



Matt & Matt in the Morning



A Legal Discussion of Ohio Income & Pass-Through Entity Issues

Presented By:

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Department of
Taxation

Overview

- Income Tax Residency
 - Definitions
 - R.C. 5747.24
 - Presumption of Domicile
 - Contact Periods
 - Ohio Adm.Code 5703-7-16
 - Items that can/ cannot determine domicile
 - Proposed changes to the Rule
 - Resident/ Nonresident Credits
 - Reciprocity



Overview



- Pass-Through Entity Overview
 - Introduction and Overview of the Taxes
 - Comparison of the Taxes
- New Ohio IT K-1
 - Purpose of the form
 - Overview of the form
- Recent Changes to Federal Audit Rules
- *Corrigan v. Testa*
 - R.C. 5747.212
 - Ohio Information Release IT 2016-01

***Income Tax Residency & the
Presumption of Domicile
R.C. 5747.24***

Residency



- “Resident” is defined as:
 - **For Individuals:** One who is domiciled in this state.
 - **For Estates:** A decedent who at the time of death was domiciled in this state.
 - **For Trusts:** One that, in whole or part, resides in this state. If only part of a trust resides in this state, the trust is a resident only with respect to that part.
- “Nonresident” is defined as “any taxpayer is that is not a resident”
- Contact Period Thresholds
 - Effective for taxable years ending after March 23, 2015
 - Increased number of contact periods from **182 to 212** for R.C. 5747.24(B), and from **183 to 213** for R.C. 5747.24(C) & (D)

Contact Periods

- (1) An individual “has one contact period in this state” if the individual is away overnight from the individual’s abode located outside this state and while away overnight from that abode spends at least some portion, however minimal, of each of two consecutive days in the state.
- (2) An individual is considered to be “away overnight from the individual’s abode located outside this state” if the individual is away from the individual’s abode located outside this state for a continuous period of time, however minimal, beginning at any time on one day and ending at any time on the next day.

Affidavit

- (1) Except as provided in division (B)(2) of this section, an individual who during a taxable year has no more than two hundred twelve contact periods in this state, which need not be consecutive, and who during the entire taxable year has at least one abode outside this state, is presumed to be not domiciled in this state during the taxable year if, on or before the fifteenth day of the fourth month following the close of the taxable year, the individual files with the tax commissioner, on the form prescribed by the commissioner, a statement from the individual verifying that the individual was not domiciled in this state under this division during the taxable year. In the statement, the individual shall verify both of the following:
 - (a) During the entire taxable year, the individual was not domiciled in this state;
 - (b) During the entire taxable year, the individual had at least one abode outside this state. The individual shall specify in the statement the location of each such abode outside this state.
- The presumption that the individual was not domiciled in this state is irrebuttable unless the individual fails to timely file the statement as required or makes a false statement. If the individual fails to file the statement as required or makes a false statement, the individual is presumed under division (C) of this section to have been domiciled in this state the entire taxable year.

Cunningham

- *Cunningham v. Testa*, 2015-Ohio-2744
 - Facts:
 - Husband and Wife claim nonresidency
 - Husband files affidavit, Wife does not
 - Department finds a false statement in Husband's affidavit
 - Main Issue: “what ‘false statements’ can destroy the irrebuttable presumption of domicile”
 - Taxpayers argued only a false statement related to contact periods or abode outside Ohio
 - ODT argued a false statement related to domicile or abode outside Ohio



Cunningham

- *Cunningham v. Testa*, 2015-Ohio-2744
 - Supreme Court Holds:
 - “[w]hile R.C. 5747.24 has set forth certain presumptions and burdens with respect to domicile, it has not altered the basic concept of what constitutes a domicile.”
 - Taxpayer’s statement verifying non-Ohio domicile can be false if it is not supported by common law of domicile.
- For more information see the Department’s Information Release IT 2015-02

Less Than 213 Contact Periods

- (C) An individual who during a taxable year has fewer than two hundred thirteen contact periods in this state, which need not be consecutive, and who is not irrebuttably presumed under division (B) of this section to be not domiciled in this state with respect to that taxable year, is presumed to be domiciled in this state for the entire taxable year, except as provided in division (B)(2) of this section. An individual can rebut this presumption for any portion of the taxable year only with a **preponderance of the evidence to the contrary**. An individual who rebuts the presumption under this division for any portion of the taxable year is presumed to be domiciled in this state for the remainder of the taxable year for which the individual does not provide a preponderance of the evidence to the contrary.

