

Ohio Enacts Budget Bill with Changes to Personal Income Tax Provisions, Sales and Use Tax Rates, and Property Tax Reform

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Overview

On June 30, 2013, Ohio Governor John Kasich signed House Bill 59 (“H.B. 59”) into law. The following are among the more significant amendments to Ohio tax law:

- Decreases the personal income tax rate by 10% over the next three years (from 5.925% to 5.333% for tax years beginning in 2015)
 - o Also created a “Small Business Tax Cut”, which provides up to an estimated \$7,000 in annual individual income tax relief for small business owners
- Enacts a new motor fuels excise tax in place of the Commercial Activity Tax for sales of motor fuel
- Implements a tiered minimum tax structure for the Commercial Activity Tax
- Increases the state base sales and use tax rate from (5.5% to 5.75%), and imposes sales and use tax on certain digital goods and magazine subscriptions
- Eliminates the state-paid 12.5% subsidy of county and local property taxes

In this External Tax Alert, we briefly summarize these law changes.

Personal Income Tax

Changes in the Personal Income Tax from H.B. 59 include an overall rate reduction, a targeted deduction for small business owners, elimination of personal exemption credit for most taxpayers, and removal of gambling loss deductions.

The overall Personal Income Tax rates will be reduced beginning in 2013 by 10% over the next three years. For tax years beginning on or after 1/1/2013 all marginal rates gradually decrease until 2015 where the top marginal rate will be 5.333%.¹

Effective for tax years beginning in 2013, owners of pass-through entity investments or businesses directly reported on their Federal individual tax returns (collectively, “small businesses”) will enjoy an Ohio deduction of up to \$125,000². The deduction is 50% of taxable income from “small business” income until income reaches \$250,000. The deduction is against “small business” income allocated or apportioned to Ohio³. Using 2013 state tax rates, a taxpayer in the highest marginal tax bracket will save \$6776⁴.

¹ H.B. 59, amending ORC Section 5747.02(A)(9).

² H.B. 59, amending ORC Section 5747.01(A)(31).

³ H.B. 59, amending ORC Section 5747.01(A)(31).

⁴ H.B. 59, amending ORC Section 5747.02(A)(7) (the highest marginal tax rate is 5.421%, times the \$125,000 deduction provided in H.B. 59, amending ORC Section 5747.01(A)(31)).

The “Small Business Tax Cut” will also reduce the tax base of individuals subject to Ohio School District Tax⁵. Note that this provision does not apply to reduce Ohio withholding or tax payments otherwise required by pass-through entities.

The provision previously found at ORC Section 5747.01(A) (29), which allowed individuals to deduct for Ohio wagering losses that were deducted as an itemized deduction for federal purposes, was removed. For years ended 2013 and forward for Ohio individual income tax purposes, individuals will not be able to offset gambling winnings with wagering losses⁶.

Allowable tax credits altered with the 2013 Budget Bill. H.B. 59 eliminated the \$20 tax exemption for each taxpayer, spouse and dependents claimed on an individual income tax return, unless the filed Ohio return has Ohio AGI of less than \$30,000⁷. Previously, the credit was available regardless of an individual, spouse or dependent’s income level.

H.B. 59 creates a new refundable credit for a taxpayer that is an “eligible individual” for the federal Earned Income Tax Credit.⁸ The credit is equal to 5% of the Earned Income Tax Credit allowed on the individual’s federal income tax return. If the individual and/or individual and his spouse earned more than \$20,000, the tax deduction is no longer refundable and is subject to limitation.⁹

Motor Fuel Excise Tax

Beginning with the tax period that commences July 1, 2014, gross receipts from the sale of motor fuel will no longer be subject to the Commercial Activity Tax.¹⁰ Instead, motor fuel sales will be subject to an excise tax described in newly added Ohio Revised Code Section 5736. The tax is 0.65% of gross receipts from the supplier’s sales, and no exemption is available.¹¹ The tax applies to the first sale of the motor fuel in this state, though not to fuel subsequently exported to other states.¹² The tax also applies to motor fuel purchased in another state and transferred into Ohio within a year of purchase.¹³

Additionally, H.B. 59 establishes an equivalency standard for liquid natural gas (LNG).¹⁴ The bill requires that the motor fuel excise tax on LNG be measured in pounds, rather than gallons, and specifies a diesel gallon equivalent standard for pounds of LNG for the purpose of calculating the tax.

