



## LEGISLATIVE UPDATE

Municipal Income Tax Seminar

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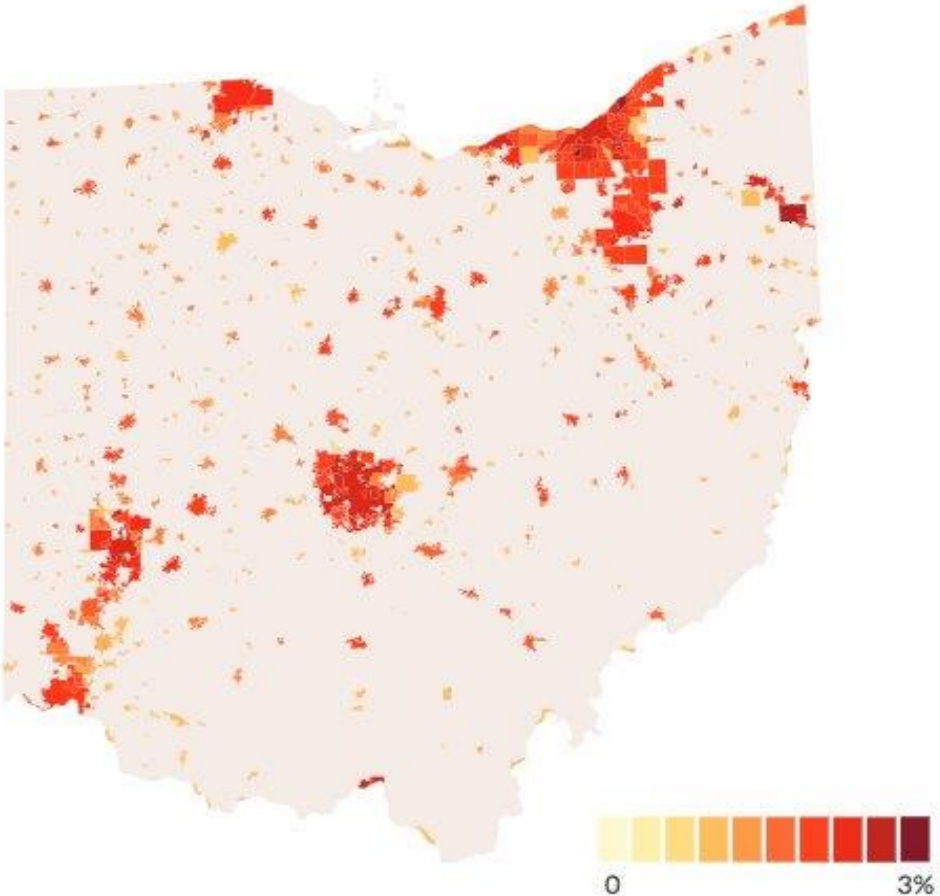
# The 132<sup>nd</sup> Ohio General Assembly

- Ohio House:
  - House Finance chair Ryan Smith newly elected Speaker
  - 66 republican and 33 democratic members
- Ohio Senate
  - 24 republican and 9 democratic members
- Final year of the two year session
- Lame Duck looms

# Roughly 614 Cities and Villages Levy an Income Tax

## More than Two-Thirds of Ohio Municipalities Levy Local Income Taxes

Ohio Municipalities that Levy a Municipal Income Tax (2017)



Today, 614 of Ohio's 900-plus municipalities levy a local income tax. The average rate is 1.4 percent, but there is considerable variation. The city of Parma Heights levies the highest rate at 3 percent, while large cities like Cleveland and Columbus levy a 2.5 percent rate. Ohio taxpayers must pay local income taxes where they work and where they live. This map does not include the 190 school districts that also levy local income taxes, with rates ranging from 0.5 to 2 percent, although they are typically not imposed in the same jurisdiction as municipal income taxes.