More Than 213 Contact Periods

- (D) An individual who during a taxable year has at least two hundred thirteen contact periods in this state, which need not be consecutive, is presumed to be domiciled in this state for the entire taxable year, except as provided in division (B)(2) of this section. An individual can rebut this presumption for any portion of the taxable year only with **clear and convincing evidence to the contrary**. An individual who rebuts the presumption under this division for any portion of the taxable year is presumed to be domiciled in this state for the remainder of the taxable year for which the individual does not provide clear and convincing evidence to the contrary.

5703-7-16 Personal Income Tax: Determination of Resident Status

- (A) The following factors shall not be considered in making a determination of an individual's domicile under division (c) or (d) of section 5747.24 of the Revised Code:



5703-7-16 Personal Income Tax: Determination of Resident Status

- As mentioned during the last edition of “Matt & Matt in the Morning” (May 2016), the Department has amended this rule to read:

“The following factors shall not be considered in making a determination of an individual's domicile under divisions (B), (C) or (D) of section 5747.24 of the Revised Code”

5703-7-16 Personal Income Tax: Determination of Resident Status



- (1) The location of financial institutions in which the individual or the individual's spouse have any accounts, including, but not limited to, checking, savings, certificates of deposit, or individual retirement accounts.

5703-7-16 Personal Income Tax: Determination of Resident Status

- (2) The location of issuers of credit cards to the individual or the individual's spouse or any other persons making installment loans to the individual or the individual's spouse.



5703-7-16 Personal Income Tax: Determination of Resident Status

- (3) The location of institutional lenders which have made loans to or loans which are guaranteed by the individual or the individual's spouse.



INSTANT
PAYDAY
LOANS

5703-7-16 Personal Income Tax: Determination of Resident Status



- (4) The location of investment facilities, brokerage firms, realtors, financial advisors or consultants used by the individual or the individual's spouse.

5703-7-16 Personal Income Tax: Determination of Resident Status

- (5) The location of either the insurance company that issued or the insurance agent that sold any policy of insurance to the individual or the individual's spouse including, but not limited to, life, health, disability, automobile, or homeowner's insurance.



5703-7-16 Personal Income Tax: Determination of Resident Status

- (6) The location of law firms, accounting firms, and similar professionals utilized by the individual or the individual's spouse for legal, tax, accounting, financial, or retirement services.



5703-7-16 Personal Income Tax: Determination of Resident Status



- (7) The location of physicians, dentists, osteopaths, optometrists, or other health care providers, or veterinarians utilized by the individual or the individual's spouse.

5703-7-16 Personal Income Tax: Determination of Resident Status

- (8) The location of organizations described in section 501(c) of the Internal Revenue Code, except organizations described in paragraphs (2), (7), and (10) of that section, to which the individual or the individual's spouse make contributions or other payments or in which they participate as a congregant, member, board member, committee member, adviser, or consultant provided that participation does not exceed attendance at more than twelve meetings or functions of any one such organization during a calendar year.



5703-7-16 Personal Income Tax: Determination of Resident Status

- (9) The location of funeral facilities or the burial plot of the individual or the individual's spouse.



