Peter A. Cooper *Legislative Service Commission*

H.B. 486

124th General Assembly
(As Introduced)

Reps. Kilbane, Seitz, Willamowski, Carano, Hollister, Allen, Latta, Lendrum, Hartnett, Gilb

BILL SUMMARY

- Exempts S corporations and unincorporated businesses from the tax on dealers in intangibles.

CONTENT AND OPERATION

Dealers in intangibles tax

(R.C. 5707.03(D), 5725.01, 5725.13 to 5725.17, and 5725.22 to 5725.26)

Under current law, a statewide tax is levied on the value of the capital, surplus, and undivided profits of all dealers in intangibles (e.g., stockbrokers, finance and loan companies, and mortgage companies) having an office or other place of business in Ohio. The tax rate is eight mills per dollar (0.8%) of the value of capital employed in Ohio. The value of capital employed in Ohio is proportionate to a dealer's gross receipts arising from business in Ohio as compared to the dealer's total gross receipts arising from business everywhere.

Revenue from the tax is divided among the state General Revenue Fund and the undivided local government funds of the counties where a dealer has an office. Generally, 3/8ths (37.5%) of the revenue from each dealer is for the state General Revenue Fund, and 5/8ths (62.5%) of the revenue is for the undivided local government fund of the county where the dealer has an office. The revenue in the local government fund in turn is distributed among subdivisions in the county in the same percentages as other Local Government Fund money. (If a dealer has offices in more than one county, each county receives a share proportionate to the value of capital in that county as compared to the value in all those counties.) However, if a dealer is owned by a financial institution or insurance company, or is part of a commonly owned or controlled group of companies that includes a financial institution or insurance company, all of the revenue from the dealer is for the state GRF.

The tax applies to all dealers, regardless of whether they are organized as a corporation, partnership, limited liability company (LLC), sole proprietorship, or other organizational form. Dealers that are corporations (and do not elect S corporation status) or LLCs taxable as corporations under federal law are exempted from the corporation franchise tax.[1] Other dealers (i.e., those that are sole proprietorships, S corporations, partnerships, or LLCs not taxable as corporations) are not subject to any other tax on their capital, but the owners (i.e., proprietors, S corporation shareholders, partners, or LLC members) may be subject to the personal income tax for their shares of income derived from the business.

Exempt S corporations and unincorporated dealers

(R.C. 5725.01, 5725.13, 5725.14, and 5725.15)

The bill exempts from the dealers in intangibles tax any dealer that is not incorporated, or that is incorporated but elects S corporation status for its taxable year that includes January 1 of the year in which the tax is assessed.[2] Limited liability companies also are exempted as long as they are not taxable as corporations under federal law.

The bill does not change the extent to which the owners of a dealer exempted from the tax may be subject to the personal income tax on their shares of income derived from the dealer's business.

Technical note

One of the Revised Code sections amended by the bill, R.C. 5725.14, does not reflect amendments recently made to the section by Am. Sub. H.B. 405 (effective March 14, 2002). Therefore, the bill requires an amendment to update the section to reflect the Am. Sub. H.B. 405 amendments.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	01-29-02	p. 1336

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[1] *Generally, an LLC is a business entity taxed as a partnership, but all of whose members (i.e., owners) enjoy the limited liability of corporation shareholders. However, under federal law an LLC may elect to be treated as an association taxed as a corporation.*

[2] *Status as an S corporation is elected under federal law. The election must be made annually. The election is available only to a domestic U.S. corporation having a single class of stock and 75 or fewer shareholders, all of which are individuals, estates, or certain kinds of trusts, and none of whom is a nonresident alien.*