Fiscal Note & Local Impact Statement

123 rd General Assembly of Ohio

BILL:	**H.B. 84**	DATE:	**March 4, 1999**
STATUS:	**As Introduced**	SPONSOR:	**Rep. Haines**

LOCAL IMPACT STATEMENT REQUIRED: **No — Minimal cost**

CONTENTS: **To exempt certain pass-through entities from having to withhold and pay income taxes on behalf of nonresident shareholders.**

State Fiscal Highlights

STATE FUND	FY 1999	FY 2000	FUTURE YEARS
General Revenue Fund			
Revenues	- 0 -	Minimal Loss	Minimal Loss
Expenditures	- 0 -	Minimal Increase	Minimal Increase
Other State Funds			
Revenues	- 0 -	Minimal Loss	Minimal Loss
Expenditures	- 0 -	- 0 -	- 0 -

Note: The state fiscal year is July 1 through June 30. For example, FY 2000 is July 1, 1999 – June 30, 2000.

- Currently, pass-through entities are required to pay quarterly estimated income taxes on non-resident investors. The non-resident investor may then file for a return of excess taxes paid. This bill results in a minimal loss of state income tax from non-resident investors who will become exempt from paying quarterly, although, according to law, they still owe the tax.
- Enforcement and operation expenditures of the Department of Taxation should increase minimally pursuing taxes due from non-residents.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 1999	FY 2000	FUTURE YEARS
LLGSF			
Revenues	- 0 -	Minimal Loss	Minimal Loss
Expenditures	- 0 -	- 0 -	- 0 -
LGRAF and LGF			
Revenues	- 0 -	Minimal Loss	Minimal Loss
Expenditures	- 0 -	- 0 -	- 0 -

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- Revenues not collected at the state level would reduce local revenue allocations from the three local government funds.

Detailed Fiscal Analysis

Under current law (H.B. 215 of 122 G.A.), any pass-through entity that has at least one non-resident investor must pay tax on account of non-resident investors. The state captures all potential income tax payments up front and then has the non-resident investor file for a return of any over withholding. This eliminates confusion on the investor's part on whether they need to pay or file Ohio income taxes. H.B. 84 would exempt businesses that are pass-through entities from the tax payment requirements if they meet the following qualifications:

(1) The entity is a farm, fruit farm, or vineyard;
(2) The entity must distribute less than $70,000 to all of its investors;
(3) The non-resident investor must derive no taxable income from Ohio other than the investor's distributive share from that entity;
(4) The non-resident investor receives less than $50,000 from his or her distributive share.

Data on these pass-through entities is not currently available because the existing law became effective in 1998. Data is available at the national level based on income tax returns filed by S corps and partnerships (no data on limited liability companies) in the general category of agriculture, forestry, and fishing. In 1996, there were 130,845 partnerships having 594,460 partners, with a total net income of $1,357 million. For S corps, there were 73,336 S corps having 183,777 shareholders in 1994, with a total net income of $222 million. To determine the fiscal effect of H.B. 84, this information would need to be reduced to just Ohio's portion of the national figures, then further reduced to farms, fruit farms, and vineyards that distributed less than $70,000 to all of its investors. The data is not available to make such a reduction but LBO estimates the potential revenue loss to be minimal.

H.B. 84 would shift the responsibility from the state for collecting estimated income taxes up-front from the Ohio entity to the non-resident filing an Ohio return and paying the tax at the end of the year. The state may lose revenue from non-resident investors going unnoticed and failing to pay Ohio income taxes. Also because of the relatively small tax amounts and out-of-state status, the Tax Department will find it relatively expensive on a per case basis to pursue collection of the tax. Lost revenue at the state level also means lost revenue at the local level, since 10.5% of net collections go to the three local government funds.

❑ *LBO staff Jeff Petry, Economist*

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