



The Ohio Legislator's Guide to 2021 Taxes

Prepared by The Ohio Society of CPAs for the 2022 filing season

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*Special thanks to the following Society members responsible for
The Ohio Legislator's Guide to 2021 Taxes:*

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In recent years, The Ohio Society of Certified Public Accountants and the members of the Ohio General Assembly have formed an effective partnership in helping make Ohio a better place to work and live.

Ohio's CPAs have welcomed opportunities to testify before the House and Senate on many issues, and to share concerns through correspondence and in forums around the state. We appreciate your willingness to hear our views on matters that impact the accounting profession, business community and the taxpayer.

With more than 27,000 members, The Ohio Society of CPAs provides expert advice on a variety of economic, business and financial issues. Please don't hesitate to use The Ohio Society as a resource for any business issues of concern to you or your constituents.

In an effort to be of assistance to you, The Ohio Society has prepared, and is pleased to present, The Ohio Legislator's Guide to 2021 Taxes. This guide provides answers to some frequently raised questions about income tax laws that specifically affect you as a member of the Ohio General Assembly. As you know, tax laws change periodically, and court decisions and Internal Revenue Service rulings further complicate the picture. Therefore, material in this guide should be considered current for the 2021 tax year only. Where applicable, the guide includes material relevant to changes that begin with the 2022 tax year to assist in tax planning and compliance.

If you have additional questions, or if you need assistance in preparing your income tax return, we suggest you contact your CPA. If you don't have a CPA, we would be happy to refer you to one in your district.

Sincerely,



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PREFACE: THE CPA PROFESSION TODAY

Today's CPA plays a pivotal role in many diverse areas of business management—in government, industry and education, as well as in public accounting. CPAs bring expertise in taxation and tax planning; estate, trust and retirement planning; auditing; budgeting; management advisory services; financial management and financial forecasting; and review and compilation of financial statements.

The highest professional standards and integrity are hallmarks of the CPA profession. To earn the Certified Public Accountant designation issued by the Accountancy Board of Ohio, an applicant must:

- Fulfill stringent education requirements.
- Pass a comprehensive examination covering accounting practice, accounting theory, taxes, commercial law and auditing.
- Pass an ethics exam.
- Abide by the profession's Code of Professional Conduct.

To maintain a license for public practice by the state, a CPA must also complete 120 hours of continuing professional education (CPE) every three years. In addition, members in public practice must participate in an accredited peer review program, which ensures adherence to quality standards that the CPA profession has adopted.

The Ohio Society of CPAs represents more than 27,000 members from across the state. Its members subscribe to the rules of professional conduct embodied by the Society's Bylaws. However, members of The Ohio Society are not content to simply meet the statutory and regulatory standards that the state imposes on CPAs. Their association with The Ohio Society means they embrace rigid membership standards reflecting the strict demands they place on themselves.

Today's complex business environment is placing increasingly tougher demands on CPAs. This is why The Ohio Society has adopted stricter educational requirements to ensure future CPAs maintain the profession's traditional rigorous standards of excellence. In addition, The Ohio Society subjects all member CPAs, not just those in public practice to a Code of Professional Conduct that is goal-oriented, aspirational, ethics-based in its performance standards, and enforceable.

For these reasons, businesses and individuals in Ohio can expect excellence from CPAs who are members of The Ohio Society.

The Tax Cuts and Jobs Act (TCJA) created more than 100 new tax provisions – a staggering thought as you begin to prepare for the next filing season. Many taxpayers who've traditionally itemized their deductions might end up simply claiming the standard deduction for tax years beginning January 1, 2018 and ending before January 1, 2026.

Specifically, the TCJA suspended, for tax years beginning after 2017 and before 2026, all miscellaneous itemized deductions that are subject to the 2% – of AGI (adjusted gross income) floor, including unreimbursed employee business expenses. In the past, many legislators deducted their expenses that were not reimbursed by the State of Ohio as deductible business expenses reported on Form 2106 and then on Schedule A limited to 2% of their adjusted gross income. The ability to deduct these unreimbursed expenses incurred by state legislators diminished the after-tax cost incurred. In the past, the most common expenses incurred could include business travel, transportation and mileage, meals and entertainment, gifts, and home office expenses. Although the deductibility did not make the legislators whole, it did reduce the after-tax cost of their expenses.

