Summary of Legislation 2003

Amended Substitute House Bill 95, 125th General Assembly (effective June 26, 2003). (Certain provisions effective September 26, 2003; certain provisions effective on other dates); various Ohio Revised Code sections –

Sales and use tax. Contains a number of changes to Ohio's sales and use tax statutes including the state sales and use tax rate increase to 6 percent effective July 1, 2003, and also provides for the decrease to the previous rate of 5 percent on July 1, 2005. The state rate increase will generate additional state revenues of $1.2 billion in Fiscal Year 2004 and $1.3 billion in Fiscal Year 2005.

Extends the base of the sales and use tax to a wider group of services, thereby better aligning the tax to a service economy. Effective August 1, 2003, laundry, dry cleaning, motor vehicle towing, delivery charges, storage, satellite broadcasting, snow removal, intrastate transportation of persons, and personal care services such as massages, tanning, manicures, and pedicures are subject to the sales tax. The extension of the sales tax to these services is estimated to increase state revenues by $62.0 million in FY 2004 and $71.9 million in FY 2005.

Repeals certain exemptions from the sales tax, effective July 1, 2003, thereby further broadening the tax base. These include WATS/800 service (with an exemption for services provided to call centers), tangible personal property used in mine reclamation, and vehicles used in vanpooling. The repeal of these exemptions is estimated to increase state revenues by $63.8 million in FY 2004 and $67.5 million in FY 2005.

In order to conform Ohio law to the provisions of the Streamlined Sales Tax Project (SSTP) Agreement, the bill makes the following changes in the sales tax statutes:

- Expands the definition of exempt prescription drugs to include any medications prescribed or dispensed by a physician, effective July 1, 2003.
- Expands the definition of exempt medical equipment to include some ambulatory aids, effective July 1, 2003.
- Expands the definition of exempt food to mean any item of nutritional value, including bottled water and chewing gum, effective July 1, 2004.
- Replaces the current sales tax brackets with 5/4 rounding (rather than rounding to the next higher cent), beginning January 1, 2006.

Makes a number of other changes to the sales tax, including a temporary increase in the vendor discount from 0.75 percent to 0.9 percent. This allowance is provided to vendors for the timely filing and remittance of taxes collected from their customers.

The bill increases the threshold for required remittance of sales taxes by Electronic Funds Transfer (EFT) and the accelerated remittance of sales tax. It increases this threshold from $60,000 to $75,000 for the annual sales tax liability.

The bill also caps the sales tax on fractional shares of aircraft and exempts the sales of parts and services used to maintain aircraft which have fractional ownership.

Corporation franchise tax. Increases the minimum tax from $50 to $1,000 for corporations with more than 300 employees or sales over $5 million per year. Adopts the Uniform Division of Income for Tax Purposes Act (UDITPA) method of allocating and apportioning the income of multi-state corporations. This method uses the business/nonbusiness distinction to determine the allocation or apportionment of income among the states for the purpose of taxation. Extends the authorization for the job creation and job retention tax credits from the current maximum of ten years to 15 years.

Tangible personal property tax. Accelerates the phase-out of the inventory component of the tangible personal property tax, lowering the assessment percentage by two percentage points per year, rather than the current one percent, provided that certain conditions are met. Removes the requirement that small businesses with property consisting of taxable value less than $10,000 must file a property tax return. Provides that the state reimbursement to local taxing districts of the revenues foregone by this exemption be phased out over ten years beginning in FY 2004.

Telecommunications industry reform. Modernizes the taxation of local telephone companies bringing them into alignment with their competitors and general business. Removes these companies from the public utility excise tax and makes them subject to the corporation franchise tax and the municipal income tax. Telecommunications services provided by these companies are made taxable under the sales tax. Provides for the phase down of the assessment rate on tangible personal property installed before 1995, from the current rate of 88 percent to the general business rate of 25 percent over three years beginning in tax year 2005.

Municipal income tax reform. Provides a uniform definition of taxable income for the municipal net profits tax, a uniform definition of the withholding tax base, and the option to file business net profits tax returns by means of the Ohio Business Gateway. Allows appeals from the decision of a local appellate board to either the Board of Tax Appeals or the court of common pleas and provides for uniform filing deadlines, extension periods, and the availability of Internet-based requests for filing extensions.

Miscellaneous tax reform provisions. Makes a number of other tax changes including:

- Reforms and streamlines the application procedures for pollution control facility exemptions.
- Allows the depreciation and expensing provisions provided by the federal Jobs and Growth Tax Relief Reconciliation Act of 2003 to be

spread over a period of six years for purposes of Ohio corporation franchise and individual income taxes.

