

Proponent Testimony
Prepared for House Bill 228
The Ohio Senate Ways & Means Committee
September 28, 2021

Chair Blessing, Vice Chair Roegner, Ranking Member Williams, and Members of the Ohio Senate Ways & Means Committee, thank you for my opportunity to offer proponent testimony on House Bill 228. I'm Greg Saul, Director of Tax Policy for The Ohio Society of CPAs (OSCPA).

Under laws enacted in the 2017 budget bill, H.B. 49 (132nd GA), a business subject to municipal income taxes based on the business's net profits (payroll, property, and sales) may either report and remit these taxes separately to each taxing municipality or, effective Jan. 1, 2018, elect to report and remit all municipal net profits taxes to the Ohio Department of Taxation (ODT), which ultimately directs the revenue to the appropriate taxing municipality. The OSCPAs is pleased to support H.B. 228, and its objectives to further streamline and simplify this process.

The Ohio Supreme Court in *Athens v. McClain* on Nov. 5, 2020 held that "the General Assembly's authority to limit the power of municipalities to tax allows it to broadly preempt municipal income taxes and to require that such taxes be imposed in strict accordance with the terms dictated by legislation passed by the General Assembly. Specifically, "[b]ecause Article XVIII, Section 13 permits the General Assembly to limit the municipalities' power to levy taxes, the General Assembly can require municipalities to enact legislation that accomplishes this aim." Slip Opinion No. 2020-Ohio-5146, page 20.

Two provisions of H.B. 228 are especially helpful to taxpayers: 1) extending the date that a taxpayer can opt-in or opt-out of the state-administered tax to on or before the fifteenth day of the fourth month (April 15 for calendar-end fiscal years) after the beginning of a taxable year, rather than the first day of the third month (March 1) of a taxable year; 2) requiring the Tax Commissioner to notify municipal corporations when a taxpayer has opted-in or out of the state-administered tax, rather than the taxpayer itself notifying each municipal corporation.

Among other provisions, H.B. 228 requires ODT to develop and maintain a web portal that will be used by ODT and municipalities to securely share information for purposes of administering the net profits tax. ODT has already had such a web portal since 2018, so H.B. 228 just codifies current practice. As a result, LSC's Fiscal Note & Local Impact Statement concludes H.B. 228's provisions "would have minimal, if any, fiscal effect on the state and are expected to have minimal fiscal effect on municipalities."

Finally, the Ohio Senate amended similar language to H.B. 228 into the 2019 budget bill (H.B. 166, TAXCD23) during the 133rd GA to address these topics but did not ultimately get enacted. The Ohio House passed H.B. 228 on May 26, 2021 by a nearly unanimous vote of 91-1.

On behalf of the OSCPAs, thank you for allowing me the opportunity to share our support for House Bill 228. I would be happy to answer any of your questions.