

## 2023-2024 BUDGET BILL SUMMARY, LEGISLATIVE AND REGULATORY ISSUES

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

**2023-24 Biennial Budget Bill.** Several 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 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 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.
- Will use 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 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.

- **Commercial Activity Tax (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 on August 21 here: <https://bit.ly/3R5ySkz>

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. While taxpayers can cancel their accounts now with a future effective date of 12/31/23, they can also cancel their accounts when they file their final returns in 2024.

- **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 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.
- **Resident tax credit for SALT cap deduction from other states (TAXCD92).** OSCPA-supported [Senate Bill 246](#) (134<sup>th</sup> 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.

### **Additional OSCPA priorities enacted/implemented this session**

- **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 are efforts to increase the 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 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 now has a rule pending - 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 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.

Other 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.

- **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 (134<sup>th</sup> 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. 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 and it took effect immediately.

### **OSCPA priorities pending this session**

- **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:
  - **Ohio Fairness Act.** [Senate Bill 132](#) seeks 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.
  - 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, 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.
- **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.
- **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.
- **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 and 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, 134<sup>th</sup> GA), OSCPA supported clarifying language that Section 29 of House Bill 197 (133<sup>rd</sup> 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 the coming weeks.

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

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