THE OHIO SOCIETY OF CPAs
ADVANCING THE STATE OF BUSINESS

2023-2024 BUDGET BILL SUMMARY, LEGISLATIVE AND REGULATORY ISSUES

Top issues from OSCPA's 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 be revised as issues are introduced or otherwise identified as of positive interest or negative concern to OSCPA members. Any bills not sent to Gov. DeWine for signature by the end of 2024 will die and need to be reintroduced.

2023-24 Biennial Budget Bill. Several enacted OSCPA priorities were contained in the biennial budget bill, which was signed into law July 4, 2023. House Bill 33, Ohio's biennial budget legislation for fiscal years 2024-2025, is over six thousand pages long and incorporates not only billions in funding for state agencies & local governments, but also numerous policy changes. Adopted business priorities, including economic development and workforce-related provisions of note include:

Top Enacted Workforce-Related Budget Bill Provisions

- To address housing shortages, provides $600M for the creation and rehabilitation of housing. Includes $100M in tax credits per FY for four years for low-income, multi-family housing projects, and $50M a year in tax credits for affordable single-family housing.
- Over $100M for new and continuing investments in multi-modal public transportation.
- Provides $25.2M per FY for the popular TechCred program to support Ohio workers in expanding their skills. Target is 20,000 technology-focused credentials earned; $16M per year to encourage K-12 students to earn industry-recognized credentials; $20M to implement the Ohio Work Ready Grant Program for community and regional college students and those attending OH technology centers – up to $3,000 per students in programs leading to credential/degree aligned with in-demand jobs. Also $100M in career-tech equipment grants and $200M in career-tech construction grants to address long waiting lists for education and training.
- Childcare assistance for families earning up to 145% of the federal poverty level.

Top Enacted Economic Development Budget Bill Provisions

- $750M in new All Ohio Future Fund – supports site infrastructure to attract new businesses, encourage workforce development across the state.
  - Using upcoming federal funds for broadband development and expansion in communities with limited internet access. Also using $125M to establish new innovation hubs near anchor research institutions to increase R&D, create new jobs, preserve existing jobs.
- Targeted effort using AI tools to identify outdated processes and unnecessary requirements in Ohio laws and rules. Projected to save taxpayers $44M over the next 10 years.

Key Enacted State and Local Tax Changes Several OSCPA-driven state and municipal tax priorities were also adopted into the budget bill. The final comparison document of the tax policy provisions can be found here. References to TAXCD## are to the comparison document.

- **Personal Income Tax (TAXCD68)**: Phases 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 $100,000. Ohioans making $26,050 or less would pay no income taxes. The ODT has issued new employer withholding tables to be used for payrolls that end on or after Nov. 1, 2023.

- **<u>Commercial Activity Tax</u> (TAXCD81):** Exempts from CAT all taxable gross receipts of $3 million or less (for tax periods beginning in 2024), and then exempts taxable gross receipts of $6 million or less (for tax periods beginning in 2025). Amounts above that will remain at the existing 0.26% rate. This is the first major change to the CAT since its inception. An earlier version proposed phasing in, again over two years, a 25% across-the-board reduction in the CAT rate and annual minimum taxes. Since 2005, the OSCPA 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 OSCPA quickly formed and led a coalition with other business groups to offer an alternative approach that was substantially adopted.

  The new exemption applies 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. After the two-year phase-in, nearly 90% of all Ohio-based businesses will no longer pay CAT (roughly 145,000 of the current 163,000 CAT payers). Businesses with taxable gross receipts exceeding the exemption amount will pay the current CAT rate of 0.26% only on the excess.

  Included in the vetoes (see Item Number 39) was one impacting the CAT as the Governor struck the inflationary adjustment to those thresholds and he also vetoed the provision enabling businesses with over $150,000 but less than $6 million in annual gross receipts to avoid filing annual zero-dollar returns.

  As a result of these changes, the annual filing and annual minimum tax (AMT) will be eliminated. This means that while a large majority of taxpayers will not owe CAT, those taxpayers having more than $150,000 of gross receipts may need to file quarterly zero-dollar tax returns **UNLESS** they take action to cancel their accounts. ODT released its "official" guidance here, https://bit.ly/3R5ySkz, and updated Information Releases CAT 2005-12 and CAT 2005-03 on combined vs. consolidated filing.