Individuals are not the only ones paying municipal income taxes. Businesses must also pay the tax on their net profits, if located in a municipality for 20 days or more.

Source: Ohio Department of Taxation.

# Legislation Impacting the Municipal Income Tax

## HB 133-DISASTER WORK (R-Ryan, S.)

Exempt out-of-state disaster relief persons from taxes and laws

To create the Disaster Relief Act to exempt out-of-state disaster businesses and qualifying out-of-state employees from certain taxes and laws with respect to disaster work on critical infrastructure performed in this state during a declared disaster and to modify the interest penalty for late payments of estimated income taxes. Am. 111.16, 718.01, 718.05, 1329.01, 4123.01, 4141.42, 5741.02, 5747.01, 5747.09, 5747.43, and 5751.01 and to enact sections 1701.041, 4799.04, and 5703.94 \*Signed by the Governor(6/29/2018)

- Exempts from state and municipal income taxes any income received by an out-of-state disaster business or qualifying out-of-state employee for certain work repairing public utility or communications infrastructure damaged by a declared disaster during a defined period of time.
- Exempts from the commercial activity tax any gross receipts received by an out-of-state disaster business for repairing such infrastructure during such a period.
- Exempts from state and local use taxes the temporary use in Ohio of any equipment by an out-of-state disaster business to repair such infrastructure.

# MIT legislation cont.

## HB 351-MILITARY TAX EXEMPTION (R-Perales, R., R-Butler, J.)

To require municipal corporations to exempt from taxation the military pay of members of the commissioned corps of the National Oceanic and Atmospheric Administration and Public Health Service. Am. 718.01. Passed in House (3/21/2018) 85-0. Third Hearing in Senate Ways & Means; (6/6/2018) (No testimony).

- Continuing law requires municipal corporations to exempt from municipal income tax the military pay and allowances of members of the United States Army, Navy, Air Force, Coast Guard, or Marine Corps (collectively referred to under federal law as the "Armed Forces"), their respective reserve components, or the National Guard.
- The bill requires municipal corporations to also exempt military pay and allowances of members of the Commissioned Corps of the National Oceanic and Atmospheric Administration (NOAA) and the Commissioned Corps of the Public Health Service (PHS).
- The bill accomplishes this by extending the existing exemption to include pay or allowances for any member of the "Uniformed Services," which under federal law encompasses the Armed Forces and the Commissioned Corps of NOAA and PHS.
- The bill states that the extension of the exemption applies to taxable years beginning in or after 2017.

# MIT legislation cont.

## HB 670-MUNICIPAL TAXES (D-Barnes, J.)

### Authorize agreements allocating wages subject to city income tax

To enact the "Simplified Alternative Withholding Tax Compliance Act" authorizing an employer to enter into an agreement with a municipal tax administrator to prescribe, subject to certain parameters, the portion of nonresident employee wages that will be subject to the municipal corporation's income tax. Am. 718.01, 718.011, and 718.03 and to enact section 718.032. Sponsor testimony in House State & Local Government; (6/13/2018)

- Authorizes employers doing business in multiple municipalities to enter into an agreement with a municipal tax administrator to prescribe the portion of transient employees' total wages that will be subject to the municipal corporation's income tax withholding.
- Exempts wages from the municipal corporation's tax to the extent the wages exceed the agreed-upon amount.

# Centralized Collection of Municipal Net Profit Tax

- Included in Governor Kasich's final state operating budget bill, HB 49
  - Original proposal: remove the Municipal Net Profit (718.02) from the municipal code and create a new state code 5718
  - Every business with a municipal net profit obligation would be required to go through the state
  - Charge municipalities 2.5% service fee to receive revenue
- Centralized collection of the municipal income tax is not a new concept
- HB 5 Municipal Income Tax Uniformity Bill
  - passed 2014 enacted 2016

