

HB 5 Sub Bill in Senate Ways & Means 12/02/14

- Adopts the 25 generally recognized common law factors to create more certainty when determining residency.
- Provides a procedure for taxpayers to appeal a denied refund claim on a tax return.
- Allows the cities to force a combination of tax return filings if transactions among related entities both are not at arm's length and shift income or expenses.
- Increases the estimated tax payment threshold requirement from \$100 per year (or \$25 per quarter) to \$200 per year (or \$50 per quarter).
- Limits the number of forms and attachments to tax returns.
- Gives the tax administrator flexibility by making all penalties discretionary.
- Requires cities with a population of more than 30,000 to publish contact information for a person designated to receive tax inquiries from the public.
- Includes the full version of the state's Taxpayer Bill of Rights at the local level.
- Strengthens language against potential Home Rule challenge by defining the constitutional basis for the General Assembly's decision to enact HB 5 and create uniformity for the municipal income tax system.
- Adopts the "Mailbox Rule" for annual tax returns as well as for quarterly estimated tax returns, meaning that taxpayers are considered to timely file any tax return if it is placed in the mail by the due date.
- Makes changes to ensure that NOLs may be carried forward for five years by resident individuals, and that NOLs carried forward by a pass-through entity must be ignored for the purposes of calculating the amount of net profit passed through to the owner. Also ensures that NOLs may be used by a taxpayer only once.
- Adopts language that is parallel with state law provisions regarding alternative apportionment. As a result, taxpayers will be permitted to request alternative apportionment in unique circumstances and tax administrators will be permitted to reject unreasonable requests. Allows the notice from the taxpayer requesting alternative apportionment to be submitted along with the filing.
- Removes the provision in HB 5 that requires employers to provide a list of employees to each city in which the employee works less than 20 days.
- Reinstates the 5th prong of the Offers in Compromise program (OIC), therefore aligning it with the state's program.
- Applies the 20 day casual entrant rule to all compensation.
- Synchronizes municipal return filing dates with state filing dates.
- Maintains current law under the Ohio Department of Taxation regarding the disclosure of taxpayer information.
- Requires a business that reasonably anticipates that it will be providing services in a municipality for 21 days or more in a calendar year to withhold municipal income taxes in that city for all employees from day one.
- Makes changes to the definition of principal place of work to provide a mechanism to determine how to allocate qualifying wages for employees who work the same number of days in two or more municipal corporations.
- Grandfathers existing consolidated and combined elections or filing agreements that were in effect prior to HB 5.

- Reinstates current law under the throwback provision.
- Changes the due date of the extended municipal tax revenue to coincide with the federal due date of October 15.
- Creates the Municipal Income Tax Revenue Reporting Study Committee to study the feasibility of requiring municipal corporations to report the amount of revenue received from residents and non-residents.
- Ensures that the treatment of an affiliated group that includes an incumbent local exchange carrier (ILEC) operating in Ohio does not unintentionally extend to an affiliated group that does not include an ILEC operating in Ohio.
- Removes language related to written determinations.
- Allows cities to waive the requirement for filing a declaration of estimated taxes for all taxpayers by ordinance or rule.