



Peter A. Cooper

Bill Analysis
Legislative Service Commission

H.B. 396

123rd General Assembly
(As Introduced)

Reps. Taylor, Willamowski, Grendell, Hood, Netzley, Britton

BILL SUMMARY

- Allows corporate and individual taxpayers to deduct capital gains arising from appropriation of their real property through eminent domain.

CONTENT AND OPERATION

Appropriation of property

Under Ohio law, property may be appropriated for public use when it is deemed necessary for the public welfare, but the owner must be justly compensated. (Article I, Section 19, Ohio Constitution; see also Amendment V to the U.S. Constitution.) If the property owner and the appropriating body cannot agree on the amount of compensation, a jury determines what is just compensation.

Tax treatment of compensation

(I.R.C. sec. 1033.)

If the amount of compensation paid to a property owner exceeds the price originally paid by the owner for the property (or the owner's cost basis, if different from the original purchase price), the owner realizes a capital gain. The gain generally is taxable to the extent that the owner does not replace the property with different property used in a similar manner within a prescribed period of time after appropriation (up to three years in the case of personal-use property, and up to four years in the case of income-producing property). The gain realized from the appropriation of a principal residence is not taxed at all to the extent that it qualifies for the federal tax exclusion for homeowners who replace one principal residence with another.

To the extent such gains are recognized as taxable income under federal tax law, they are taxable income under Ohio law.

Tax deduction for capital gains from appropriated property

(secs. 5733.04(I)(16) and 5747.01(A)(18); lines 389 to 391 and 798 to 800)

The bill allows taxpayers to deduct any recognized capital gain realized from receiving compensation for appropriation of their real property. The deduction may be claimed by a corporation in computing its corporation franchise tax liability and by an individual in computing his or her personal income tax liability. Deductibility applies to capital gains arising from appropriation proceedings undertaken by the Department of Transportation (Chapter 5519.), conservancy districts (Chapter 6101.), sanitary districts (Chapter 6115.), and by the state, its subdivisions, their various agencies and instrumentalities, and certain private agencies (such as public utilities) that are authorized by law to appropriate property (Chapter 163.).

The deduction may be claimed for capital gains realized in taxable years beginning on or after January 1, 1999.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	06-22-99	p. 902

H0396-I.123/jc