



Tax Law Alert

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This law alert is intended to provide general information for clients or interested individuals and should not be relied upon as legal advice. Please consult an attorney for specific advice regarding your particular situation.

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Ohio Municipal Tax Reform Bill - H.B.5 - Passes the Legislature

The municipal tax reform bill, H.B. 5, recently made its way through the Ohio Legislature, passing both houses by significant margins, and is awaiting Governor Kasich's expected signature. The legislation was introduced to create a more uniform municipal income tax system in order to simplify tax filings for businesses. Lawmakers and business groups hope these reforms will reduce the cost and complications associated with the current municipal tax codes and collection procedures used by hundreds of municipalities statewide.

If signed by Governor Kasich, the law would require that each taxing municipality amend its existing income tax ordinance to comply with the new regulations by January 1, 2016. Requisite amendments would include changes to:

- The calculation of taxable income,
- The determination of residency,
- Employer withholding practices,
- The taxation of pass-through entities, and
- Filings, refunds, and assessments.

More specifically, municipalities would be required to incorporate the following important changes:

- **Changes to the calculation of taxable income**
 - o A uniform definition of compensation for both individuals and corporations, with exemptions for intangible income, retirement benefits, alimony and child support received, dues received by unions, net profits of S corporation shareholders, and other income as prescribed by the statute;
 - o Provisions allowing a five-year period of net operation loss carry-forward;
 - o A "casual" or "occasional" entrant exemption, covering a nonresident who works up to 20 days during the year in a municipality prior to incurring income tax liability within the municipality;
 - o New apportionment rules, including the following:
 - Modifications to the three-factor formula;



- A “throw-back” provision, meaning income from sale of goods is allocated to the municipal corporation from which they are shipped, even if delivered elsewhere, provided that the business, does not regularly solicit sales where the goods are delivered; and
 - Limitations on the requirements needed to challenge a municipal corporation’s apportionment rules, allowing for broader use of alternative forms.
- **Changes to the determination of residency**
 - o A twenty-five factor test to be used to determine residency.
 - **Changes to employer withholding practices**
 - o A specific income tax withholding schedule that depends on recent withholding amounts.
 - **Changes to the taxation of pass-through entities**
 - o A definition of tax base equal to net profits after apportionment and allocation; and
 - o In general, entity-level rather than owner-level taxation.
 - **Changes to filing, refunds, and assessments**
 - o New municipal tax return filing deadlines which coincide with the state and federal filing dates;
 - o An automatic extension for municipal tax returns, where a taxpayer requests an extension of federal or state filing deadlines;
 - o Limitations on the number of forms which municipal corporations can require a taxpayer to file; and
 - o Amendments to the consolidated tax return filing requirements.

Governor Kasich is expected to sign the legislation; however if no action is taken within ten days, the bill will become law.

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