

OSCPA 2023-2024 LEGISLATIVE AND REGULATORY PRIORITIES

Top issues from OSCPAs legislative and regulatory agenda for the 135th General Assembly (2023 – 2024) which began January 2023. As the 135th Ohio General Assembly proceeds, this list will continue to grow as issues are introduced or otherwise identified of positive interest or negative concern to OSCPAs members.

OSCPA priorities enacted this session

- 1) **State/Federal Tax Conformity Legislation.** [Senate Bill 10](#) incorporates into Ohio law the Internal Revenue Code changes made since February 17, 2022, when H.B. 51 (134th GA) brought Ohio into conformity with federal law and its applicability to Ohio’s income taxes. S.B. 10 will incorporate federal tax provisions that were enacted as part of the Inflation Reduction Act (H.R. 5376) signed on August 16, 2022, and the Consolidated Appropriations Act, 2023 (H.R. 2617) passed on Dec. 23, 2022. STATUS: S.B. 10 passed the Ohio House on March 1 with an emergency clause by a vote of 88-7 after previously passing the Ohio Senate on Feb. 8 with a vote of 30-0. OSCPAs testified as a proponent in both the House and Senate Ways & Means Committees. Gov. DeWine signed S.B. 10 into law on March 15 and it took effect immediately.

OSCPA priorities pending this session

- 1) **Biennial Budget Bill.** Governor DeWine released his version of Ohio’s biennial budget legislation for fiscal years 2024-2025 to the Ohio House on January 31, 2023. The legislature must complete the process by midnight on June 30, 2023 so the funding will be in place by the beginning of Ohio’s FY 2024 (July 1, 2023). The bill is over nine thousand pages long and incorporates not only billions in funding for state agencies, local governments and more, but also numerous policy changes. STATUS: The Ohio House passed [House Bill 33](#) on April 26 by a 78-19 vote, and the Ohio Senate passed H.B. 33 on June 15 by a 24-7 party-line vote – it’s currently pending in conference committee to work out the differences. The comparison document of the current tax policy provisions [can be found here](#). Several of our priorities below were amended into H.B. 33 – references to TAXCD## are to the comparison document.

H.B. 33 currently proposes phasing in a two-year income tax reduction taking Ohio from four brackets to just two – the marginal rates will be 2.75% for incomes over \$26,050 and 3.5% for incomes over \$92,150. Ohioans making \$26,050 or less would pay no income taxes (**TAXCD68**).

An earlier version of H.B. 33 proposed phasing in, again over two years, a 25% across-the-board reduction in the Commercial Activity Tax (CAT) rate and annual minimum taxes, eventually bringing the CAT rate from 0.26% down to 0.195% by 2025. This was the first major reduction being proposed to the CAT rate since the CAT’s inception. Since 2005, the OSCPAs and other major business associations have advocated no changes be made to the CAT to mitigate any future CAT rate increases. After seeing the Senate proposal, the OSCPAs quickly formed and led a coalition with other business groups to offer an alternative approach to achieve the same revenue cut as the Senate’s CAT rate reduction proposal. [OSCPAs alternative proposal](#) was substantially adopted, keeping the CAT rate at 0.26% but exempting from CAT taxable gross receipts of \$3 million or less (for tax periods beginning in 2024), and then exempting taxable gross receipts of \$6 million or less (for tax periods in 2025). The new exemption will apply to all businesses and is a substantial increase to the current exemption for taxable gross receipts (\$150,000 or less), which has remained unchanged for the past 18 years (**TAXCD81**).

For tax periods in 2026 and thereafter, the Tax Commissioner must annually adjust the exemption amount for inflation. Businesses with taxable gross receipts exceeding the exemption amount will pay the existing CAT rate of 0.26% on that excess. Importantly for tax practitioners, it eliminates thousands of businesses from calendar year CAT filing, which was principally available to taxpayers with less than \$1 million in taxable gross receipts, who are now exempted from the CAT. After the two-year phase-in, an estimated 90% of all Ohio-based businesses will no longer pay CAT (roughly 145,000 of the current 163,000 CAT payers).

2) **Addressing the CPA Profession's Workforce Challenges.** The ability to hire and retain skilled talent is one of the top challenges facing the CPA profession. OSCPA is working with AICPA, NASBA, other state CPA societies and other Ohio business groups to find solutions to make Ohio more attractive, economically and culturally, to keep the best and brightest here in our state. Among OSCPA's initiatives:

- **CPA Pipeline.** Concurrent with discussions with targeted CPA societies and AICPA, OSCPA is quickly evaluating the best ways to encourage more Ohio students to pursue the CPA designation, how best to create more education options for Ohio candidates, and how best to ease the Exam challenges -- all while still working to protect interstate mobility.

