

LEGISLATIVE UPDATE

OHIO HOUSE BILL 33

Municipal Income Tax Provisions

On July 3, 2023, Governor DeWine signed House Bill 33, the state budget bill (the "Bill"), into law. The municipal income tax provisions included in the Bill are listed below.

The Bill requires municipalities to adopt some of these provisions by ordinance or resolution. We are working on model language to be provided to you later this summer, so that you have time to put these changes through your legislative process before year-end.

- **Publication Requirements for JEDDs or JEDZs Adopting an Income Tax.** Effective October 1, 2023, the Bill requires JEDD and JEDZ Boards to publish notice of their adoption of a resolution to impose an income tax in a newspaper of general circulation in the district or zone for two consecutive weeks prior to the effective date of the tax, or if no general circulation newspaper is available, to post notice of the resolution in no less than five of the most public places in the district or zone at least 15 days prior to the effective date of the tax. R.C. 715.691 (H)(5); R.C. 715.70(F)(6)(a)
- **Minors Exempt From Municipal Income Tax.** Beginning with tax year 2024, the income of all individuals under 18 years of age will be exempt from municipal income tax in all municipalities. If your municipality currently taxes the income of individuals under 18, the Bill requires that you adopt this exemption by ordinance or resolution. R.C. 718.01(C)(15)
- **Existing Language Correction.** The Bill makes a cross-reference correction to existing language regarding the net operating loss carryforward. The correction is effective for tax year 2023. The Bill requires all municipalities to adopt this correction by ordinance or resolution. R.C. 718.01(D)(1)(3)(c)(ii)
- **Alternative Apportionment for Businesses with Remote Workers.** For tax years ending on or after December 31, 2023, businesses with remote workers will be permitted to use an alternative apportionment formula for their net profit filings. Instead of apportioning net profits to the municipalities where employees are performing remote work, businesses may elect to apportion net profits to employees' reporting locations, which in most cases will be a location owned or controlled by the employer business. This provision only impacts business net profits filings, and does not change an employer's obligation to withhold tax for employees' remote work locations. We will have more to report on this provision as we prepare for the tax year 2023 filing season. R.C. 718.02(A), 718.02(D), 718.021, 718.82(A), 718.82(D), 718.821 (this provision results in the renumber of existing R.C. 718.021 to R.C. 718.17)

- **Net Profit Extension Filings Extended One Month.** For business net profit filers that are on a federal filing extension, the Bill extends the municipal income tax filing deadline by one month, to the 15th day of the 11th month after the end of the taxpayer's tax year. This provision is in effect for tax years ending on or after January 1, 2023, meaning fiscal year net profit filers with a fiscal year ending during 2023 will receive the benefit of this additional month, if they are on a federal filing extension. R.C. 718.05(G)(2)(a), 718.85(D)(1)(a)
- **Notices Prohibited While Taxpayers on Extension.** The Bill prohibits tax administrators from sending non-filing inquiries or notices to taxpayers about a tax year for which the taxpayer has a federal extension in place; and requires a municipality to reimburse a taxpayer up to \$150 for any costs a taxpayer incurs to respond to a prohibited notice. As it is not RITA's practice to send non-filing notices for a tax year until after the federal extension deadline for that tax year, this provision will not impact the non-filing programs RITA conducts for its member municipalities. R.C. 718.05(G)(5), 718.85(D)(b)(3)
- **Late Filing Penalty Capped and Waiver Required.** Beginning with tax year 2023, the penalty municipalities may charge a taxpayer for a late filed return is reduced to a maximum of \$25, from the current maximum of \$150. The Bill also requires that a municipality waive the fee the first time a taxpayer files a late return. The penalties and interest for late payment remain in place and unchanged. R.C. 718.27(C)(3), 718.89(A)(1)
- **Information Exchanged Between Municipalities and the Ohio Tax Commissioner (TC).** The Bill modifies the timing and substance of certain information exchanged between municipalities and the TC. While current law requires municipalities to notify the TC of any tax increase within 60 days of its effective date, municipalities must now notify the TC of any change in their tax rate within 60 days; and with respect to information provided by the TC to municipalities about net profit opt-in taxpayers, the Bill changes from November to December the second of two opt-in reports the TC must send to municipalities, and changes the taxpayers that the TC must include on those reports. R.C. 718.80(C)(1)(B), 718.84(B)

We are also continuing to monitor the following pieces of pending legislation:

- **Ohio House Bill 126** – to expand the municipal income tax exemption for certain military pay
- **Ohio House Bill 166** - to subject the income of foreign temporary agricultural workers to municipal income tax
- **Ohio Senate Bill 75** – to allow certain municipalities to form JEDDs without townships