Some of the more common tax deduction changes are summarized below:

	2017	2018-2025
Moving expenses	Deductible (move > 50 miles for a new job)	Eliminated
State and local taxes	Deductible (property and sales or income tax)	Capped at \$10,000 of expenses (property and sales or income tax, regardless of filing status)
Mortgage interest	Limited to interest on \$1,000,000 of debt on primary or secondary home	Limited to interest on \$750,000 of debt on primary or secondary home (no change for existing mortgages)
Home equity loan interest deduction	Limited to interest on \$100,000 of debt	Eliminated (does not apply to home equity loans for substantial home improvements that comply with debt limit)

Miscellaneous expenses, including:

<ul style="list-style-type: none"> • Tax prep fees • Investment advisory fees • Unreimbursed work expenses (travel, parking, meals, entertaining and gifts) • Depreciation on phone or computer required for work • Investment expenses 	Deductible in excess of 2% of AGI	Eliminated
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Mileage and Travel:

What this means is the business standard mileage rate listed in IRS Notice 2021-02 of (56 cents) cannot be used to claim an itemized deduction for unreimbursed employee travel expenses in tax years during the suspension. However, IRS Notice 2018-42 clarified that deductions for expenses that are deductible in determining adjusted gross income are not suspended. This would include, for example, members of a reserve component of the Armed Forces of the United States and state or local government officials paid on a fee basis are entitled to deduct unreimbursed employee travel expenses as an adjustment to total income. To the extent that these costs are not reimbursed, because Ohio state legislators are not deemed to be paid on a fee basis, such amounts would be considered unreimbursed employee business expenses that will not be deductible for tax years beginning January 1, 2018 and ending before January 1, 2026.

These changes have a great impact on the records that should be kept for travel expenses. Still applicable is the reimbursement for mileage from the State of Ohio in accordance with the most current OBM travel rule. If you are fully reimbursed for actual mileage driven at the standard mileage allowance rate, it is not necessary to report anything on your federal income tax return. As mentioned, unreimbursed business expenses are not deductible in 2021, and expenses the State of Ohio reimburses are not includable in income.

- For 2021, the rate per mile for travel allowed to a member for one round trip per week from the legislator's home to the capital would be reimbursed at 45 cents per mile for travel between January 1, 2021 and June 30, 2021. From July 1, 2021 forward, the rate increases to 52 cents per mile.

AUTOMOBILE AND TRAVEL EXPENSES

Since I receive reimbursement from the State of Ohio for mileage to Columbus while in session, plus mileage reimbursements for special meetings and other committee assignments, would it not be best to just disregard the reimbursement entirely and assume that it is completely offset by mileage expenses and, therefore, not report anything?

If you maintain business mileage records and you are fully reimbursed for actual mileage driven at the standard mileage allowance rate, it is not necessary to report anything on your federal income tax return. If you incur business expenses for which you are partially reimbursed, no deduction is allowed on the non-reimbursed portion of your business expenses for 2021. As discussed above, unreimbursed business expenses, which were previously reported on Form 2106, will not be allowed for tax years beginning on or after January 1, 2018 and ending before January 1, 2026.

FOR EXAMPLE: The 45/52 cents per mile travel allowance allowed to a member for one round trip per week from the legislator's home to the Capitol would be a reimbursement not required to be reported on their 2021 Form 2106, line 7.

Is the sales tax I pay on the purchase of my new car and the interest I pay on the loan to finance the purchase deductible anymore?

Sales tax currently is deductible if the sales tax exceeds the state and local income tax deduction. Usually the state and local income tax deduction provides a larger deduction. The Tax Cuts and Jobs Act of 2017 limits the deduction of income, sales, and property taxes allowable to individuals to a total of \$10,000 (\$5,000 in the case of a married individual filing a separate return) for all tax years beginning after December 31, 2017 and ending before January 1, 2026. Interest on a car loan for a car used by an employee is considered to be consumer interest and, as such, is not deductible. If the car loan is secured by a mortgage on your principal residence, then subject to limitations, the interest can be deducted. However, the Tax Cuts and Jobs Act of 2017 suspends the deduction for home equity interest from 2018-2026 unless the loan is used to “buy, build, or substantially improve the home that secures the loan.”

