

HB 601 (Old) vs. HB 5 (New)

Issue	HB 601	HB 5	Result
Effective date	Legislation takes effect tax years beginning after 2013	Legislation doesn't take effect until tax years beginning after 2014	Cities have more time to prepare
Estimated payment	Matches federal requirement of last quarterly payment on 1/15 of 2014	Moves last quarterly payment to 12/15	Resolves a cash flow issue for cities by moving the payment back into the prior fiscal year
Situsing of services for net profits apportionment: Benefit of where the service is received vs. where the service originated	Example: For a Columbus law firm doing business for a Dublin client, the service is sitused to Dublin for purpose of net profit apportionment	Example: For a Columbus law firm doing business for a Dublin client, the service is sitused to Columbus for purposes of net profit apportionment	Maintains current practice for situsing of services for net profit apportionment resulting in no revenue shifting
Certified mail	HB 601 language was being misinterpreted as requiring all billings and general correspondence be sent by cities to taxpayers via certified mail	Clarifies that only assessments that trigger the sixty day appeal period to the local board of tax review must be sent by certified mail. Therefore other correspondence may clearly be sent by regular mail.	Clearly eliminates unintended costs to the city.
Identifying a problem resolution officer (PRO)	Language was interpreted to mean that cities must hire a problem resolution officer	Clarifies that a person must be named but not hired; i.e. an existing employee may be named	Naming a problem resolution officer instead of hiring a new employee eliminates municipalities' concerns over cost of PRO

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Estimated payment threshold	<p>1) Unclear which location would be considered the principal place of business for certain employees (2) Employee had to spend a majority of the day in a municipality to be considered a “day.”</p> <p>Threshold was \$250</p>	Changes threshold to \$200	Addresses cash flow concerns of cities
20 day rule		<p>(1) Clarifies intent that tax will be withheld and due at principal place of work for first 20 days even if the 20 day rule applies in some other municipality;</p> <p>(2) For employees who do not have a fixed location in Ohio at which they report on a regular and ordinary basis and instead report to a temporary job site or construction site, the 20 day safe harbor will not apply if the employer provides services at the construction site for more than twenty days during the calendar year;</p> <p>(3) Refines definition of “principal place of work.”</p> <p>(4) Replaces the majority “day” test with a “preponderance” test.</p>	<p>Addresses concerns of cities regarding employers that rotate employees at temporary work locations or construction sites in an effort to avoid city tax withholding obligations..</p> <p>Note: Line 628 of HB 5 contains an error that needs corrected—the bill incorrectly refers to “principal place of business” rather than “principal place of work.”</p>

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Control of business hours	Vague language caused confusion over whether the state would mandate cities' hours of operation	Language was eliminated	Deleted at cities' request - Cities will clearly have control over their business hours
Penalty and interest	Paralleled the state tax rules on penalty and interest	Adopts penalty and interest provisions recommended by cities.	Simplifies penalty and interest rules
Control of tax system by tax commissioner	Used boilerplate language already contained in the Ohio Revised Code "as determined by tax commissioner"	Eliminates language	Addresses inaccurate concerns by cities regarding state control over municipal tax
Judgments	(1) For residents of Ohio: the judgment was to be filed in the common pleas court of the county in which the taxpayer was located. (2) For non-residents of Ohio: Judgments to be filed in Franklin County Common Pleas Court	Allows judgments to be filed in the common pleas court of the county in which the municipal corporation sits	Increases cost savings to cities and reduces administrative burdens of filing judgments
Alternative apportionment	Allowed alternative apportionment to be used on original returns without pre-approval by the tax administrator	Requires either (1) prior approval of the city, or (2), if, without prior approval, allows a taxpayer to request it only on an amended return or on appeal.	Enhances cities compliance controls
Appealing decisions of the local board of review	Only allowed appeals to Ohio Board of Tax Appeals	Taxpayers or cities may appeal a decision to the Ohio Board of Tax Appeals or to their local court of common pleas	Addresses concerns that taxpayers will be less likely to appeal if their only venue is a state tax court located in Columbus
Treatment of pass thru entities' estimated payments	Was silent on treatment of estimated payments of pass thru entities	Requires pass thru entities to make estimated payments of taxes collected on behalf of the owners	Increases cash flow to cities that formerly would not have received quarterly estimated payments.

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Net operating loss (NOL) of pass thru entities	Treatment was unclear	Limited the use of NOLs of pass thru entities to each entity and not to be utilized by an owner (unless an 80 percent or more owner is included in a group of corporations making a consolidated election)	Clarifies NOL treatment and reduces city revenue losses
Definition of "taxpayer"	Didn't specify that pass thru entities are taxpayers	Treats pass-through entities as taxpayers for audit purposes	Enhances enforcement tools for the cities

The above chart highlights concessions made to cities /villages in the new municipal tax reform proposal, HB 5, introduced on January 30, 2013 by Representatives Cheryl Grossman and Mike Henne.

Maintained in HB 5 are other key concessions from last session's bill, including:

- Elimination of centralized collection proposal
- Elimination of 2106 expense deduction, which saves cities money and both cities and businesses in compliance costs
- Changed the original proposal of increasing the current 12-day occasional entry provision from a 30-day occasional entry to a 20-day occasional entry provision. Tax will be withheld and due at principal place of business for first 20 days then withheld and due starting day 21 at the location of the worksite

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