



Ohio Legislative Service Commission

Bill Analysis

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Sub. H.B. 472

130th General Assembly
(LSC 130 2288)*

Rep. McClain (By Request)

BILL SUMMARY

Commercial activity tax

- Increases the rate of the commercial activity tax from 0.26% to 0.30% of taxable gross receipts in excess of \$1 million per year, beginning July 1, 2014.

Income tax

- Reduces income tax rates for all individuals, estates, and trusts and across all income brackets by a total of 8.5% over the next two years.
- Increases the personal exemption amounts available to income taxpayers whose Ohio adjusted gross income is \$80,000 or less, from \$1,700 to either \$2,200 or \$2,700, depending on the taxpayer's income.
- Increases the Ohio earned income tax credit from 5% to 15% of a taxpayer's federal credit, subject to existing limitations on the maximum amount of credit allowed.

Cigarette and other tobacco product taxes

- Increases the rate of the cigarette excise taxes from \$1.25 to \$1.55 per pack from July 1, 2014, through June 30, 2015, and to \$1.85 thereafter.

* An analysis of the As Introduced version of the bill was not prepared. This analysis addresses only provisions in the first substitute version, LSC 130 2288. For analyses of other provisions of the As Introduced version, see the respective analyses for House Bills 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, and 493.

- Increases the rate of the tobacco product excise tax from 17% of the wholesale price (37% for little cigars) to 41% from July 1, 2014, through June 30, 2015, and to 49% thereafter.
- Subjects nicotine products used with electronic cigarettes to the existing excise tax on "other tobacco products" beginning July 1, 2014, and defines the kinds of devices that constitute an electronic cigarette for that purpose.

CONTENT AND OPERATION

Commercial activity tax

The commercial activity tax (CAT) is an annual tax imposed for the privilege of doing business in Ohio. It is based on a business' taxable gross receipts, which, generally, measures gross receipts from sales made in Ohio. The tax on a business' first \$1 million in taxable gross receipts is between \$150 and \$2,600, with the amount depending on the business' taxable gross receipts. The tax rate on taxable gross receipts in excess of \$1 million currently is 0.26%. Businesses with taxable gross receipts under \$150,000 are exempted from the CAT. One-half of the revenue is credited to the General Revenue Fund and one-half is used to partially reimburse school districts and other local governments for the previously enacted elimination of taxes on business tangible personal property.

Rate increase

(R.C. 5751.03)

The bill increases the rate of the commercial activity tax from 0.26% to 0.30% of taxable gross receipts in excess of \$1 million per year, beginning with the quarterly tax period that begins July 1, 2014.

Income tax

Under continuing law, the income tax is levied on individuals, estates, and some trusts. The tax base for individuals is federal adjusted gross income after several deductions and a few additions; for estates and trusts, the base is federal taxable income after several additions and deductions. The tax applies to residents, and to nonresidents who have income that is attributable to Ohio under statutory attribution rules. For residents who have income taxable by another state with an income tax, a credit is available to offset the tax paid to other states; for nonresidents who have income attributable to Ohio and another state, a credit is allowed to the extent the income is not attributable to Ohio.



Rate reductions

(R.C. 5747.02; Section 4)

The bill reduces income tax rates for all individuals, estates, and trusts and across all income brackets by 3.5% for taxable years beginning in 2014, an additional 3.5% for taxable years beginning in 2015, and an additional 1.5% for taxable years beginning in 2016 (compared to the rates currently in effect for those years). The reduced 2016 rates apply thereafter, resulting in an 8.5% reduction compared to the current rates for 2016 and thereafter.

Personal exemption increase for lower income taxpayers

(R.C. 5747.025)

Continuing law allows an income tax taxpayer to claim a personal exemption for the taxpayer, the taxpayer's spouse (if the spouses do not file separately), and the taxpayer's dependents. Currently, the personal exemption amount is \$1,700.

The bill increases this amount for taxpayers whose Ohio adjusted gross income is \$80,000 or less as reported on the taxpayer's individual or joint annual return. Beginning with taxable years that begin in 2014, the personal exemption amounts will be tiered as follows:

Ohio adjusted gross income	Personal exemption amount
\$40,000 or less	\$2,700
\$40,001 to \$80,000	\$2,200
\$80,001 or more	\$1,700

The Tax Commissioner is required to adjust the personal exemption amounts for inflation on an annual basis, but, under continuing law, those adjustments are suspended through 2015. Accordingly, the bill specifies that inflation-indexing of the new exemption amounts will begin in 2016.

Earned income tax credit

(R.C. 5747.71)

The bill increases the state earned income tax credit from 5% of the federal earned income tax credit to 15% of the federal credit, beginning in 2014. Because of current limitations on the credit that will continue in effect, the tripling of the credit percentage will not necessarily result in a tripling of the credit amount.



