Ohio Legislative Service Commission

Bill Analysis

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H.B. 365

129th General Assembly
(As Introduced)

Reps. Beck and Dovilla, Stebelton, Blessing, Terhar, Hollington

BILL SUMMARY

- Allows business owners who claim an enhanced federal income tax depreciation deduction to claim more of the deduction that the business owner otherwise must add-back for Ohio income tax purposes.
- Limits the extra deduction to the annual increase in the Ohio income tax withholding for the business' employees.

CONTENT AND OPERATION

The bill allows business owners that increase Ohio payroll to claim more of the enhanced depreciation allowances that businesses are allowed under federal tax law. Whether a business increases Ohio payroll is measured by whether the business' total Ohio income tax withholdings for employees increases.[1]

Federal enhanced depreciation allowances

Currently, federal tax law gives enhanced depreciation allowances for businesses that invest in certain depreciable business assets. There are two forms of the enhanced allowances: "bonus depreciation" and "enhanced expensing." Both are intended to induce increased business investment by permitting businesses to accelerate the tax benefit of asset depreciation deductions, moving it into earlier years than customarily allowed. They were originally enacted by Congress in 2002 and have been extended and increased several times since, but are scheduled to expire at the end of 2012.[2] Bonus

[1] R.C. 5747.01(A)(20).

[2] Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. No. 111–312, 124 Stat. 3296, 3298–99. The enhanced deductions for some kinds of property do not expire until the end of 2013.

depreciation allows a business to immediately deduct 50% of the cost of an asset (plus the customary first-year depreciation deduction) instead of using the usual depreciation schedules.[3] Enhanced expensing increases the value of an asset that can be immediately deducted when it is acquired or placed in service. Whereas the customary immediate expensing limit was $25,000, the enhanced expensing allowance is up to $500,000 (for 2010 and 2011) and $125,000 (for 2012), depending on when the asset is placed into service and subject to certain limitations.[4]

Ohio's treatment of enhanced depreciation allowances

The enhanced federal deductions reduce federal taxable income in the early years after the assets are acquired (as compared to the customary deductions), and therefore reduce income tax revenue. When these federal enhancements were enacted, Ohio and several other states whose income tax bases were tied to the federal tax base blunted the state revenue reductions that would have resulted from the enhancements by not allowing taxpayers to claim the enhanced depreciation deductions all in a single year. Ohio instead required taxpayers to spread the immediate tax reductions in equal parts across six years.[5] For example, a taxpayer claiming a federal bonus depreciation deduction of $120,000 in one year was required to claim an Ohio deduction of only $20,000 per year over six years. This smooths the income tax revenue impact over six years instead of allowing it to be concentrated in one year.

Enhanced depreciation allowances for businesses that increase payroll

The bill permits Ohio business owners who owe Ohio income tax to claim a greater share of their bonus depreciation or enhanced expensing allowance if the business increases Ohio payroll above the business's Ohio payroll in the preceding year. A business qualifying for federal bonus depreciation, enhanced expensing, or both, and thus required to spread that extra allowance over six years for Ohio tax purposes, could instead claim the extra allowance in a single year, up to the amount by which the business' employee withholdings for Ohio income taxes increased.[6] Any remaining immediate tax deductions are still required to be spread equally across six years.

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[3] 26 U.S.C. § 168(k) (2011). The bonus is 100% for some property placed in service between September 2010 and the end of 2011.

[4] 26 U.S.C. § 179 (2011).

[5] R.C. 5747.01(A)(20) and (21).

[6] R.C. 5747.01(A)(20).

The bill's extra allowance applies to individuals, estates, and trusts that own all or a share of a sole proprietorship, partnership, S corporation, limited liability company, or other form of pass-through entity that withholds employees' Ohio income taxes.

HISTORY

ACTION	DATE
Introduced	11-01-11

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