5703-7-16 Personal Income Tax: Determination of Resident Status



- (10) The location of business ventures or business entities in which the individual or the individual's spouse hold board membership unless the individual or the individual's spouse exercise significant control, either individually or jointly, over the affairs of the entity. An individual or individual's spouse exercises significant control, either jointly or individually, over the affairs of a corporation if he or she owns more than five percent of the stock in or five percent of the value of such corporation including constructive ownership as defined in section 1563(e) of the Internal Revenue Code. An individual or individual's spouse exercises significant control, either individually or jointly, over the affairs of a partnership or limited liability company or other business entity or business venture if he or she owns more than a five percent interest in the capital or profits of the partnership, limited liability company, or other business entity or business venture applying constructive ownership principles parallel to those in section 1563(e) of the Internal Revenue Code.

5703-7-16 Personal Income Tax: Determination of Resident Status

- (11) The location, place of business, or place of organization or incorporation of a corporation, partnership, limited liability company, or other business entity or business venture in which the individual or the individual's spouse is a shareholder or limited partner unless the individual or the individual's spouse exercises significant control, either individually or jointly, over the affairs of the corporation, partnership, limited liability company, or other business entity or business venture as defined in paragraph (A)(10) of this rule.

5703-7-16 Personal Income Tax: Determination of Resident Status

- (12) The recitation of residency or domicile in a will, trust, or other estate planning document.



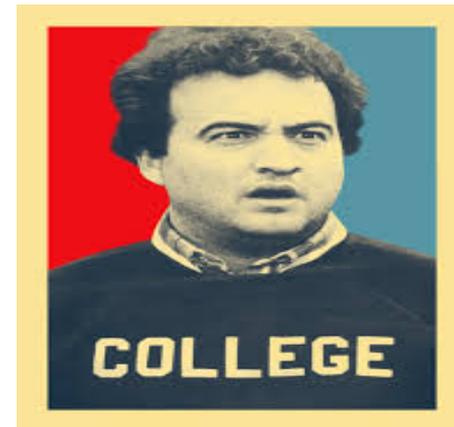
5703-7-16 Personal Income Tax: Determination of Resident Status

- (13) The location of the individual's friends, dependents as defined in section 152 of the Internal Revenue Code, and family members other than his or her spouse, if not legally separated from his or her spouse under a decree of divorce or separate maintenance as provided in section 7703(a)(2) of the Internal Revenue Code.



5703-7-16 Personal Income Tax: Determination of Resident Status

- (14) The location of educational institutions attended by the individual's dependents as defined in section 152 of the Internal Revenue Code, **unless** those dependents pay tuition at that educational institution based on the residency of the individual or the individual's spouse in the state where the educational institution is located.



5703-7-16 Personal Income Tax: Determination of Resident Status

- (15) The location of trustees, executors, guardians, or other fiduciaries named in estate planning documents of the individual or the individual's spouse.



5703-7-16 Personal Income Tax: Determination of Resident Status



- (16) The location of a business at which the individual or the individual's spouse makes purchases of tangible personal property.

5703-7-16 Personal Income Tax: Determination of Resident Status

- (17) The location where the individual married.



5703-7-16 Personal Income Tax: Determination of Resident Status

- (18) The location or identity of recipients of political contributions made by the individual or the individual's spouse.



5703-7-16 Personal Income Tax: Determination of Resident Status

- (B) The following factors may be considered in making a determination of an individual's domicile under division (C) or (D) of section [5747.24](#) of the Revised Code:
 - The number of contact periods (determined under paragraph (C) of this rule) which the individual has in Ohio.
 - The individual's activities in tax years other than the tax year or years at issue.
 - Any other fact the tax commissioner deems relevant, excepting those set forth in paragraph (A) of this rule.



