



H.B. 41

126th General Assembly
(As Introduced)

Reps. Schaffer, Fessler, Faber, Taylor, Kearns, C. Evans

BILL SUMMARY

- Requires municipal corporations that collect more than \$100 million in income taxes annually to provide an income tax credit for nonresidents.

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 a municipal corporation. The power to tax such nonresidents has been upheld by the courts on the ground 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 General Assembly (Article XVIII, Section 13, Ohio Constitution); the limitations are set forth in Chapter 718. of the Revised Code.

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.

Mandatory credit for nonresidents

The bill requires municipal corporations with an annual income tax collection of \$100 million or more in any calendar year after 2004 to grant an income tax credit to nonresidents. Each nonresident's credit must equal whichever of the following yields the greater credit: (1) 10% of the nonresident's tax liability or (2) the nonresident's tax liability in excess of 2% of the nonresident's taxable

income. If the credit results in an overpayment, the taxpayer may elect to have the overpayment refunded or applied to the next year's tax liability. (R.C. 718.17(A) and (B).)

The credit requirement applies to any municipal corporation that collects taxes on income from all taxpayers (individuals or otherwise) and that has an annual income tax collection of \$100 million or more in 2004 or thereafter, even if collections fall below that threshold in a later year (R.C. 718.17(B)).

HISTORY

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