

## Publications

### *State and Local Tax Alert: Ohio Senate Passes Mid Biennium Budget Bill and Considers Additional Tax Proposals*

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The Ohio Senate last week passed the state's main mid-biennium budget bill, Substitute House Bill 483 (HB 483). HB 483 now heads to a conference committee to be reconciled with the version of HB 483 passed by the Ohio House. HB 483 includes a number of proposed tax law changes. Meanwhile, the Ohio Senate Finance Committee amended Substitute House Bill 492 (HB 492) last week to include a number of proposed tax law changes. HB 492 now heads to the full Senate for consideration.

#### **HB 483**

Among the procedural and substantive tax proposals in HB 483 are:

**Real Property Tax.** HB 483 proposes to:

1. Eliminate the right of the following parties to file a complaint against a property's value: a board of county commissioners, a county prosecuting attorney, a county treasurer, a board of township trustees of any township in the county, a board of education of any school district with territory in the county, and the mayor or legislative authority of any municipal corporation with territory in the county. These entities would, however, be permitted to file a countercomplaint if a property owner filed a complaint. Under the proposal, a county recorder could file a complaint against any real property in the county, but no party could compel the county recorder to do so.
2. Exempt property that is owned by a federally tax-exempt charitable organization, provided such property is used exclusively for receiving, processing, or distributing human blood, tissue, eyes, or organs, or for related research and development.
3. Exempt property that is owned or leased by an LLC whose sole managing member is a charitable or educational institution. This exemption is available only if a building on the property is, or is part of, a certified historic structure, the property is used exclusively for charitable or public purposes, and the LLC's articles of organization

state that the sole purpose of the LLC is to rehabilitate the property using revenue from the federal or Ohio historic rehabilitation tax credit.

**Public Utility Personal Property Tax.** In the case of taxable property of a water-works company, HB 483 proposes to tax such property that is first subject to tax in 2014 or thereafter at 25% of true value rather than 88% as current law would otherwise require. All other taxable property of a water-works company would remain taxable at 88% of true value.

**Sales Tax.** HB 483 proposes to:

1. Authorize the Ohio Department of Taxation to disclose to a board of county commissioners a vendor's sales and use tax returns and audit information necessary to verify the vendor's compliance with county sales tax laws.
2. Modify the conditions under which a vendor and the Tax Commissioner can enter into a prearranged agreement for remitting sales tax. The agreement will be based on proportions and ratios determined by a test check conducted by the Tax Commissioner or by any other method agreed to by the vendor and the Tax Commissioner.

**Municipal Income Taxation.** HB 483 would require municipal corporations to annually report to the Tax Commissioner the amount of taxes paid by resident individuals and nonresident individuals. The Tax Commissioner would be required to publish this information on the Tax Commissioner's website.

**Income Tax.** HB 483 proposes to:

1. Make the 2015 marginal income tax rate reductions that were enacted in last year's budget bill effective as of January 1, 2014.
2. For 2014 only, increase the amount of the small business investor deduction from 50% to 75% of an individual's Ohio-sourced business income.
3. Increase the deduction for personal and dependent exemptions for individuals with adjusted gross income that is less than or equal to \$80,000. These amounts would be indexed for inflation annually beginning in 2016.

**Historic Rehabilitation Tax Credit.** HB 483 proposes to:

1. Authorize the Director of Development Services to issue one tax credit certificate per state fiscal biennium to an applicant owning a "catalytic project," defined as the rehabilitation of a historic building that will foster economic development within 2,500 feet of the building. The total tax credit could be up to \$25 million although the certificate owner would be limited to claiming tax credits of \$5 million per year.
2. Temporarily allow C corporations receiving a tax credit certificate after December 31, 2013 but before June 30, 2015 to claim the tax credit against the commercial activity tax.

**HB 492**

HB 492 also contains procedural and substantive tax proposals, including:

**Petroleum Activity Tax.** HB 492 would make a host of changes to this new tax that takes effect on July 1, 2014. HB 492 would:

1. Change the tax base from actual gross receipts to “calculated gross receipts.” The new tax base is equal to the product of the supplier’s total gallons sold during the calendar quarter and the average wholesale price of a gallon of unleaded regular gasoline (or diesel as the case may be) for the calendar quarter as published by the Tax Commissioner.
2. Clarify that the taxable “first sale” of motor fuel occurs when sold to a point outside a distribution system without regard to where title transfers or other conditions of sale, for delivery to a location in Ohio as shown on a bill of lading or other similar document issued by the terminal, refinery, or supplier.
3. Exclude from a “first sale” receipts realized from motor fuel exchanges between two or more suppliers or dealers occurring at a refinery, terminal, pipeline, or marine vessel for no monetary compensation other than for differences in product location, grade, or handling.
4. Clarify that the petroleum activity tax statutes do not prohibit a taxpayer from billing or invoicing the tax to motor fuel purchasers.
5. Subject to the tax only those businesses with a “substantial nexus” to Ohio. This is the same standard Ohio law uses to determine businesses subject to the commercial activity tax.

**Motor Fuel Excise Tax.** HB 492 contains revisions allowing the Tax Commissioner to require electronic payment and penalties for noncompliance therewith, and allowing the Tax Commissioner to provide retail dealers with a wholesale dealer’s FEIN or motor fuel tax account number to assist the retailer dealer with receiving a refund for fuel lost through shrinkage and evaporation.

**Tax Credits.** HB 492 would:

1. Permit municipal corporations to award job creation or retention tax credits to taxpayers even if such taxpayers are not recipients of a corresponding state tax credit.
2. Reduce the required holding period for investments qualifying for “InvestOhio” tax credits from five years to two years.
3. Allow the Director of Development Services to reduce the amount, percentage, or term of a research and development loan tax credit if the Director determines the borrower is in default under the loan agreement, lease, or other instrument governing repayment of the loan.

**Tax Overpayments.** HB 492 would impose a new duty on the Tax Commissioner to review taxpayer accounts and inform taxpayers of credit account balances at least 60 days prior to the date the statute of limitations for requesting a refund would expire. Furthermore, the Tax Commissioner would be authorized to apply credit account balances to the taxpayer’s future tax periods with respect to the tax in question or simply issue the taxpayer a refund notwithstanding the normal processes by which taxpayers are required to request a refund.

HB 483 and HB 492 would make other less significant law changes to the taxes and topics discussed above. In this regard, our Alert is detailed but not comprehensive. If you have questions about HB 483 and HB 492 and how these proposed law changes might affect your business if enacted, please contact your Vorys attorney or Anthony L. Ehler at (614) 464-8282, David A. Froling at (614) 464-3022, or John S. Petzinger at (614) 464-5696.