5703-7-16 Personal Income Tax: Determination of Resident Status

- As part of the Department's review of this Rule, the Department also clarified paragraph (D)
 - (D) lists the items a taxpayer can provide to show contact periods
 - The Rule was changed to:
 - 1) State the listed items are not exhaustive and that other relevant items can be used to show contact periods; and
 - 2) Clarify that any “utility bill” and not just “telephone bills” can be used to show contact periods.
 - Rule has been filed with JCARR and is awaiting Final Hearing

Residency Credits

- Credits
 - Two Credits in R.C. 5747.05- The nonresident credit and the resident credit
 - Part-year residents are entitled to take **both** credits- R.C. 5747.05(C)
 - The nonresident credit for the part of the year they were a nonresident
 - The resident credit for the part of the year they were a resident
 - The nonresident credit is taken prior to taking the resident credit
 - Please note, a taxpayer cannot use both credits for the same income

Residency Deduction

- Reciprocity
 - R.C. 5747.05(A)(2) allows the Tax Commissioner to enter into agreements with other states to exempt nonresident compensation from Ohio income tax
 - Currently done with all of Ohio’s “border states”
 - Deduction on Schedule A should be permitted for **ALL** taxpayers who earned compensation in a border state as a nonresident for **any or all of a taxable year**
 - Ohio considers compensation earned by a 20% or more owner to be reclassified as business income, and thus does not currently allow for reciprocity on these amounts

Ohio's Pass-Through Entity Taxes

R.C. 5747.41 & 5747.08(D)



What is a pass-through entity or “PTE”?

- Generally defined under R.C. 5733.04(O) to include:
 - S Corporations
 - Partnerships
 - Limited liability companies (“LLC”s)
 - Any other person, other than an individual, trust, or estate that is not a C Corporation
- PTEs are not themselves subject to income tax
- Instead, the income “passes through” to the investors who report the income and pay the tax individually



Why does Ohio have a PTE tax?

- By taxing the individual investors and not the PTE:
 - How does Ohio know who the investors are or how many exist?
 - How does Ohio identify nonresident investors?
- Solution: Ohio created two alternative taxes on PTEs with **nonresident investors**, which “complement and to reinforce” Ohio’s income tax:
 - The **withholding tax** on form IT 1140
 - The **composite tax** on form IT 4708
- The PTE can file and pay on one or both of the taxes for a given tax year
- The PTE can change between either or both taxes from tax year to tax year

Example: M&M LLC can file the IT 1140 in Year 1, the IT 4708 in Year 2, and then the IT 1140 again in Year 3.

The Withholding Tax (R.C. 5747.41; Form 1140)

- Entity pays tax on its “adjusted qualifying amount” for all “qualifying investors”
- The **adjusted qualifying amount** for a PTE is the aggregate distributive shares of the PTE’s investors for the entity’s tax year, subject to various adjustments and apportionment
 - R.C. 5733.40(A)
 - Different definition for certain trusts
- **Qualifying investors** are generally:
 - Nonresident individuals
 - Trusts
 - Other PTEs

The Composite Tax (R.C. 5747.08(D); Form 4708)

- Tax due is calculated based on the aggregate distributive shares of the PTE's investors for the entity's tax year, subject to various adjustments and apportionment
 - R.C. 5747.08(D)
- Any PTE may **elect** to file on behalf of one or more of the entity's investors
 - The election is irrevocable for the tax year once made
 - Those “qualifying investors” not included on the IT 4708 must be included on an IT 1140

The 1140 vs. the 4708: A Comparison

The Filing Date

Withholding (IT 1140)

- Due the 15th day of the fourth month after the close of the entity's fiscal year
 - Fiscal year ends 3/31/15, return is due 7/15/15

Composite (IT 4708)

- Due the April 15th of the calendar year after the close of the entity's fiscal year
 - Fiscal year ends 3/31/15, return is due 4/15/16



The 1140 vs. the 4708: A Comparison

%

The Rate

%

Withholding (IT 1140)

- Based on the investor:
 - Withhold at 5% for individuals
 - Withhold at 8.5% for entities
- R.C. 5733.41 & 5747.41

Composite (IT 4708)

- Levied at a uniform rate for all types of investors:
 - Currently 4.997% for tax years 2015 and beyond
 - Tied to highest marginal income tax rate
- R.C. 5747.08(D); 5747.02

