Ohio Legislative Service Commission

Synopsis of Senate Committee Amendments*

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Sub. H.B. 510

129th General Assembly
(S. Ways and Means & Economic Development)

New Financial Institutions Tax

Subjects "nonbank financial organizations," which are defined as persons engaged in business primarily as "small dollar lenders," to the new financial institutions tax rather than the commercial activities tax.

Provides that a person qualifies as a small dollar lender if the person's business primarily involves providing individuals with loans that do not exceed $5,000 or do not have terms longer than 24 months and if, during a taxable year, the person's gross income from providing such loans exceeds the person's gross income from all other activities combined (the 24-month threshold was changed to 12 months by a Senate floor amendment).

Specifies that a "captive finance company" is not a nonbank financial organization subject to the new tax. A captive finance company is defined as an entity that derived at least 75% of its gross income for the current taxable year and the two preceding taxable years from (1) financing transactions with or for members of the company's affiliated group or an affiliated group member's customers, distributors, franchisees, or manufacturing-related suppliers, (2) issuing bonds or other publicly traded instruments for the benefit of the affiliated group, or (3) making short- or long-term investments with the affiliated group's cash reserves for the benefit of the affiliated group. "Financing transactions" includes making or selling loans, extending credit, and leasing, among other activities specified in the bill.

Specifies that "nonbank financial organization" excludes any person that facilitates or services securitizations for a bank organization, holding company, captive finance company, or member of the person's affiliated group. "Securitization" is defined as transferring an asset to a party and subsequently issuing securities backed by the right to receive payment from the transferred asset.

* This synopsis does not address amendments that may have been adopted on the Senate Floor.

Changes the date by which taxpayers must file annual reports and make any final tax payments due for a tax year, from March 31 to October 15. Correspondingly, the bill eliminates the ability of the Tax Commissioner to extend the annual report due date, which the Commissioner could extend under the House-passed bill to October 15.

Provides that, if a bank organization is owned directly by a "grandfathered unitary" savings and loan holding company, the bank organization's reporting group for purposes of the new tax includes only the bank organization and any entities included in the bank organization's call report.

Clarifies that a financial institution's "total equity capital" excludes noncontrolling minority interests in consolidated subsidiaries, unless the minority interest is in a bank organization or bank holding company. The House-passed bill provides that "total equity capital" excludes noncontrolling minority interests in consolidated subsidiaries, unless the consolidated subsidiary is a financial institution included in the taxpayer group's FR Y-9 or call report.

Modifies the requirement that a financial institution's receipts from investment and trading assets and activities be sitused in Ohio in proportion to the benefit that the financial institution's customers receive in the state, to allow such receipts to be sitused according to that rule or according to an alternative formula that considers the proportion of the value of such receipts that can be assigned to one of the financial institution's regular places of business within the state.

Specifies that only members of an "affiliated group" that includes a "diversified" or "grandfathered unitary" savings and loan holding company may utilize the unused portion of a Job Retention Tax Credit (JRTC) originally granted to a member of the affiliated group. An "affiliated group" is defined as a group of entities related to one another through 50% or greater ownership interests. The House-passed bill allows a "related member" of a group of taxpayers that includes such a holding company to utilize a group member's unused JRTC (companies can be "related members" with 20% or more common ownership).

Permits a financial institution taxpayer group that owns shares of a publicly traded real estate investment trust to phase in the value of its interest in the REIT into the group's tax base over five years.

Amends language that prohibits the Tax Commissioner from assessing affiliates of an insurance company for unpaid commercial activities tax before January 1, 2014, if one of the company's corporate affiliates paid the corporation franchise tax before that date, to provide that the prohibition instead only applies for tax periods ending before January 1, 2013.

Makes technical changes.

Real property valuation

Accelerates the application of the provisions of H.B. 487 of the 129th General Assembly that revised how real property is to be appraised for property tax purposes.

Requires county auditors, when valuing real property for property tax purposes, to account for the effects of the exercise of police powers and other governmental actions affecting the property.

Commercial real estate broker liens

Provides for liens to attach to commercial real estate in favor of a broker when the broker is engaged to purchase real estate, and specifies how the lien amount is to be determined (current law expressly authorizes such liens only for brokers engaged to sell or lease such property).

Specifically provides for how the amount of a broker's commercial real estate lien is to be determined when the broker is engaged to lease property for a property owner.

Modifies the deadline by which a broker engaged to lease property must record a lien on the property, from 30 days after the first rental payment is due or, if the owner notifies the broker at least ten days before the lease signing, before the date the lease is signed, to 90 days after the owner defaults on a payment of the broker's commission.

Requires a broker engaged to purchase property to record a lien on the property within 90 days after the property is sold.

Extends the time for enforcing a commercial real estate broker lien from one to two years after the lien is recorded.

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