What depreciation methods are available under the current tax law?

Generally, automobiles placed in service after December 31, 1986, and used more than 50 percent for business are depreciated over five years, using a 200 percent declining balance method, with an automatic switch to straight-line at a point to maximize the deduction. Unless the auto meets the two exceptions below, then the depreciation is subject to the luxury auto limitations. Please consult your CPA for those limitations and other planning opportunities should you be considering purchasing or leasing an automobile.

Certain vehicles that weigh more than 6,000 pounds are not considered passenger automobiles under the tax code. Therefore, these vehicles are not subject to the luxury automobile depreciation limitations. Vehicles in the sport utility category are likely to meet this weight exception; expanding their options to expense the cost of purchase. SUVs are limited to a \$25,000 maximum expense deduction, assuming the vehicle is used more than 50% for business purposes under section 179. However, SUVs and other vehicles not considered passenger automobiles under the tax code can also opt to take 100% bonus depreciation if purchased before January 1, 2023.

The 2018 tax reform act increased the depreciation limitations for luxury automobiles placed in service after December 31, 2017. These depreciation limitations are adjusted annually for inflation and for 2021 were adjusted with Rev. Proc. 2021-31 to \$10,200 for the year in which the vehicle is placed in service, \$16,400 for the second year, \$9,800 for the third year, and \$5,860 for the fourth year and every year thereafter.

However, to the extent that the depreciation of an automobile would qualify as an unreimbursed employee business expense, the Tax Cuts and Jobs Act eliminates the deduction for tax years beginning on or before January 1, 2018 and ending before January 1, 2026.

LIVING EXPENSES

Prior to the enactment of the Tax Cuts and Jobs Act of 2017, the Internal Revenue Code deemed the place of residence of a member of the United States Congress within the state or district he represents to be his or her tax home, and limited the member's annual deduction for living expenses to a maximum of \$3,000. The Tax Cuts and Jobs Act of 2017 eliminated this \$3,000 deduction, effective for tax years beginning on or after January 1, 2018.

This limitation does not apply to state legislators, however, to the extent that such expenses qualify as unreimbursed business expenses, they are not deductible for tax years beginning January 1, 2018 and ending before January 1, 2026.

When I am in Columbus, can I deduct a per diem amount for meals, lodging and other living expenses?

No, as this deduction is considered an unreimbursed business expense.

The following are considered the reimbursable rates for meals and lodging for 2021:

1. For travel to Columbus, the reimbursable lodging rate is \$122/day for 2021, which can be reimbursed by the State of Ohio.
2. The portion of the per diem rate applicable to meals and incidental expenses is \$61 for January – September 2021. The amount increases to \$64 in October 2021 through the rest of the year. The incidental expenses make up \$5 of M&IE.

***Again, to the extent that these costs are not reimbursed, because Ohio state legislators are not deemed to be paid on a fee basis, such amounts would be considered unreimbursed employee business expenses that are not deductible for tax years beginning January 1, 2018 and ending before January 1, 2026.

Prior to 2018, if you lived more than 50 miles from the state capital, you could have made an election under IRC 162(h) to have your place of residence within your legislative district considered to be your tax home. If you did not have separate business interests, you had to have made this election in order to deduct travel expenses.

Since these travel expenses are considered reportable as miscellaneous itemized deductions and unable to be deducted on your income tax return under the new law, the election under 162(h) is not relevant for tax years 2018 to 2025.

OFFICE AT HOME

Can I deduct any costs of my home as a business expense?

Under the previous law, the home office deduction generally was available to legislators who maintained a dedicated space in their homes that was used solely and exclusively to conduct business as a state legislator. The tax reform eliminated the home office deduction as it is a miscellaneous itemized deduction which is not deductible for tax years beginning January 1, 2018, and ending before January 1, 2026.

I have a legislative assistant in my home district, to whom I pay a token amount each month. Am I required to go through the process of filing payroll tax returns and withholding payroll taxes?

In most situations, all amounts paid for services are subject to payroll tax laws. In addition, workers' compensation rules apply. However, there are some exceptions (such as in the case of an independent contractor). In any situation where there are various reporting requirements, you should consult your CPA.