The 1140 vs. the 4708: A Comparison

Claiming Credits

Withholding (IT 1140)

- PTE **cannot** reduce withholding amount due with **any** credits held by the PTE
 - See R.C. 5747.98

Composite (IT 4708)

- PTE **may** offset liability with “distributive share of the business credits”
- Defined in R.C. 5747.08(D)

Tax Credits

- Composite Return
 - R.C. 5747.08(D)(1)(a):
 - “[A]re entitled to only their distributive share of the business credits...”
 - “Business credits” defined in R.C. 5747.08(D)(2)
- Withholding Return
 - No provision to allow credits
 - See R.C. 5747.98 (“[F]or calculating a taxpayer's aggregate tax liability **under section 5747.02 of the Revised Code**, a taxpayer shall claim any credits to which the taxpayer is entitled...”)
 - See also all credit provisions, which reference R.C. 5747.02, not 5747.41.

The 1140 vs. the 4708: A Comparison

Claiming Payments

Withholding (IT 1140)

- **Cannot** claim credit for payments made by another PTE
 - Only previously reported income rolls up to this form

Composite (IT 4708)

- **Can claim** credit for payments made by another PTE that the filing entity invests in
 - Both previously reported income and payments roll up to this form



Tax Payments

- Payments made by another PTE are actually a **credit** under R.C. 5747.059:
 - “There is hereby allowed a **refundable credit** against a taxpayer's aggregate tax liability under section 5747.02 of the Revised Code.”
 - The credit is “the taxpayer's proportionate share of the ...tax due or the tax paid under section **5733.41 or 5747.41** of the Revised Code by any qualifying entity...”
- Since the composite return allows credits, and the withholding return does not, payments made by PTEs can be taken on the IT 4708 but not the IT 1140.

The 1140 vs. the 4708: A Comparison

Investor Filings

Withholding (IT 1140)

- Nonresident individual investors **must** still file the IT 1040
- PTE investors in the ownership chain **must** still file the IT 1140/ IT 4708

Composite (IT 4708)

- The IT 4708 is a “**terminal return**”
 - i.e. no other filings are required!
 - Individual investors **may** file an IT 1040

The 1140 vs. the 4708: A Comparison

Ohio Business Income Deduction

- Neither the IT 1140 nor the IT 4708 allows the SBD or BID
 - Deduction is an adjustment to FAGI
 - Deduction is specifically limited to “individuals” R.C. 5747.01(A)(31)
 - Deduction is only available on Ohio’s IT 1040

Withholding (IT 1140)

- Individual investors take Ohio’s SBD or BID on their required IT 1040



Composite (IT 4708)

- Individual investors take Ohio’s SBD or BID on their IT 1040 if they elect to file the return

The 1140 vs. the 4708: A Summary

	<u>Topic</u>	<u>The IT 1140</u>	<u>The IT 4708</u>
1	Purpose	Withholding	Composite
2	Filing Date	15 th day of Fourth Month	April 15th after year in which fiscal year ends ✓
3	Resident Investors	No	Yes ✓
4	Tax Base	Adjusted qualifying amount	Aggregate distributive shares
5	Apportionment	Weighted 3 factor	Weighted 3 factor
6	Tax Rate	5% (individuals) or 8.5% (entities)	4.997% (all) ✓
7	Credits	No	Yes ✓
8	Claim Payments?	No	Yes ✓
9	Est. Payments	Yes	Yes
10	Investor Filings	Must File IT 1040	Can File IT 1040 ✓

THE OHIO IT-K1

IT K-1

- The Tax Department recently prescribed Ohio Form IT K-1
- Form can be used for any tax year

Do not use staples. Use only black ink.