  ODT has indicated most taxpayers should cancel their accounts unless they are close to the $3 million threshold in 2024 or the $6 million threshold in 2025, for example, taxpayers who previously were close to $1 million in gross receipts typically filed quarterly instead of annually. In addition, taxpayers may not want to cancel their account if they need to file to claim a tax credit, especially refundable credits.

  ODT said taxpayers that will not be subject to the CAT in 2024 may cancel CAT accounts now or with the return in 2024. The 2023 CAT annual return (due in May 2024) and the 2023 fourth quarter return (due in February 2024) will both have a checkbox on the return that allows a taxpayer to easily cancel the account back to 12/31/2023 by checking the box.

- **<u>Municipal Notices and Late Filing Fees (TAXCD61 and 62).</u>** 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 OSCPA priority that would extend the due date for filing municipal net profits tax returns from October 15 to November 15. These new laws apply to taxable years ending on or after January 1, 2023.

- **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: OSCPA 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, and the election for this alternative apportionment formula will be available for taxable years ending on or after December 31, 2023. See H.B. 33, Section 803.240. On March 6, ODT issued Information Release MNP 2024-01 for taxpayers who have elected to opt-in and have ODT administer their municipal net profit tax.

- **Resident tax credit for SALT cap deduction from other states (TAXCD92).** OSCPA-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. OSCPA successfully advocated for a resident tax credit that would modify the income tax treatment of income subject to other states' PTE taxes. To claim the resident credit, a PTE investor is required to add back SALT PTE taxes imposed by another state that the investor deducts from federal AGI as a business expense to the taxpayer's Ohio AGI. Ohio was one of the only states that authorized a PTE tax (see the map of states), but did 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. These provisions are effective for taxable years ending on or after January 1, 2023, but taxpayers are allowed to apply, at their option, the provisions to taxable years ending on or after January 1, 2022, with an amended or original return. On Oct. 12, ODT released a tax alert providing guidance on how to officially claim the credit for tax year 2022. ODT also released important updates to the pass-through entity (PTE) and fiduciary income tax (FIT) on Dec. 27.

Additional OSCPA priorities enacted/implemented this session

- **Addressing the CPA Profession's Workforce Challenges.**
  An effort has been made over the past year by OSCPA, AICPA, NASBA and other state CPA societies to permanently increase the length of time candidates have to pass the CPA Exam from its current 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. The ABO subsequently adopted a rule - with OSCPA's support – to permanently adopt the 30-month window effective Jan. 1, 2024. They also gave the ABO executive director authority to increase the window by up to a year for current candidates with timing challenges: specifically, the ABO is now giving candidates who received conditional credit for one or more subjects of the CPA Exam between Jan 1, 2023 and Dec. 15, 2023 to have the credit(s) reset to thirty months from the date the candidate received a passing grade on the first Exam subject.

  Another key change the Accountancy Board adopted Sept. 18, 2023 restores credit for any parts of the CPA Exam that were successfully taken but which expired between Jan. 30, 2020 and May 11, 2023. This restored credit for one or more parts that previously expired during that time period will be good through

June 30, 2025. The ABO said this restoration will benefit around 18,000 CPA candidates nationally. Of note: unlike Ohio, not all state accountancy boards adopted this COVID-era credit restoration.

Other CPA candidates who are about to lose credit for Exam parts and have extension-related questions are encouraged to contact the Ohio Accountancy Board at 614-466-4135.

- **State/Federal Tax Conformity Legislation**. Senate Bill 10 incorporated 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 incorporated 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. OSCPA testified as a proponent in both the House and Senate Ways & Means Committees. Gov. DeWine signed S.B. 10 into law on March 15, 2023 and it took effect immediately.

