Ohio: Think tank supports proposal to streamline municipal tax system

David M. Kall | Thursday, March 23, 2017

Governor John Kasich released his executive budget proposal for fiscal years 2018 and 2019 in early February, and soon after, lawmakers introduced a budget bill, House Bill 49. Among many other things, HB 49 attempts to improve the municipal tax system by transferring the responsibility – from individual municipalities to the state – for collecting and administering municipal income taxes on business income, excluding sole proprietors and other single-member entities owned by one individual, starting in 2018.

HB 49's bill analysis sets forth the main differences between it and current law with respect to the municipal tax system:

- The bill requires the Ohio Tax Commissioner, rather than a municipality's tax administrator, to perform all of the duties related to the administration of the tax.
- The bill removes the "throw-back rule" used in apportioning the income of some businesses.
- Business entities, unlike individuals, would no longer be required to deduct net operating losses incurred before 2017 before deducting those incurred later.
- Under current law, annual tax returns are due on the 15th day of the fourth month after the end of the taxpayer's taxable year. The bill specifies a due date of April 15 of the calendar year after the calendar year in which the taxpayer's taxable year ended. (This change only affects taxpayers with a taxable year that does not end on December 31.)
- The bill requires the electronic filing of tax returns, and allows the Tax Commissioner to excuse taxpayers from the requirement for good cause shown. Under current law, a municipality may require electronic filing, but is not required to do so.
- The bill includes provisions for the filing of a final return and for successor liability when a taxpayer goes

out of business. Under current law, a municipality may specify rules for such cases, but is not required to do so.

Testimony before the House Means and Ways Committee

The Tax Foundation has long taken the position that the Buckeye State has the "worst municipal income tax system in the country." As Morgan Scarboro, a policy analyst with the group explained last month, this is because "businesses must withhold income taxes in every jurisdiction that an employee works in. In addition, "[m]ore than 600 cities and villages also tax a business's net profits in the state." This amounts to a "serious headache compared to what is done in other states, particularly for businesses." She added that for some employers, the cost of compliance is more than the actual tax burden.

Scarboro described Gov. Kasich's effort in his budget proposal to correct this, which involves a unified filing system under which businesses could complete net profits tax returns under one set of rules. Municipalities would still set tax rates and credits, localities would still be in charge of collecting municipal income taxes on wages, and the Ohio Department of Taxation would keep 1 percent of the collections, distributing the rest back to localities.

The Tax Foundation went a step further by testifying in favor of the adjustments before Ohio's Ways and Means Committee on March 7, 2017. Economist Scott Drenkard reiterated Scarboro's portrayal of the system, and characterized Gov. Kasich's proposal to unify the net profits tax as "meaningful reform."

Drenkard pointed to Maryland and Pennsyvlania as examples of jurisdictions with better practices. Maryland is like Ohio because it "leans heavily on local income taxes to fund government, but it does so in a way that generally minimizes taxpayer headache…. [on] their state income tax form, the entirety of the compliance with the local income tax is handled on just a few lines."

And in Pennsyvlania, he observed, "localities simply tax nonresidents based on their primary place of employment, and this cuts down on a tremendous amount of additional paperwork. I think that is a viable model for states that have local income taxes, and an ideal toward which Ohio should strive."

Ultimately, Drenkard declared,

> Unifying the collection and administration of the net profits tax is a common sense first step toward a simpler municipal income tax system more in line with the rest of the country. It would promote a system where Ohio businesses aren't put at a competitive disadvantage and can focus on creating value as opposed to complying with tax laws….[Gov.] Kasich's proposal for unified collection of the net profits tax is a big step in the right direction.

Ohio's realtor community also supports Gov. Kasich's reform plan. OhioRealtors.org called it a "bright spot," asserting that it would "go a long way to reduce business compliance costs and making Ohio's municipal income tax system more competitive."

David M. Kall