Commercial Activity Tax

Effective January 1, 2014, the Ohio Commercial Activity Tax exemption and minimum tax will change to a tiered structure, set forth below. Previously, the exemption was that only \$150 was assessed on up to the first \$1,000,000 of gross receipts.

⁵ H.B. 59, amending ORC Section 5748.01(E) (1) (a). For example, for an individual who is a resident of the City of Bexley, which has a 0.75% School District Tax assessed on Ohio Taxable Income, the \$125,000 deduction for Ohio purposes will also save \$938 per year in Bexley School District Tax.

⁶ H.B.59, repealing ORC Section 5747.01(A)(29).

⁷ H.B.59, amending ORC Section 5747.022.

⁸ H.B. 59, adding ORC Section 5747.71. Eligible individual defined in IRC sec 32(c)(1).

⁹ *Id.*

¹⁰ H.B. 59, amending ORC Section 5751.01(F)(2)(r).

¹¹ H.B. 59, adding ORC Section 5736.02.

¹² H.B. 59, adding, ORC Section 5736.01(E).

¹³ H.B. 59, adding ORC Section 5736.03(A).

¹⁴ H.B. 59, adding ORC sec 5736.013.

<u>Annual Gross Receipts</u>	<u>Base Tax</u>	<u>Plus .0026% of</u>
\$1,000,000 or less	\$150	None
\$1,000,001 - \$2,000,000	\$800	Receipts over \$1,000,000
\$2,000,001 - \$4,000,000	\$2,100	Receipts over \$1,000,000
\$4,000,001 +	\$2,600	Receipts over \$1,000,000 ¹⁵

Newly exempt from Ohio Commercial Activity Tax are receipts realized from the sale of agricultural commodities by an agricultural commodity handler.¹⁶

Sales and Use Tax

Effective September 1, 2013 the Ohio's state Sales and Use Tax rate will increase from 5.5% to 5.75%.¹⁷

The sale of specified digital products, including digital books, movies, and audio transferred electronically will be subject to sales and use tax, effective January 1, 2014.¹⁸ On the other hand, an exemption was created for sales to or by a cable service provider, video service provider or radio or television broadcast station, including sales of certain digital goods otherwise taxable.¹⁹ Effective January 1, 2014, magazine subscriptions will no longer be exempt from sales and use tax.²⁰

Property Tax

For property tax levies passed in 2014 and forward, the state will no longer subsidize 12.5% of the levy as described in ORC Section 319.302.

For tax years 2014 and forward, only individuals with total income of less than \$30,000 may apply for Ohio's Homestead Exemption.²¹ Under prior law, the exemption was available for all taxpayers above the age of 65 or disabled taxpayers, regardless of income level. The exemption shields up to \$25,000 of the market value of one's owner-occupied dwelling from property tax.²² For those who already have the Homestead Exemption in place, they will not lose their exemption due to a high income level. The law change will only affect new applicants.²³

¹⁵ H.B. 59, amending Section 5751.03(B).

¹⁶ H.B. 59, repealing Section 5751.01(F)(2)(ii).

¹⁷ H.B. 59, amending ORC Section 5739.02(A).

¹⁸ H.B. 59, amending 2013 ORC Sections 5739.01(B) (12) and & ORC Section 5739.01(QQQ) as amended by H.B. 59.

¹⁹ H.B. 59, adding ORC Section 5739.02(B)(53).

²⁰ H.B. 59, amending ORC Section 5739.02(B) (4). H.B. 59 only eliminated the exemption for magazine subscriptions. The law kept the newspaper subscription exemption in place.

²¹ H.B. 59, amending ORC Sections 323.152(A)(2) and 4503.065(B)(1)(c) added the "total income requirement" to the existing requirements contained in ORC Section 4503.065(A) of being over 65, permanently or totally disabled, or the surviving spouse of a deceased person that was 65 or permanently or totally disabled that had applied for the Homestead Exemption prior to death

²² H.B. 59, amending ORC Sections 323.152(A)(2) and 4503.065(B)(2)(a).

²³ H.B. 59, amending ORC Sections 323.152(A)(2) and 4503.065(B)(1)(c).

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