Continuing law authorizes a state earned income tax credit for taxpayers who are eligible to claim the federal credit. The state credit is nonrefundable, so it can result only in a reduction or elimination of tax liability, not a refund. The credit is further limited for taxpayers whose Ohio adjusted gross income exceeds \$20,000 (joint or separate, and after subtracting personal exemptions): for such taxpayers, the credit cannot exceed 50% of the tax due after subtracting all other nonrefundable credits other than the joint filing credit. This limitation means that the bill's increase in the credit percentage will not result in a tripling of the credit for all qualifying taxpayers. As shown in the table below, the proposed maximum credit amounts for taxpayers with qualifying children are less than three times the current maximum credit amounts, with the extent of the difference increasing with the number of qualifying children.

Maximum Earned Income Tax Credit for 2014				
Number of children	Maximum FAGI (separate/joint)	Maximum federal credit	Current maximum Ohio credit (5%)	Proposed maximum Ohio credit (15%)*
No children	\$14,590/\$20,020	\$496	\$24.80	\$74.40
One child	\$38,511/\$43,941	\$3,305	\$165.25	\$422.74
Two children	\$43,756/\$49,186	\$5,460	\$273.00	\$470.81
More than two	\$46,997/\$52,427	\$6,143	\$307.15	\$489.59

* These amounts reflect the 50% reduction in the credit for taxable incomes above \$20,000 and the bill's proposed income tax rate reductions and increased personal exemption amounts.

The federal earned income tax credit is computed as a percentage of a person's earnings (including self-employment income). The credit percentage for persons with no children is 7.65%, 34% for those with one child, 40% for those with two children, and 45% for those with three or more children. The credit amount is phased out as a person's income increases. Various eligibility criteria must be satisfied, including limits on investment income (\$3,350 for 2014), minimum and maximum ages (25 to 65 years), and qualifications for qualifying children. The federal credit is refundable.

Cigarette and other tobacco product taxes

Cigarette excise tax rate increase

(R.C. 5743.02 and 5743.32; Sections 3 and 7)

The bill increases the rate of the cigarette excise taxes from the current \$1.25 per pack in two stages: to \$1.55 from July 1, 2014, through June 30, 2015, and to \$1.85 beginning July 1, 2015. On a per-cigarette basis, the tax rate increases from 6.25 cents (i.e., 62.5 mills) to 7.75 cents (77.5 mills) on July 1, 2014, and to 9.25 cents (92.5 mills) on



July 1, 2015. All revenue from the cigarette excise taxes will continue to be credited to the General Revenue Fund.

The rate increases also apply to cigarettes and tax stamps in dealers' inventories on the dates the increases take effect, and dealers must pay the "net additional tax" on those inventories. The net additional tax is the additional tax resulting from the rate increase for all cigarette packs bearing a tax stamp and for all unaffixed tax stamps in the dealer's possession at the beginning of business on each of the two dates the increases take effect. Wholesale dealers may subtract the dealer discount from the additional tax due.¹ All dealers owing additional tax must file a return with the Tax Commissioner and pay the tax by the following September 30. A late charge applies for late payments or returns equal to \$50 or 10% of the tax due, whichever is greater.

Tobacco product excise tax rate increase

(R.C. 5743.01, 5743.51, 5743.62, and 5743.63; Sections 5 and 8)

The bill increases the rate of the tobacco product excise tax from the current 17% of the wholesale price (37% in the case of little cigars) in two stages: to 41% from July 1, 2014, through June 30, 2015, and to 49% beginning July 1, 2015.

All revenue from the tobacco product excise tax will continue to be credited to the General Revenue Fund.

Taxation of e-cigarettes under tobacco excise tax

(R.C. 5743.01, 5743.51, 5743.62, 5743.63, and 5743.65; Sections 5 and 8)

The bill subjects nicotine-containing products used with electronic cigarettes ("e-cigarettes") to the existing excise tax on tobacco products beginning with invoices dated on or after July 1, 2014, and defines the kinds of devices that qualify as e-cigarettes. For the purpose of the tax, the bill defines electronic cigarettes as follows:

"Electronic cigarette" means any device that includes a mechanical heating element, battery, or electronic circuit and that can be used to deliver a vapor of nicotine or any other substance, the use of which device, or the inhalation of which vapor, simulates smoking. "Electronic cigarette" includes any such device whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar,

¹ Under continuing law, wholesale dealers are allowed a discount against the tax due as a commission for affixing stamps. The discount may range from 1.125% to 10% of the tax due.

e-pipe, or under any other product name or descriptor, and includes any cartridge or component of such a device or a related product.

The tax applies not to e-cigarettes themselves but to any product that contains nicotine in a cartridge or other component marketed or intended to be used with an e-cigarette. The tax is computed on the basis of the wholesale price of such a product even if the product includes components that do not contain nicotine unless the wholesale price of the nicotine-containing part of the product can be readily identified as such on an invoice or bill, in which case the tax applies only to the wholesale price of the nicotine-containing part.

Under current law, a cigarette or other tobacco product is subject to the cigarette or other tobacco product excise tax only if it is made of or contains tobacco.

HISTORY

ACTION	DATE
Introduced	03-11-14

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