# Coalition For Municipal Tax Reform

## Municipal Net Profit Tax Reform / The Plan



- **Support: more than 30 statewide business assns. (OH Chamber, CPAs, Mfg., Contractors, NFIB, Restaurants, Retail Merchants, etc.).**
- **Advantages:**
  - Consistency / uniformity
  - Reduced costs for businesses and municipalities
  - More efficiencies / more data analysis



# Lowlights of the Municipal Net Profit Central Collection Scheme

- State Tax Commissioner will have the authority to make all rules, prescribe forms, audit, issue bills, assessments and refunds, handle appeals, certify debts, and conduct all other necessary administrative duties.
- Businesses may opt-in for a one year period; must opt-out or automatically reenrolled
- Ohio Business Gateway (OBG) 3.0 rebuild is underway but not complete
- Municipalities have no enforcement authority over municipal filings made through the state. Munis can request ODT to audit or review a municipal business filing; the state Tax Commissioner *may* but not *shall* act on the request.
- Creates two separate sets of rules and procedures for the same class of TP completely counter to uniformity efforts.
- .5% service fee will be applied to municipalities to receive their revenue

Fun fact: Only 13% of municipal business filers have filing requirements in 4 or more jurisdictions

# Municipalities sue the state to challenge Net Profit Centralized Collection Law

- City of Athens vs. State of Ohio (filed 11/16/2017)
  - 163 Ohio cities and villages joined the suit to challenge the constitutional issues surrounding the enactment of the language (violation of single subject rule; Home Rule authorities, HB5 language)
  - The court ruled 2/21/18 that the levying of tax deals with collections; general assembly has the authority to enact collection provisions passed in HB49.
  - Currently in the Tenth District Court of Appeals, Franklin County
  - Hearing on oral arguments for appeal set 90 days after state submits its merit brief; state has until July 2<sup>nd</sup> to submit
- RITA vs. State of Ohio
  - 27 municipalities; originated in Loraine county
  - Also in Tenth District Court of Appeals, Franklin county
  - The Court combined the Athens and RITA cases
- City of Toledo vs. State of Ohio
  - Pending action in Lucas County Court of Common Pleas

# Next on Deck: Supplemental Executive Retirement Plan (SERP) exemption from municipal taxation

- Proposed amendment would exempt Supplemental Executive Retirement Plans (SERPs) from municipal taxation. Current proposed language would:
  - exempt this current non-qualified deferred compensation income received by highly compensated employees (“Golden Parachutes”); state and federal governments current tax the same income
  - current language encompass all other kinds of non-qualified income including stock option compensation
  - retroactive application to 2016.
    - municipalities have not budgeted for the expected refund requests

# Helpful Bills

- **HB 378** - OHIO BROADBAND DEVELOPMENT. Sponsored by Rep. Smith (R - Bidwell) and Rep. Cera (D - Bellaire), this bill would create the Ohio Broadband Development Grant Program, to encourage the Department of Transportation to work with telecommunications providers to lay fiber optic cable and make an appropriation. Senate Finance Committee
- **SB 225** - BROADBAND GRANTS. This bill, sponsored by Sen. Schiavoni (D - Boardman) and Sen. Eklund (R - Chardon), would create the Ohio Broadband Development Grant Program and make an appropriation. Senate Finance Committee
- **HB 281** - BROADBAND EXPANSION. Sponsored by Rep. Carfagna (R - Genoa Township), the bill would establish the residential broadband expansion program within the Development Services Agency to award matching grants for last mile broadband expansion in municipal corporations and townships and to make an appropriation. Senate Finance Committee
- **HB 469** - MIXED-USE TAX CREDITS. This bill, sponsored by Rep. Schuring (R - Canton) and Rep. Patton (R - Strongsville), would authorize a nonrefundable insurance company tax credit for contributions of capital to transformational mixed-use development projects. House Government Accountability & Oversight Committee.
- **HB 415** - ROAD IMPROVEMENT. Sponsored by Rep. Greenspan (R - Westlake) and Rep. Ryan (R - Granville), the bill would allocate one-half of any surplus revenue to a new Local Government Road Improvement Fund, from which money will be distributed directly to local governments to fund road improvements. Senate Finance Committee.
- **SB 181** - UNPAID MUNICIPAL GARBAGE FEES. Sponsored by Sen. O'Brien (D - Bazetta) and Sen. Yuko (D - Richmond Heights), the bill would authorize all municipal corporations that charge a garbage collection fee to certify unpaid amounts to the county auditor, who must enter the fees on the property tax list to be collected in the same manner as real property taxes. 6/6/18 Passed out of Senate Ways & Means Committee
- **HB 422** - WATER SEWER ACQUISITIONS. Sponsored by Rep. Ginter (R - Salem) and Rep. Rogers (Mentor-on-the-Lake), this bill would govern acquisitions of municipal water-works and sewage disposal system companies by certain larger nonmunicipal water-works or sewage disposal system companies. Senate Public Utilities Committee