 **Ohio** | Department of Taxation
Rev. 9/16

20

Ohio IT K-1


10211411

For calendar year 20 ____ or taxable year beginning _____ and ending _____

Investor's / beneficiary's SSN / FEIN _____ Entity FEIN _____

Investor's / beneficiary's name, address and ZIP code _____ Pass-through entity's name, address and ZIP code _____

Investor's / beneficiary's percentage of	Beginning of year	End of year	Entity type (i.e., trust, LLC) – _____
Profit sharing	_____ %	_____ %	<input type="checkbox"/> IT 1140 qualified investor
Loss sharing	_____ %	_____ %	<input type="checkbox"/> IT 4708 composite filer
Ownership of capital	_____ %	_____ %	

IT K-1

- Many taxpayers and practitioners had suggested a form that allowed for:
 - The tracking of PTE payments and credits:
 - From entity to entity
 - From entity to individual
 - A simple way to report income and apportionment to taxpayers filing the IT 1040
 - Information is needed for Ohio's BID and the nonresident credit

IT K-1

- The new Ohio IT K-1 should be used in place of any self-generated “Ohio K-1 equivalents”
- K-1 should be prepared by PTE and provided to investor
 - Investor would submit a copy of the IT K-1 with their IT 4708, IT 1041, or IT 1040
- Provides for more simplified tracking of information between multi-tiered PTE structures



IT K-1

Do not use staples. Use only black ink.

Ohio Department of Taxation
Rev. 7/16

2016
Ohio IT K-1
10211411

For calendar year 20__ or taxable year beginning _____, and ending _____

Investor's / beneficiary's identifying number _____ FEIN _____

Investor's / beneficiary's name, address and ZIP code _____ Pass-through entity's name, address and ZIP code _____

Entity type – _____

<input type="checkbox"/> IT 1140 qualified investor	Investor's percentage of	Beginning of year	End of year
<input type="checkbox"/> IT 4708 composite filer	Profit sharing	_____ %	_____ %
<input type="checkbox"/> Depreciation adjustment has been waived	Loss sharing	_____ %	_____ %
	Ownership of capital	_____ %	_____ %

Apportionment Information

Property where

Payroll

Sales

Depreciation Information

5/6 Current year bonus depreciation and Section 179

2/3 Current year bonus depreciation and Section 179

Prior years add-back (indicate add or subtract)

20__

Current year add-back

Investor's Credits

- Ohio
- Tax belt
- Nonrefundable (attach certificate)
- Ohio tax paid by partner (net of overpayments) (credit for Ohio taxes paid by this entity)
- Total indirect payment through entity credit from another pass-through entity or trust for Ohio taxes paid on behalf of investor
- FEIN(s) of pass-through entity (entities) or trust(s)
- Refundable business jobs credit (attach certificate)
- Ohio Historical rehabilitation credit (attach certificate)
- Losses on loans made to Ohio venture capital program
- Motion picture production credit (attach certificate)
- Financial Institutions tax (FIT) credit
- FEIN of the entity that paid the FIT

Supplemental Information

- For a copy of the new Ohio IT K-1, please go to tax.ohio.gov/forms

FEDERAL PARTNERSHIP AUDIT CHANGES

The Bipartisan Budget Act of 2015

Effective for Tax Years Beginning After 12/31/17

Federal Audit Changes

- Last year Congress passed the “Bipartisan Budget Act of 2015”
 - Major reform to the audit of PTEs at the federal level
 - Goal: Simplify the auditing and assessment of partnerships
 - Changes to become effective for tax years beginning after December 31, 2017

Federal Audit Changes

- How does this affect Ohio?
 - Audit adjustments to certain federal PTE returns will no longer flow through to individuals
 - Adjustments and payments will occur at the entity level
 - ODT is aware of the federal changes and is working to determine what Ohio changes, if any, are needed to address this new treatment

Corrigan v. Testa, 2016-Ohio-2805

R.C. 5747.212

OH Information Release IT 206-01

Corrigan v. Testa: Facts

- Corrigan is and was at all times relevant to this case a nonresident of Ohio
- Mansfield Plumbing LLC is an entity located in Ohio
 - The entity is treated as a pass-through entity for tax purposes
- In 2000, Corrigan acquired the assets of Mansfield Plumbing

