



# SALT WATCH

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## Ohio Municipal Income Tax Reform Bill Proposed

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In an effort to reform the current Ohio municipal income tax system, state of Ohio Representatives Cheryl Grossman and Michael Henne have introduced HB 601 which, if enacted, would streamline Ohio municipal income taxation. Ohio is one of only ten states that allow municipalities to impose an income tax, and nearly 600 do so. Municipalities are largely free to create their own rules and policies to administer their income tax programs. This has resulted in a wide array of inconsistencies throughout the state.

The objective of municipal tax reform in Ohio is to create statewide uniformity and to increase the competitiveness of Ohio's economic climate. The following is a highlight of the more significant proposed changes contained in HB 601 aimed at obtaining uniformity in Ohio municipal income tax:

### Net Operating Loss Carry Forward

HB 601 includes a provision that would allow businesses a five year net operating loss carry forward beginning with tax years ending in 2014. The carry forward provision would be phased-in over five years in twenty percent increments.

### Treatment of Pass-Through Entities

Currently, municipalities have the authority to tax pass-through entities either at the entity or owner level. HB 601 proposes a uniform taxation of pass-through entities by taxing them at the owner level. However, the pass-

through entity would be required to withhold tax on behalf of each owner.

### Residency

Under HB 601, for residency purposes, a "resident" is defined as an individual who is both domiciled in the state of Ohio for purposes of the personal income tax *and* domiciled in the municipality. This change would resolve any situations involving individuals that are considered a resident of an Ohio municipality without being a resident of the state.

### Income

The definition of income will also undergo a facelift so that inclusions and exemptions are uniformly applied across the state. Some of the proposed changes include:

- Defining exempt intangible income to clearly exclude gambling winnings;
- Disallowing the deduction for federal form 2106 expenses;
- Clarifying that income of individuals under 18 years of age will not be taxable unless it is included in qualifying wages.

### 12 Day Rule

Employers are currently not required to withhold municipal income tax on nonresident employee wages if the employee is in the municipality for 12 or fewer days. This rule would be expanded to 20 days. HB 601 also provides additional guidance on the definition



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of a “day” to determine whether the 20-day threshold has been met.

### Compliance

HB 601 proposes a number of compliance changes aimed at creating uniformity and includes:

- Federal tax extensions operating as an automatic extension for municipal tax;
- Allowing for elective consolidated returns to be filed in the same manner as the federal consolidated tax return;
- Creating a *de minimis* test for requiring businesses to file a tax return.

### Additional Considerations

The following proposals are also included in HB 601:

- Municipalities imposing an income tax will be required to adopt the provisions of the new ORC §718 by reference;
- Elimination of the “throw-back” rule. Sales of tangible personal property would be sourced to the location where title passes;
- Creating uniform rules for audit, assessment and appellate processes;
- The creation of a Municipal Tax Policy Board to allow municipalities to create state-wide tax forms and administrative rules;
- Imposition of a three-year statute of limitations for assessment or refund of tax if a return was filed, and a ten-year

statute of limitations for the assessment of tax if no return was filed;

- Imposing a uniform interest rate on delinquent assessed taxes. The municipal interest rate would be the same as the state rate.

### Action Items

Because this legislation was recently proposed and has been subject to scrutiny from municipalities and taxpayers alike, it is anticipated that the provisions contained in the bill will undergo significant change. GBQ will provide a series of updates as they become available.

Contact a member of the GBQ SALT team if you have any questions about municipal income tax reform in Ohio.

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