



Ohio Legislative Service Commission

Bill Analysis

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H.B. 311

130th General Assembly
(As Introduced)

Reps. Boose and Retherford

BILL SUMMARY

- Accelerates application of a commercial activity tax (CAT) exclusion for receipts of grain handlers from grain sales.
- Authorizes a taxpayer eligible to claim a portion of a corporation franchise tax (CFT) credit for tax year 2014 for rehabilitating historic buildings to instead claim the credit at the end of tax year 2013, before the CFT expires.
- Expressly provides for the continued application of the qualifying pass-through entity withholding tax on entity owners after the CFT expires by specifying that the rate of the withholding tax remains 8.5% after the CFT expires.
- Clarifies that inflation-indexing adjustments to income tax brackets and the personal and dependent exemptions remain effective until the next calendar year in which a new adjustment is made.
- Clarifies that a taxpayer may deduct retirement pay from service in the Commissioned Corps of the National Oceanographic and Atmospheric Agency (NOAA) or Public Health Service (PHS) for taxable years beginning in 2013.
- Applies the 10% and 2.5% partial property tax exemptions ("rollbacks") to all inside millage, regardless of the tax year to which the levy of the millage would first apply.
- Authorizes a surviving spouse aged 59 or older whose deceased spouse received the homestead exemption for tax year 2013 to continue to receive the exemption, regardless of the surviving spouse's income.
- Lengthens the maximum term of a property tax levy benefitting a zoo operated or supported by a county.

- Suspends transfers to the Income Tax Reduction Fund until July 1, 2015, from any use tax collections that may arise from remote sellers if Congress enacts legislation to let states require those sellers to collect use taxes.
- Declares an emergency.

CONTENT AND OPERATION

Commercial activity tax

Grain handler exclusion

The bill accelerates the application date of a CAT exclusion for gross receipts of grain handlers from the sale of grain. The amendment allows grain handlers to exclude such receipts for tax periods beginning on or after January 1, 2014.¹ Under H.B. 59 of the 130th General Assembly, grain handlers were authorized to exclude such receipts for tax periods beginning on or after July 1, 2014.

Corporation franchise tax

Historic rehabilitation tax credit claims

Continuing law establishes the historic building rehabilitation tax credit, which is a refundable credit equal to 25% of the qualified expenditures made for rehabilitating a building of historical significance in accordance with preservation criteria as determined by the State Historic Preservation Officer. A person seeking the credit is required to apply to the Director of Development Services, who evaluates the application and may approve a credit by issuing a tax credit certificate. The credit may be awarded and claimed against the corporation franchise tax (CFT) and several other taxes.

The CFT and the accompanying CFT forms necessary for a CFT taxpayer to claim the historic rehabilitation tax credit expire in tax year 2014 (CFT tax years correspond to calendar years). A taxpayer that had a taxable year – which is not a tax year, but a 12-month accounting period – that began in the middle of 2013 would not be able to claim the historic rehabilitation tax credit for tax year 2014. Since the CFT no longer exists after tax year 2013, the bill authorizes such a taxpayer whose credit certificate was effective before 2013 to claim the credit by the end of 2013 as though the taxpayer were claiming the credit for tax year 2014 or thereafter.²

¹ Section 3 (Section 803.90 of H.B. 59 of the 130th General Assembly).

² Section 5.



Continuation of qualifying pass-through entity withholding tax

Continuing law imposes a withholding tax on pass-through entities having at least one investor that is not an individual and that may not have any taxable nexus with Ohio other than an interest in the entity ("qualifying investor"). The purpose of the tax is to ensure compliance by requiring the entity to pay tax on behalf of the investors; investors receive a credit against their separate liabilities for the withholding tax that the entity pays. The tax is computed on the basis of the total ownership share of the qualifying investors. The tax applies to the net sum of such owners' distributive shares of the pass-through entity's income, gain, expense, and loss apportioned to Ohio.

Under current law, the rate of the withholding tax cross-references the former rate of the corporation franchise tax (CFT) for nonfinancial corporations. That rate is 8.5%, but will no longer apply under modifications to the CFT by H.B. 510 of the 129th General Assembly. That act repealed the CFT for all taxpayers for tax years 2014 and thereafter. The bill allows the qualifying pass-through entity withholding tax to continue after the CFT expires by removing the soon-to-expire cross reference and specifying that the rate of the withholding tax remains 8.5%.³

Income tax

Bracket and exemption inflation adjustment

Under current law, personal income tax brackets and the amount of the personal and dependent income tax exemptions are adjusted each taxable year according to the increase or decrease in the inflation rate as measured by the GDP deflator. The bill clarifies that, for each taxable year that the inflation indexing mechanism is statutorily suspended or does not increase as a result of stagnant or decreasing inflation, the brackets and exemptions remain at the amount the brackets and exemptions were in the preceding taxable year rather than returning to the amounts prescribed by statute during those taxable years.⁴ Returning the brackets and exemptions to those statutorily prescribed amounts would have reduced the income necessary to qualify for each tax bracket and reduced the amount of the personal and dependent exemptions, thus causing taxes to increase in many cases.⁵

³ R.C. 5733.41.