An effort has been made over the past six months by OSCPA, AICPA, NASBA and other state CPA societies to permanently increase the length of time candidates have to pass the CPA Exam. Currently it is 18 months. After pressure from OSCPA and other interested parties, NASBA's Uniform Accountancy Act Committee increased the model language to 30 months – adding a full year to the length of time CPA candidates have to pass all four parts. While OSCPA originally supported an increase to 36 months, we recognize that uniformity across states is important to avoid any surprises for CPA candidates trying to get licensed. At its June 9 meeting, the Ohio Accountancy Board voted to pursue a rule change adopting the 30-month window, and also gave its executive director authority to increase the window by up to 12 months for current candidates with timing challenges. The new rule will take effect in approximately six months. CPA candidates who are about to lose credit for Exam parts are encouraged to contact the Ohio Accountancy Board at 614-466-4135 to see if they can qualify for an extension.

Concurrently, OSCPA is supporting two provisions added to the Senate version of the biennial budget bill focused on CPA pipeline expansion. If enacted, the bill:

- Eliminates the Ohio residency requirement for individuals to send CPA Exam scores to Ohio, or for them to get their CPA certificate here in Ohio.
- Recognizes that much more needs to be done to reverse the shrinking number of Ohioans seeking to become Ohio CPAs, so at least half of the \$30 licensing fee surcharge paid by CPAs into the Accountancy Board's Education Assistance Fund will go toward Ohio workforce development and pipeline initiatives targeting minority, first generation and non-traditional students, and other high school and college students. Significant scholarships will continue to be awarded from the Fund, but the pool of recipients has been expanded, including to qualified individuals who have met their education requirement but need assistance with CPA review courses and Exam fees. Currently, the Fund raises \$525,000 a year, but rarely gets close to spending all of it due to a lack of qualified scholarship applicants.

This Fund was created when the 150-hour requirement was implemented in the

1990's, and targeted scholarships for minority and economically disadvantaged accounting students for their 5th year of education, as well as workforce efforts.

- **Make Ohio a Job Magnet.** Working with the DeWine Administration, state legislators and other Ohio business organizations, OSCPA continues to pursue improvements to improve our economic climate for employers and employees alike through tax reforms, and broad-based workforce transformation efforts. Many such provisions are currently contained in the Ohio budget bill – H.B. 33 – which is currently being debated by a House/Senate conference committee.
 - **Diversity and Inclusion.** Over the past several years, OSCPA has formally supported legislation that would make Ohio a more welcoming and diverse state and will continue to support business-related bills that make Ohio more inclusive. Efforts include:
 - i. Seeking to expand Ohio anti-discrimination laws by including gender preference and sexual orientation as protected classes for employment and housing. OSCPA believes this change will help Ohio attract a more diverse population of CPAs, allow our state to better compete for top talent and enhance economic development efforts in our state. Legislation in past General Assemblies did not make it across the finish line; OSCPA will be working with other interested parties on a successful outcome this session.
 - ii. OSCPA serves on the steering committee of organizations supporting this issue and working to secure legislative support. Related, OSCPA is a member of OhioBusinessCompetes.com, a broad business coalition with over 1,200 member businesses across the state supporting DEI in the workplace.
 - iii. OSCPA is also prioritizing efforts to end racism in our state through a multipronged approach: Board and CEO leadership, including reengaging OSCPA's Diversity and Inclusion Task Force; significant organizational financial support to mobilize and engage Ohio CPAs in this effort; and advancing public policy efforts that focus on ending racism.
- 2) **Deduction of Bonus Depreciation and Expensing Allowances (TAXCD72).** [House Bill 116](#) seeks to amend R.C. 5747.01 to allow taxpayers to deduct in a single year the full bonus depreciation and enhanced expensing allowances the taxpayer deducts for federal income tax purposes. The bill creates an election allowing taxpayers to eliminate the addback and phase out subtraction. The sponsors are State Rep. Bob Peterson (R-Washington Court House) and State Rep. Thad Claggett (R-Newark). STATUS: OSCPA provided proponent testimony in favor of H.B. 116 at its second hearing in the House Ways & Means Committee on April 18, and it was voted out of the committee on May 2. H.B. 116 was amended into H.B. 33 prior to passing the Ohio House, but the Ohio Senate removed this provision.
- 3) **Municipal Notices and Late Filing Fees (TAXCD61 and 62).** [House Bill 105](#) places limits on late filing penalties under R.C. 718.27. In some cases, taxpayers currently can be charged up to \$150 in late filing fees even if they owe no tax. The legislation: (1) limits the late filing penalty to \$25, rather than the bill's previous cap at 50% of tax liability or the \$150 cap in current law; (2) requires any late filing penalty assessed on a taxpayer's first late filing to be refunded or abated once the taxpayer files the overdue return. Additionally, for taxpayers who have a filing extension, it will prohibit tax administrators from sending inquiries or notices prior to the taxpayer filing the return or prior to the extended due date, whichever comes first. Further, if this prohibition is violated, tax administrators would be required to reimburse the taxpayer for any costs incurred to respond to that inquiry. H.B. 105 is sponsored by State Rep. Jim Thomas (R-Jackson Twp.). STATUS: OSCPA provided proponent testimony in favor of H.B. 105 at its second hearing in the House Ways & Means Committee on March 28, and it passed the House 88-0 on

May 24. The Ohio House amended H.B. 105 into H.B. 33, along with another OSCP priority that would extend the due date for filing municipal net profits tax returns from October 15 to November 15.