Instead of an office in my home, I maintain a rented office in my district for the purpose of serving my constituency. What expenses can I deduct on my tax return for the cost of maintaining this office?

The rented office space being used exclusively for legislative purposes is considered an unreimbursed employee business expense and is no longer deductible for tax years beginning on or after January 1, 2018, and before January 1, 2026.

Can I claim any deductions regarding my use of a personal computer for business purposes?

For tax years beginning on or after January 1, 2018, and ending before January 1, 2026, even if a deduction meets this standard, the deduction is a miscellaneous itemized deduction, which is disallowed as an unreimbursed business expense.

ENTERTAINMENT AND MEAL EXPENSES AT HOME

I met in my home with a constituent regarding a state problem. Can I deduct the cost of food and beverages I provided at this meeting?

No, as this deduction is considered an unreimbursed business expense. This deduction would not be allowable for tax years beginning January 1, 2018, and ending before January 1, 2026.

Because of my position in the community, I occasionally entertain other elected officials in my home. Can I deduct this expense?

No, as this deduction is considered an unreimbursed business expense and this deduction would not be allowed for tax years beginning January 1, 2018 and ending before January 1, 2026.

TELEPHONE EXPENSES

Since I use the telephone to talk to constituents and for other state business, can I deduct its cost?

Prior to 2018, all of your deductible telephone expenses were subject to the 2% of adjusted gross income limitation. Because these expenses qualify as unreimbursed business expenses, they will not be deductible for tax years beginning January 1, 2018, and ending before January 1, 2026.

ADVERTISING

Because I am a member of the General Assembly, I am often called upon to place ads in trade journals, books or magazines put out by various organizations in my district. Can I deduct the cost of these ads?

Unless reimbursed, these expenses qualify as unreimbursed business expenses and will not be deductible for tax years beginning January 1, 2018, and ending before January 1, 2026.

I buy calendars, pens or similar items containing my contact information to pass out to my constituency. Can I deduct such items?

Unless reimbursed, these expenses qualify as unreimbursed business expenses and will not be deductible for tax years beginning January 1, 2018, and ending before January 1, 2026.

CAMPAIGN EXPENSES

Are my campaign expenses deductible for tax purposes?

A candidate's campaign expenses out of his or her own resources are not deductible as ordinary business expenses for federal income tax purposes.

The Internal Revenue Code defines a public office as a trade or business. However, it also specifically denies all deductions for expenditures in any political campaign for a candidate for public office. Therefore, regardless of the result of the election, a candidate may not deduct expenses for attending political conventions, campaign travel expenses, campaign advertising, filing fees, legal fees, etc. Neither may campaign expenses be amortized (like a capital expenditure) over the term in office.

Even if you view political office as a stepping-stone to some other business or profession, this is not enough to change the IRS' view on this issue. Thus, if you are a lawyer, political campaign expenses are not deductible if you are seeking election as a legislator in the hope that the exposure will build your professional practice. Even if your professional reputation was damaged during a political campaign, the cost of any defamation litigation for allegations published during the campaign is not deductible.

Is interest earned on campaign donations deposited in a savings account taxable? Do I have to file a tax return?

Form 1120-POL (U.S. Income Tax Return for certain political organizations) must be filed by a “*political organization*” that has any taxable income. The Internal Revenue Code defines a “*political organization*” as a party, committee, association, or other organization (whether or not incorporated) formed and operated primarily for the purpose of accepting contributions and making expenditures on behalf of a political candidate. Therefore, a separate organization, other than the political candidate, established to regulate political campaign funds must report such taxable income on Form 1120-POL.

A political organization must file Form 1120-POL by the 15th day of the third month after the end of the tax year. For calendar year organizations, this would be March 15.

Do expense reimbursements from campaign funds need to be included in my gross income for tax purposes?

Some Ohio legislators have experienced adverse results from IRS audits regarding reimbursement of business expenses from campaign funds. The IRS auditors have attempted to require the legislators to include in personal gross income expenses that were paid from campaign funds that were deemed not “*directly related*” to a campaign.

If this happens to you, you may want to review the matter with your CPA to determine whether grounds exist to contest the IRS auditor's interpretation.

OTHER EXPENSES

What other expenses can I deduct on my tax return?