## Local Government Fund Good

- **SB 17- LOCAL GOVERNMENT FUNDING** Sen. Tavares (D-Columbus) To increase monthly allocations to the Local Government Fund from 1.66% to 3.68% of the total tax revenue credited to the General Revenue Fund each month.
- **HB 538- TAXES TO LOCAL GOVERNMENT FUND INCREASE** Sponsored by Rep. Cera (D - Bellaire) and Rep. Rogers (D - Mentor-on-the-Lake), this bill would increase the proportion of state tax revenue allocated to the Local Government Fund from 1.66% to 3.53% beginning July 1, 2019. House Ways & Means Committee.
- **HB 654-LOCAL GOVERNMENT FUNDING** Reps. Smith, K. (D-Euclid) Boggs, K. (D-Columbus) To make a supplemental appropriation under the budget of the Auditor of State to make disbursements to political subdivisions appearing on the Auditor of State's fiscal caution, fiscal watch, or fiscal emergency list during the FY 2018-FY 2019 biennium. House Finance Committee.

# Local Government Fund Not Good

- **HB210-** TRAFFIC PHOTO RESTRICTION-REVENUE LIMIT Rep. Patton (R - Strongsville) , this bill would prohibit a local authority from deriving more than 30 per cent of the total annual revenue of the local authority from the issuance of tickets for traffic law violations based on evidence recorded by traffic law photo-monitoring devices. House State & Local Government Committee.
- **HB410-** TRAFFIC CAMERAS Rep. Seitz (R - Cincinnati) and Rep. Butler (R - Oakwood), this bill would deduct Local Government Fund (LGF) distributions from municipalities in the exact amount of revenue which that municipality generates via traffic citations issued by traffic cameras. Passed the House 3/21/18; Referred to Senate Judiciary committee.
- **HB 602-** WATER SEWER SERVICES Reps. Duffey, (R-Worthington) & Lanese, L. (R-Grove City) To penalize a municipal corporation for engaging in certain actions related to its provision of water and sewer services outside of its territory by reducing or withholding payments the municipal corporation receives from the Local Government Fund and rendering the municipal corporation ineligible for state water and sewer development funds. Third hearing 6/26/18 House Finance committee.
- **HB179** - IMMIGRATION LAW COMPLIANCE by Rep. Keller (R - Middletown) this bill would require state and local authorities to cooperate with the federal government in the enforcement of immigration laws, to prohibit a local government that fails to do so from receiving certain state funds, to provide for the removal of officers of a local government that fails to do so, and to declare an emergency. House Government Accountability & Oversight Committee.
- **SB162** - WITHHOLDING FUNDS-SANCTUARY CITIES Sen. Jordan (R - Ostrander), this bill would withhold local government fund payments to municipal corporations that have enacted an ordinance, policy, directive, rule, or resolution that hinders or prevents municipal employees from cooperating with state or federal immigration services or from complying with executive orders pertaining to immigration. Senate Finance Committee.

