Bill Analysis

Peter A. Cooper *Legislative Service Commission*

H.B. 191

124th General Assembly
(As Introduced)

Reps. Schaffer, Allen, Brinkman, Carmichael, Collier, Evans, Grendell, Hoops, Jolivette, Reinhard, Webster, Woodard

BILL SUMMARY

- Requires municipal corporations that collect more than $100 million in income taxes annually to return one-fourth of the revenue collected from nonresidents to the city, village, or township where the individual resides.

CONTENT AND OPERATION

Municipal income taxation of nonresidents--generally

Under their home rule powers, municipal corporations may tax incomes, including the incomes of nonresident individuals who earn income within the municipal corporation. The power to tax such nonresidents has been upheld by the courts on the grounds that individuals working in a municipal corporation enjoy the benefits and protections provided by the municipal corporation (such as police and fire protection) while working there. See *Angell v. Toledo* (1950), 153 Ohio St. 179, and *Thompson v. Cincinnati* (1965), 2 Ohio St.2d 292. Unlike most other home rule powers, municipal taxation powers are subject to limitation by the legislature; the limitations are set forth in Chapter 718. of the Ohio Revised Code. The only existing limitation on taxing nonresidents prohibits a municipal corporation from taxing most nonresident individuals who work in the municipal corporation for 12 or fewer days in a year.

For persons who work in one municipal corporation and live in another and are taxed by both, it is likely that at least some part of their tax liability to the municipal corporation where they live will be offset, since most municipal corporations grant a credit against their own income tax for at least some part of the income taxes their residents pay to another municipal corporation.

Returning nonresidents' tax payments to place of residence

(sec. 718.07)

The bill requires any municipal corporation collecting more than $100 million in income taxes per year in 2001 or thereafter to pay one-fourth of the amount collected from a nonresident individual to the government of the city, village, or township where the individual is domiciled. If a municipal corporation's collections reach the $100 million threshold in 2001 or any subsequent year, the municipal corporation is required to make the payment for each following year even if annual collections later fall below that threshold. The requirement applies only to individuals who are Ohio residents.

The amount that must be paid to the subdivision where the individual resides equals one-fourth of the municipal income taxes collected from the individual on account of compensation paid to the individual for personal services he or she performs in the municipal corporation. For the purpose of determining the amount of the payment, collections include all taxes paid directly by the taxpayer (including estimated tax payments) and all taxes paid on behalf of the taxpayer by an employer or other person (including withholding from the taxpayer's compensation), less any refunds paid to the taxpayer. Collections do not include any penalty or interest paid by or on behalf of the taxpayer.

The amount that a municipal corporation must pay to the subdivision where the individual is domiciled must be determined on a quarterly basis by the chief financial officer of the municipal corporation. The quarters comprise February through April, May through July, August through October, and November through January. Within 60 days after the end of each quarter, the chief financial officer must pay the required amount to the appropriate subdivision. The payment may be made from any municipal fund to which income tax payments are credited. The subdivision receiving the payment must credit the payment to the subdivision's general fund.

HISTORY

ACTION	DATE	JOURNAL ENTRY
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