- 4) **Municipal Net Profits Tax Safe Harbor (TAXCD84).** [House Bill 121](#) allows businesses with remote/hybrid employees or owners to use a modified apportionment formula. It would provide the following: when an employee or owner works at a remote work location, the business may elect to apportion any property, payroll, or sales (gross receipts) attributable to that employee or owner to a designated location owned or controlled either by the business or one of its customers. The sponsors are State Rep. Monica Robb Blasdel (R-Columbiana) and State Rep. Adam Mathews (R-Lebanon). STATUS: OSCP provided proponent testimony in favor of H.B. 121 at its second hearing in the House Ways & Means Committee on April 25, and it passed the House 93-0 on June 14. The Ohio Senate amended H.B. 121 into H.B. 33.
- 5) **Resident tax credit for SALT cap deduction from other states (TAXCD92).** OSCP-supported [Senate Bill 246](#) (134th GA), also known as Ohio’s version of the SALT cap deduction parity/workaround, authorized pass-through entity (PTE) owners to claim a refundable credit against the owner’s Ohio income tax liability equal to the owner’s proportionate share of the tax paid by the PTE. Those who “elect” to be subject to this new entity-level tax in response to the federal \$10,000 SALT deduction cap limit placed on individuals must file the new Form IT 4738. The ODT’s guidance on this process can be found by [clicking here](#). OSCP is now advocating for a resident tax credit that would modify the income tax treatment of income subject to other states’ PTE taxes. Ohio is one of the only states that authorizes a PTE tax (see the [map of states](#)), but does not allow a [credit for taxes paid to another state](#). STATUS: [House Bill 200](#) was introduced on June 6 by State Rep. Jamie Callender (R-Concord) and State Rep. Tom Young (R-Washington Twp.). The Ohio Senate amended H.B. 200 into H.B. 33.
- 6) **Guaranteed Payments and BID.** [House Bill 138](#) would classify guaranteed payments paid to pass-through entity (PTE) investors, regardless of their ownership interest, as “business income” and therefore eligible for the business income deduction and flat income tax rate. The sponsors are State Rep. Angie King (R-Celina) and State Rep. Tom Young (R-Washington Twp.). STATUS: OSCP provided proponent testimony in favor of H.B. 138 at its second hearing in the House Ways & Means Committee on May 2.
- 7) **Repeal Marriage Tax Penalty.** [House Bill 199](#) proposes to modify the joint filing credit for taxable years beginning in 2024 and after, such that joint filers would not pay more income tax on their state return than they would if they filed separately. The sponsors are State Rep. Tom Young (R-Washington Twp.) and State Rep. Bill Dean (R-Xenia). STATUS: OSCP provided proponent testimony in favor of H.B. 199 at its second hearing in the House Ways & Means Committee on June 20.
- 8) **ESG investments.** OSCP is closely watching pending legislation addressing a business opportunity for many CPA firms and a charge to many businesses: Environmental, Social and Governance reporting. Currently pending legislation – [Senate Bill 6](#) - seeks to address State of Ohio investment policies by stating that ESG considerations can be a part of state retirement systems and other state entities but cannot be the primary reason for investment decisions. This bill was recently voted out of the Ohio Senate by a 23-7 vote.

Litigation of Note

The following case is a priority area of concern to Ohio CPAs:

- 1) **Municipal Income Withholding and Refunds.** In the 2021 budget bill (H.B. 110, 134th GA), OSCPA supported clarifying language that Section 29 of House Bill 197 (133rd GA) was not intended to apply to the taxability of the employee's wages. This law change early in the pandemic addressed the significant withholding challenges faced by employers of workers who suddenly were working remotely – often outside of the city where the business itself was located. Although OSCPA preferred the Senate's original language in H.B. 110 granting refunds for both tax years 2020 and 2021, the final version only clarified 2021 refunds. At least for tax year 2021, this change allowed qualified employees to receive a refund of taxes withheld to a municipality where they neither lived nor physically performed services.

The courts will need to decide the refund issue for 2020. Several cases were filed in Ohio questioning the constitutionality of requiring individual taxpayers to pay income tax to municipalities where they neither live nor physically worked. Two cases have reached the Ohio Supreme Court. Both were decided against the plaintiffs (taxpayers) at the appellate level, and the Ohio Supreme Court declined to hear the first appeal in March 2022. However, the Ohio Supreme Court voted 4-3 on June 7, 2022 to take up the second case, [Schaad v. Alder](#). OSCPA agrees with taxpayers' constitutionality concerns and filed an amicus brief on Aug. 10, 2022. The Court held oral arguments on March 1, leaving 2020 refunds up in the air until a decision is released in mid-2023.

For more information on any of these issues, please reach out to OSCPA's Government Relations Team:

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