sale of ownership interest is considered non-business income, the sale is subjected to higher, non-business income tax rates. However, under the same general scenario, non-residents would not pay tax as nonbusiness income from the sale of intangible property as it is allocated to the seller's resident state. This encourages business owners to become non-residents.

House Bill 515 codifies two instances where the sale of business interest will be considered business income. First, when the sale is treated as a sale of assets for federal income tax purposes. This will ensure consistency with federal law allowing the seller to use the BID, exempting the first \$250,000 of business income from taxation, and the flat three percent tax rate above that amount. Second, when the seller materially participated in the business during the tax year or preceding five tax years. House Bill 515 addresses this situation by defining material participation consistent with federal rules.

House Bill 515 clarifies the law surrounding sales of business ownership interest providing certainty and predictability. The bill is also remedial in nature and will apply to those sales currently under audit, refund applications, petition for reassessment, and appeals pending after the effective date of the bill.

We urge this committee to favorably recommend House Bill 515. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris J. Ferruso", written over a light blue horizontal line.

Christopher J. Ferruso
Ohio Legislative Director