As mentioned earlier, prior to December 31, 2017, all deductible expenses, including unreimbursed travel expenses, meals, lodging, advertising and other miscellaneous expenses were deductible only to the extent they cumulatively exceeded 2% of your adjusted gross income. Any expenses which qualify as unreimbursed business expenses will not be deductible for tax years beginning January 1, 2018, and ending before January 1, 2026.

ALTERNATIVE MINIMUM TAX

I've heard many people talk about the Alternative Minimum Tax, or AMT. What is the AMT and does it affect me?

The AMT is so named since it was designed to ensure that alleged high-income taxpayers could not avoid paying the related high income taxes by taking advantage of certain deductions available to them. If your tentative minimum tax is more than your regular tax, that difference is your AMT and you pay that in addition to

your regular tax. Now, this begs the next question: what is meant by “TENTATIVE MINIMUM TAX?” Your tentative minimum tax is calculated simply by taking away certain itemized deductions claimed on Schedule A. In prior years, the fewer itemized deductions you claimed, the higher your taxable income and this, in turn, led to higher income tax. This higher income tax is your tentative minimum tax.

How does this affect you? As stated previously, the AMT is the difference between your tentative minimum tax and your regular tax. The fewer deductions you are allowed, the greater this difference and the greater your income tax becomes. The AMT is calculated on Form 6251.

Because of the elimination of the deduction for unreimbursed employee business expenses and the increased AMT exemption for tax years beginning on or after January 1, 2018, far fewer taxpayers will be subjected to the AMT for tax years beginning on or after January 1, 2018.

SECURE ACT

How does the SECURE Act affect me?

The President signed the Secure Act into law on December 20th, 2019, which is part of the Further Consolidated Appropriations Act, 2020. The Secure Act, which stands for Setting Every Community Up for Retirement Enhancement, is designed to improve retirement security. The act includes provisions that affect both employers and individuals. Some of the major provisions affecting individuals include:

- Eliminated the maximum age cap of 70.5 to contribute to a traditional IRA for tax years beginning after December 31, 2019.
- Increased the required minimum distribution age for qualified accounts from 70.5 to 72 for individuals who turn 70.5 after December 31, 2019.
- Expanded the qualified use of 529 plan distributions. After December 31, 2018 529 plan distributions can be used to pay for costs associated with registered apprenticeships and up to \$10,000 of qualified student loan repayment. The \$10,000 towards student loans can be for principle or interest. However, interest paid with the 529 plan distribution does not qualify for the student loan interest deduction.

CARES ACT

The Coronavirus Aid, Relief, and Economic Security (CARES) Act was signed into Law on March 27, 2020, and authorized over \$2 trillion to combat Covid-19 and its economic effects. The primary provisions of this bill include the following:

- \$300 billion in one-time direct cash stimulus checks to individual Americans earning less than \$75,000 or \$150,000 if married for \$1,200 each and an additional \$500 per minor child.
- \$260 billion in increased unemployment benefits. Unemployed individuals were provided \$600 per week in benefits from the federal government in addition to their state benefits.
- Created the Paycheck Protection Program (PPP). This authorized \$350 billion in forgivable loans to small businesses.
 - Provided \$500 billion in loans to corporations
 - Provided \$339.8 billion to state and local governments
- An above the line charitable deduction of \$300 (\$600 for MFJ) for those individuals that do not itemize deductions. This benefit was extended through the 2021 tax year by the Taxpayer Certainty and Disaster Tax Relief Act of 2020.
- For 2020, cash contributions can be made up to 100% of adjusted gross income to public charities. This benefit was extended through the 2021 tax year by the Coronavirus Response and Relief Act.

THE CORONAVIRUS RESPONSE AND RELIEF ACT

The Consolidated Appropriations Act, 2021 is a spending bill for the 2021 fiscal year signed into effect on December 27, 2020, which included the \$900 billion Coronavirus Response and Relief Supplemental Appropriations Act to provide additional Covid-19 pandemic stimulus relief. The major provisions in the CAA included:

- An additional \$325 billion for small businesses, including \$284 billion for the Paycheck Protection Program (PPP).
- \$166 billion for additional direct cash payments to individuals of \$600 per individual with adjusted gross income under \$75,000 and an additional \$600 per dependent.
- \$120 billion to extend federal unemployment benefits to provide \$300 a week in additional benefits through March 14, 2021.
- Expanded the Employee Retention Tax Credit (ERTC). In the CARES Act the ERTC could only be taken if the PPP was not taken. The ERTC can now be retroactively claimed in addition to the PPP forgiveness received. The Employee Retention Tax Credit makes many businesses eligible for an additional \$5,000 refundable credit per employee for 2020 and up to \$14,000 per employee for the first and second quarters of 2021.
- Expansion of the CARES Act provision that allows for cash contributions of up to 100% of adjusted gross income to be taken as an itemized deduction in 2021.

