Bill Analysis

Peter A. Cooper *Legislative Service Commission*

H.B. 104

123rd General Assembly
(As Introduced)

Reps. Mottley, Schuck, Opfer, Logan, Sullivan, Allen

BILL SUMMARY

- Permits school boards levying a school district income tax to grant an additional tax credit to elderly residents.
- The credit could be any amount, and would be in addition to the existing $50 senior credit; however, the combined credits cannot exceed a person's school district income tax liability.
- Allows school boards levying a school district income tax to exempt S corporation distributive shares from the tax.

CONTENT AND OPERATION

Additional senior credit against the school district income tax

(secs. 5748.02(B)(4) and 5748.06)

Currently, elderly residents of a school district where a school district income tax is levied are entitled to a credit of up to $50 against the tax. To qualify for the credit, a resident must be at least 65 years of age at some time during the taxable year. Only one credit may be claimed for each tax return, so if a joint return is filed by a married couple, the couple's credit is limited to $50. Also, the credit cannot exceed the amount of the taxpayer's end-of-year liability (i.e., the total tax liability minus any tax withheld during the year).

The bill permits school boards to increase the amount of the $50 senior credit. The credit can be increased to any dollar amount, but the credit allowed must be the same for each tax return. When combined, the existing $50 credit and the school board's additional credit cannot be greater than the taxpayer's end-of-year tax liability (i.e., the credit remains nonrefundable).

In order to increase the senior credit, a school board must adopt a resolution, either as a separate measure or combined with a resolution proposing a new income tax. The additional senior credit begins to apply on the following January 1.

Exemption for S corporation distributive shares

(secs. 5748.01(E) and (J) and 5748.02(B)(3))

Currently, the school district income tax applies to the same items of income that the state income tax applies to. Among the items subject to the tax are an individual's distributive shares of an S corporation.[1] A distributive share is the shareholder's pro rata share of the S corporation's income items (e.g., ordinary income and losses, capital gains and losses). Shareholders, rather than the corporation, are taxed on these items as individuals, but the character of the income remains the same as it is passed through to shareholders (i.e., the S corporation's ordinary income is taxed to the shareholder as ordinary income, the corporation's capital gains are taxed to the shareholder as capital gains, etc.). This is in contrast to shareholders of traditional corporations, whose income from the corporation generally is received in a single form--dividends.

The bill permits school boards to exempt S corporation distributive shares from the school district's income tax. The exemption would apply only to individuals; an estate's distributive shares from an S corporation may not be exempted (estates are subject to school district income taxes).

In order to exempt distributive shares, the school board must adopt a resolution. The resolution may be adopted as a separate measure or could be combined with a resolution proposing a new income tax. The exemption begins to apply on the following January 1.

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[1] *An S corporation is a small business corporation having 75 or fewer shareholders that generally is not taxed as a corporation under the federal or Ohio income tax. Instead, the shareholders are each taxed on their individual distributive shares from the S corporation. Thus, owners of an S corporation are taxed like partners in a partnership, but enjoy the limited liability afforded to owners of traditional corporations.*

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	01-28-99	p. 20

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