⁴ H.B. 59 suspended indexing for taxable years 2013, 2014, and 2015.

⁵ R.C. 5747.02 and 5747.025.



NOAA and PHS income tax deduction

H.B. 59 authorized an income tax deduction for the retirement pay of a taxpayer that served in the Commissioned Corps of the NOAA or the PHS. That bill gave two apparently conflicting taxable years for which the deduction would begin to apply – taxable years beginning after January 1, 2013, and taxable years beginning after January 1, 2014. The bill resolves the conflict by authorizing a taxpayer to take the deduction for taxable years beginning on or after January 1, 2013.⁶

Property tax

Application of partial property tax "rollbacks"

Continuing law provides a 10% partial property tax reduction, commonly called a "rollback," on all real property that is not intended primarily for use in a business activity and a 2.5% rollback on any homestead that is occupied by the homeowner. The state is required to reimburse local governments and schools for the revenue lost because of the rollbacks. H.B. 59 limited the application of the 10% and 2.5% rollbacks by specifying that they could not be applied to reduce the taxes due on new or replacement levies approved at elections held on or after September 29, 2013 (that act's 90-day effective date) or taxes due on taxes levied within the 10-mill limitation ("inside millage") levied for the first time after tax year 2013.

The bill expands the application of the 2.5% and 10% real property tax rollbacks to inside millage levied for the first time after 2013.⁷

Homestead exemption

Overview of homestead exemption

Under continuing law, the homestead exemption is a property tax credit equal to the taxes that would be charged on up to \$25,000 of the true value of the property of qualified homeowners. ("True value" is the appraised fair market value.) The credit essentially exempts \$25,000 of the value of a homestead from taxation. It also applies to manufactured and mobile homes regardless of whether they are taxed as real property or taxed under the manufactured homes tax (except that manufactured and mobile homes are assessed at 40% of cost or market value and are depreciated). The amount of the tax reduction for a homestead depends on the local tax rate: the higher the tax rate, the greater the tax reduction. The homestead exemption is available only to homeowners who are 65 years of age or older, or permanently and totally disabled, or

⁶ Section 3 (Section 803.80 of H.B. 59 of the 130th General Assembly).

⁷ R.C. 319.302.



at least 59 years old and the surviving spouse of an individual who previously received the exemption.

Surviving spouse exclusion from income limit

Under recent changes to the homestead exemption in H.B. 59, the homestead exemption is available to newly qualified owners only if they have an Ohio adjusted gross income of \$30,000 or less as computed for state income tax purposes. The income limit applies to the combined incomes of both spouses if the owner is married. Elderly or disabled homeowners who received the exemption for tax year 2013 (or tax year 2014 for homeowners who live in a manufactured home taxed under the manufactured home tax) are "grandfathered" and may continue to claim the homestead exemption even if the homeowner's income exceeds \$30,000.

The bill additionally excludes from the \$30,000 income limitation a surviving spouse of any "grandfathered" individual, provided the surviving spouse is aged 59 or older at the time the deceased spouse dies.⁸

Term of tax levies benefitting county zoos

Continuing law allows a board of county commissioners to propose and, with the approval of voters, levy a property tax for the benefit of a zoo. The zoo may be operated and maintained by the county itself or by a nonprofit corporation organized to promote the natural sciences.

Under current law, the board of county commissioners may propose a zoo levy for a term of up to ten years. The bill instead allows the board to propose the levy for any number of years, or for a continuing period of time.⁹

Sales and use tax

Transfers of remote seller use tax to Income Tax Reduction Fund

H.B. 59 earmarked any new Ohio use tax collections that might come about from "remote sellers" – generally online and catalog retailers – for deposit in the Income Tax Reduction Fund (ITRF). Under continuing law, "surplus revenue" that is available after the balance in the Budget Stabilization Fund equals 5% of annual General Revenue Fund expenditures and certain inter-year fund carryovers and reserves are made is credited to the ITRF, which is used to fund temporary income tax rate reductions. The "new" use tax collections are those that would ensue if Congress enacts pending

⁸ R.C. 323.152 and 4503.065.

⁹ R.C. 307.76 (not in the bill) and 5705.19.



"Marketplace Fairness" legislation to let qualifying states compel remote sellers to collect use taxes from customers. The remote seller use tax collections are the collections that would be remitted by remote sellers in excess of (1) remittances by sellers that collect use taxes under the Streamlined Sales and Use Tax Agreement and (2) refunds issued to remote sellers.

As required by H.B. 59, these transfers to the ITRF would be made twice per year. The bill suspends any such transfer until July 1, 2015.¹⁰

Emergency clause

The bill declares an emergency, causing the bill to become effective immediately and exempting it from the referendum.¹¹

HISTORY

ACTION	DATE
Introduced	10-24-13

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¹⁰ R.C. 5741.03.

¹¹ Section 6.