AMERICAN RESCUE PLAN

The American Rescue Plan Act of 2021 is a \$1.9 trillion economic stimulus bill designed to provide financial relief to businesses and individuals impacted by Covid-19. The major provisions in the plan include:

- \$290 million investment in Covid-19 response including supplies, testing, vaccinations, and support to schools.
- An additional \$1,400 stimulus check for all individuals (including dependents) in households with adjusted gross income under \$75,000 (\$150,000 MFJ).
- Continuation of additional \$300 per week in federal unemployment benefits through September 6, 2021.
- A \$1,600 increase in the child tax credit for children under the age of 6 and a \$1,000 increase for children ages 6-17 for taxpayers with adjusted gross income under \$75,000 (\$150,000 MFJ). Likewise, the bill expanded the original \$2,000 child tax credit to those with adjusted gross income under \$200,000 (\$400,000 MFJ) to include children aged 17 (the child tax credit was previously only available to children 16 and younger).
- The bill also implemented the advanced payment of up to 50% of the 2021 child tax credit with checks being sent to eligible taxpayers every month beginning in July of 2021. The payments are not taxable but will decrease the amount of credit claimed against tax liability when filing the taxpayer's return.
- Increased the maximum child and dependent care credit to \$4,000 for one child and \$8,000 for two or more children and made the credit fully refundable.

For further details on the SECURE Act, CARES Act, the Coronavirus Response and Relief Act, or the American Rescue Plan we recommend you contact your CPA.

CRYPTOCURRENCY

With usage of Cryptocurrency becoming more common, the IRS has issued numerous pieces of guidance for taxpayers to understand the potential tax implications of cryptocurrency transactions. The most significant items in relation to individual taxpayers include:

- Form 1040 now includes a box for you to indicate if during the year you sold, sent, exchanged, or acquired any financial interest in any virtual currency. This box should be checked if you participated in virtual currency transactions even if none of them were taxable.
- Gains or losses from the sale of cryptocurrency are taxed under the same capital gain and loss rules as traditional investments.
- Cryptocurrency earned through mining or received as payment for goods or services is included in taxable income.

STATE INCOME TAX

Are any of the business and campaign related expenses discussed above deductible on my State Income Tax Return?

Unreimbursed employee business expenses are not deductible on your Ohio State Income Tax Return. Federal adjusted gross income is the starting point in computing Ohio taxable income. There is no separately stated deduction for Ohio business expenses.

MUNICIPAL INCOME TAX

Are the above expenses deductible from my income in arriving at taxable income for Municipal Income Tax purposes?

The rules for municipalities vary widely and compliance can be complex. Some allow a deduction for all expenses; others only allow for amounts deducted on the federal return. One municipality takes the approach that only amounts deducted in computing federal adjusted gross income will be allowed. Please consult your CPA regarding the policy of the municipality where you file.

Since I represent several municipalities as a member of the Legislature, is there any requirement for me to allocate my legislative salary among the various municipalities I represent?

No, due to an exemption in the Ohio Revised Code for state legislators, your legislative salary is to be reported in your resident municipality only and no allocations are allowed to other municipalities that you represent. However, keep in mind that income unrelated to your role as a state legislator could result in a tax and filing obligation to multiple municipalities if you provide goods or services in more than one location or work in a jurisdiction other than where you reside. If this is the case for you, consult your CPA regarding potential tax and filing requirements you may incur. You likely are granted a full or reduced tax credit for taxes paid to another municipality by your individual taxing municipality. The effect of exempting your salary from the Columbus municipal income tax makes all of your municipal income tax payable to your local community and residence rather than to the City of Columbus, therefore, helping your local community and your constituents.