# Preemptions

- **HB 478-SMALL CELL INFRASTRUCTURE** sponsored by Smith and LaTourette, modifies the law regarding wireless service and the placement of small cell wireless facilities in the public way. A product of SB 331, the “Petland” bill from the 131st GA. **Effective August 1, 2018**
- **HB 625- AUXILIARY CONTAINERS** sponsored by Rep. Lang (R - West Chester Township) and Rep. Lipps (R - Franklin), would authorize a person to use an auxiliary container for any purpose, to prohibit a municipal corporation, charter county, or limited home rule township from imposing a tax or fee on auxiliary containers, and to clarify that the existing anti-littering law applies to auxiliary containers. Proponents: the Ohio Council of Retail Merchants, the Ohio Chamber of Commerce and the Ohio Manufacturers' Association. It is important to note that to date, no municipality, county or township in Ohio have passed any such tax or fee on auxiliary containers. House Economic Development, Commerce and Labor Committee. 2 hearings.
- **SB 210 - AUXILIARY CONTAINERS** sponsored by Sen. Coley (R - Liberty Township), would authorize a person to use an auxiliary container for any purpose, to prohibit a municipal corporation from imposing a tax or fee on auxiliary containers, and to clarify that the existing anti-littering law applies to auxiliary containers. Senate Health, Human Services & Medicaid Committee. 4 hearings.
- **HB 175 - URBAN FARMING** sponsored by Rep. Brinkman (R - Mt. Lookout), this bill would allow an owner of residential property to keep, harbor, breed, or maintain small livestock on the property, and prohibit zoning authorities from regulating certain agricultural activities conducted on residential property for noncommercial purposes. House Agriculture & Rural Development Committee. 2 hearings
- **HB 228 – STAND YOUR GROUND** sponsored by Rep. Johnson (R - McDermott) and Rep. LaTourette (R - Chagrin Falls), this bill would assign to the prosecution the burden of disproving a self-defense or related claim, expand the locations at which a person has no duty to retreat before using force under both civil and criminal law, and to modify the Concealed Handgun Licensing Law regarding a licensee's duty to keep the licensee's hands in plain sight, the penalties for illegally carrying a concealed firearm or improperly handling firearms in a motor vehicle, and the posting of warning signs regarding the possession of weapons on specified premises. Passed out of House Federalism & Interstate Relations Committee 5/22/18.

# Sovereign Immunity

- **HB 267** POLITICAL SUBDIVISION LIABILITY Sponsored by Rep. Ingram (D-Cincinnati) would eliminate certain defenses to political subdivision liability for an employee's negligent operation of a motor vehicle and to reduce damages recoverable against a political subdivision in such actions by the contributory fault of the plaintiff or other parties. House Civil Justice Committee. 2 hearings
- **HB 419** - SOVEREIGN IMMUNITY. Sponsored by Rep. Henne (R - Clayton), this bill would modify the defense to the liability of a member of a police or fire department or emergency medical service of a political subdivision for the negligent operation of a motor vehicle in response to an emergency by modifying the definition of "emergency call." 5/16/18 voted out of House Civil Justice Committee.



# Infrastructure

- Ohio:
  - ranks 2<sup>nd</sup> in the nation with about 45,000 bridges
  - has the 3<sup>rd</sup> largest number of urbanized areas in the country, behind Texas and California
  - has the 4<sup>th</sup> largest interstate highway network in the country with 50,000 lane miles of state roads
  - is the 5<sup>th</sup> largest amount of vehicle miles traveled in the country
  - projects a \$213 million shortfall in funding to ODOT by 2020

Since 2013, 26 state have adjusted or raised their gas tax including all of the states surrounding Ohio

# QUESTIONS???

Ohio Legislative Service Commission (LSC)

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OML Website:

[www.omlohio.org](http://www.omlohio.org)

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