OSCPA Priorities Pending This Session

- **Continuing to Address 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 are efforts to increase the CPA pipeline. Ohio is one of the few states that already has two alternative licensure pathways in Ohio law: both 30 hours of accounting and 24 hours of business course credits, and require a minimum score of 670 on the GMAT prior to taking/passing the CPA Exam, plus: one allows licensure after obtaining a bachelors degree and four years of experience, and the second allows licensure after an associate degree plus four years of experience.

  Several other states are seriously discussing or now pursuing legislative or regulatory efforts to secure their own alternative licensure pathways. Minnesota is the closest to doing so, with pending legislation that would allow licensure with 120 semester hours of education and two years of experience, effective July 2026.

  Concurrent with discussions with 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 for existing CPAs. A key focus is on potential alternative pathways that both limit the cost of college for the remaining 30 hours of the 150-hour requirement and provide experiential learning opportunities while employed. Most recently, in March 2024 OSCPA commented on a NASBA-proposed, two-year Specialized Professional Program (SPP) seeking to provide an option of experiential learning, outside of a college transcript, in place of the last 30 hours of the 150-hour requirement.

  Separately, OSCPA is leading the Ohio Accounting Talent Coalition to address Ohio's CPA pipeline crisis and related workforce development challenges in our state. This is a collaboration of organizations that are committed to finding short- and long-term solutions to address the accounting talent shortage. Employers interested in participating are encouraged to reach out to Tiffany Crosby (TCrosby@ohiocpa.com or Lori Brown (LBrown@ohiocpa.com)

- **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 for employment and housing. Efforts include:
    - **Ohio Fairness Act.** Senate Bill 132 seeks to expand Ohio anti-discrimination laws by including gender preference and sexual orientation as protected classes. 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 serves on the steering committee of organizations supporting this issue and working to secure legislative support. Related, OSCPA is a member of Ohio Business Competes, a broad business coalition with over 1,200 member businesses across the state supporting DEI in the workplace.
    - OSCPA is also prioritizing efforts to end racism in our state through a multipronged approach: Board and CEO leadership; OSCPA's Diversity and Inclusion Task Force; significant organizational financial support to mobilize and engage Ohio CPAs in this effort; and advancing relevant public policy efforts.

- **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.

- **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: OSCPA provided proponent testimony in favor of H.B. 138 at its second hearing in the House Ways & Means Committee on May 2, 2023.

- **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: OSCPA provided proponent testimony in favor of H.B. 199 at its second hearing in the House Ways & Means Committee on June 20, 2023.

- **ESG investments.** OSCPA 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 voted out of the Ohio Senate by a 23-7 vote in 2023 and now is pending before the House Financial Institutions Committee.

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.

   Therefore, the courts needed to decide the refund issue for 2020, and the Ohio Supreme Court on Feb. 14 issued a 5-2 decision in the *Schaad v. Alder case*; read a summary of the ruling here. OSCPA filed an amicus brief in the case on Aug. 10, 2022, not questioning the constitutionality of the temporary law, but supporting those individual taxpayers who were denied refunds by the cities and required to pay income tax to municipalities where they neither lived nor physically performed services. Regrettably, Schaad's attorneys only argued that the entire statute was unconstitutional, even the withholding provision itself, so the refund issue was only secondary. Therefore, the majority opinion leads to an unfortunate result: because the temporary law was found to be constitutional, the decision ultimately denies taxpayers the ability to claim 2020 municipal income tax refunds. Some taxpayers are still filing protective refund claims, and RITA has stated the deadline is May 17, 2024 to file tax year 2020 refund requests.

2) **Amicus Briefs to protect Tort Reform**. Almost 20 years ago, OSCPA and the broader business community were successful in passing a package of strong tort reform bills, placing Ohio at the top of states with positive civil justice climates. OSCPA, as a leader of the Ohio Alliance for Civil Justice, periodically files amicus briefs in the Ohio Supreme Court to support several causes – especially defending the caps on non-economic damages to prevent both rising insurance costs and increased filing of frivolous lawsuits. We are also engaged on the following legislation to address vicarious liability in tort actions (House Bill 179), third-party litigation funding (Senate Bill 19), and asbestos litigation over-naming (Senate Bill 63).

For more information on these issues, please contact OSCPA's Government Relations Team:

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