

Ohio: Centralized collection tiff heads to state supreme court



David M. Kall | Thursday, May 23, 2019

We have been following a legal challenge to the new process in Ohio for businesses to file their municipal net profits tax returns centrally with the Ohio Department of Taxation rather than with several separate municipalities. On May 20, 2019, the municipalities challenging the new process filed a [notice of appeal](#) with the Ohio Supreme Court from a lower court decision upholding the state law. The Supreme Court has discretion to accept or deny the case.

Centralized Administration

Due to the heavy administrative burden businesses face to comply with many municipal income taxes in Ohio, the General Assembly enacted a law change in 2017 that allows for the centralized administration of the tax. The Department of Taxation [estimated](#) that business taxpayers could save up to \$800 million per year in compliance costs under the new process.

Business taxpayers now have the option of filing one municipal net profits tax return with the Department of Taxation through the Ohio Business Gateway and having the tax administered there. That means the tax department would perform audits and hear initial appeals. Municipalities still administer the municipal income tax for individuals, municipal employer withholding tax, and municipal net profits tax for non-electing taxpayers.

Court of Appeals Rejects Legal Challenge

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Over 140 municipalities **brought a legal challenge** to the new state law allowing for the centralized collection process, as well as a 2014 state law ([House Bill 5](#)) that promoted uniformity in municipal income taxation. Primary among their concerns are the potential loss of tax revenue and the 0.5 percent fee the tax department receives for administering the centralized collection process. The fee, however, compensates the tax department for its administration services and presumably reduces the costs to municipalities to administer their net profits taxes.

The legal theories municipalities advanced contested the new collection process and other tax law provisions on the ground that the laws unconstitutionally interfere with local control over taxation and municipal “Home Rule” powers. [Article 18, Section 7 of the Ohio Constitution](#) allows municipalities “all powers of self-government,” including the power to tax. Another constitutional provision, however, allows the Ohio General Assembly to “limit the power of municipalities to levy taxes.” The crux of the dispute in the case centered around the definition of the word “levy” and whether it included the centralized collection process at issue.

The Tenth District Court of Appeals in Franklin County issued a [decision](#) on January 30, 2019 rejecting the municipalities’ legal challenges. The Appeals Court similarly [rejected](#) a motion for reconsideration on April 4, 2019. That led the municipalities to file an appeal with the Ohio Supreme Court earlier this week.



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