Corrigan v. Testa: Facts

- Corrigan:
 - Was a 79.29% of Mansfield Plumbing
 - Spent “easily a hundred hours per year” hands on with the company
 - Visited the company for board meetings and management presentations
- In 2004, Corrigan sold his interest in Mansfield Plumbing to a Columbia Company
 - Sale generated a capital gain

Corrigan v. Testa: Procedure

- Corrigan was assessed in 2004 for failing to report any of the gain to Ohio
 - Assessment is based on R.C. 5747.212
- Corrigan paid a portion of the assessment and filed refund claim in 2010
 - The basis of the refund claim was that R.C. 5747.212 is either “as applied” or “facially” unconstitutional

Corrigan v. Testa: The Ruling

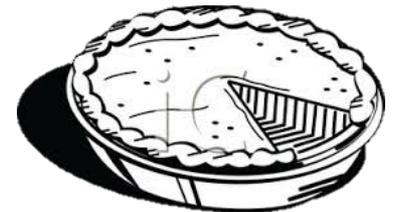
- “Facial” vs. “As Applied” constitutional challenges:
 - Facial Challenges- The law in question is void because “there exists no set of circumstances under which the statute would be valid.”
 - As applied Challenges- Only the particular, factual application of the statute is unconstitutional and thus invalid in this case

Corrigan v. Testa: Procedure

- Corrigan's refund claim was denied by the Commissioner and the BTA
 - Both without jurisdiction to decide the constitutionality of statutes
 - Both noted that Ohio's statutes are presumed to be constitutional
- Supreme Court of Ohio overturned those decisions, finding R.C. 5747.212 was unconstitutional "as applied" to Corrigan
 - Court **declined** to find R.C. 5747.212 "facially" unconstitutional

Corrigan v. Testa: The Analysis

- Why is R.C. 5747.212 unconstitutional “as applied” to Corrigan?
 - Ohio’s R.C. 5747.212 requires apportionment of a gain from the sale of an intangible asset (a PTE) by a nonresident
- For R.C. 5747.212 to be constitutional, it must comport with “due process”
 - Requires “fundamental fairness of the government activity”
 - Ohio “may not tax value earned outside of its borders”



Corrigan v. Testa: The Analysis

- Court finds that Corrigan's gain was generated by the sale of intangible property
 - The “intangible property” in this case was his interest in Mansfield Plumbing
- Court finds that this gain was not generated by Ohio business activity
 - The sale did not “avail [Corrigan] of Ohio's protections and benefits” for which Ohio can ask for a return

Corrigan v. Testa: The Takeaways

- Ohio Information Release 2016-01 (Issued October 7, 2016)
 - The Court’s analysis and holding were confined solely to R.C. 5747.212.
 - The Court found that R.C. 5747.212 was unconstitutional as applied to Mr. Corrigan. The Court **did not** find the statute unconstitutional in all situations; instead, the Court found it unconstitutional **only** in this situation.
 - The Court found that an ownership interest in a business is an “intangible asset” and that neither Mr. Corrigan nor the sale of the asset had a taxable link to Ohio.

Corrigan v. Testa: The Takeaways

- Ohio Information Release 2016-01 (Issued October 7, 2016)
 - If a taxpayer has already filed a refund application or petitioned an assessment relating to the applicability of R.C. 5747.212, nothing more is needed at this time.
 - Additional information may be submitted, but should be done so ASAP
 - If a taxpayer wants to request a refund based on *Corrigan*, the taxpayer may:
 - File an amended tax return, citing *Corrigan v. Testa*
 - Provide all factual and legal reasons why the *Corrigan* decision applies to the use of R.C. 5747.212 for the taxpayer
 - Refund requests are only valid for payments made within 4 years of the date of the refund request. R.C. 5747.11



Matt & Matt in the Morning



Questions?



Department of
Taxation