- Provides a 30-day credit period for cigarette wholesalers in good standing to purchase tax stamps.
- Expands the definition of Current Agricultural Use Valuation (CAUV) to include land used for soil conservation practices that support farm operations.
- Defers state income tax liability for members of the armed forces serving in Operation Iraqi Freedom.

Am. Sub. Senate Bill 180, 124th General Assembly (effective April 9, 2003).
Various Revised Code sections –
Ohio Venture Capital Program. Establishes the Ohio Venture Capital Program (OVC) to make loans to and invest in venture capital partnerships. The Ohio Venture Capital Authority, a nine-member board appointed by the Governor, will oversee the OVC. The Tax Commissioner and the Director of the Department of Development will serve as ex-officio members of the Authority. The Authority will establish an investment policy for the OVC that will allow it to invest in venture capital funds and thereby increase the amount of investment capital available in Ohio early stage companies and companies developing new technologies. At least 75 percent of money invested in OVC must be directed to Ohio based venture capital funds, and these funds must invest 50 percent of OVC money in Ohio businesses.

Tax credits. The source of funds for the OVC will be loans. These loans will be backed by tax credits that can be issued in the event that the OVC is unable to repay the obligations. The credits may be claimed against the corporation franchise tax, the domestic or foreign insurance tax, or the individual income tax. No credits may be issued that may be claimed in the first four years of the program, and the amount of tax credits that may be issued in any fiscal year may not exceed $20 million. The tax credits may be either nonrefundable or partially refundable, at the election of the lender. If the lender chooses the partially refundable credit and the credit exceeds the amount of the taxpayer's liability, the taxpayer is entitled to a refund of 75 percent of the excess.

Municipal taxation of distributive shares of S-corporations.
Limits municipalities' ability to tax distributive shares of S-corporation earnings. Municipalities may tax the part of the distributive share that represents compensation for services the shareholder performed as an employee, and only the part attributable to the corporation's activities in Ohio. Municipalities that taxed these distributions to a greater extent than allowed by the bill on December 6, 2002 may continue to do so, subject to voter approval at the November 4, 2003 election.

Notification of pollution control facility exemption applications.
Property certified as being used for the reduction of air, noise, and water pollution is exempt from the tangible personal property tax and the public utility property tax. The bill requires the Tax Commissioner to notify the county auditor where the property is located of the application and the valuation of the property that may be exempted. The county auditor is then required to notify the taxing authorities that may be affected by the exemption application.

Extension of right to file real property tax complaints. Allows certain owners of commercial property to file new real property tax assessment complaints, if their previous complaint was dismissed on the grounds that an attorney did not file them.

Eligibility for the Job Retention tax credit. Expands the eligibility criteria for the Job Retention tax credit granted to companies pursuant to an agreement between the company and the Ohio Tax Credit Authority. Allows significant administrative corporate functions at the facility, lowers the required investment at the facility to $100 million, and includes investment in basic research and product development to be included in the required investment.

Am. Sub. H.B. 87, 125th General Assembly (effective March 31, 2003). Various Revised Code sections —
Increases one component of the motor fuel tax, raising it from 2 cents per gallon, in raises of 2 cents per gallon effective at the beginning of each fiscal year from 2003 through 2005. Provides that a portion of this motor vehicle fuel tax component, used entirely for state purposes, be distributed instead to municipal corporations, counties, and townships according to a distribution formula, to pay for local highway-related purposes.

Phases out the additional 3 cents per gallon highway use tax rate by reducing it to 2 cents per gallon on July 1, 2004, and eliminating the additional tax rate on July 1, 2005.

Requires the Tax Commissioner to reimburse a school district for the amount of the new gas tax increases paid by the district for fuel used to transport students in buses owned or leased by the district.

H.B. 675, 124th General Assembly (appropriations sections effective December 13, 2002). Various Revised Code sections –
Creates the Innovation Ohio Loan Program, the Third Frontier Commission and Advisory Board, etc. and makes changes to six tax issues.

Ballot initiative analysis requirement. Lessens the responsibility of the Tax Commissioner to provide estimates regarding ballot initiatives with public expenditure or tax levy implications. Assigns estimating public expenditures to the Office of Budget and Management and tax levies to ODT.

Board of Revisions decision notification. Changes former law regarding the jurisdictional appeal period to the Board of Revisions (BOR). Provides that each party to the complaint has its own appeal period. Changes the former mandatory notice to the Tax Commissioner of an appeal to allow the Commissioner to request a copy of the BOR certifications.

Corporation franchise tax safe harbor correction. Corrects errors in the way interest is calculated on delinquencies for taxpayers that pay on an estimated basis. The penalty provisions are unaffected.

Job Retention tax credit. Expands the Job Retention tax credit to non-manufacturers, conditionally lowers the investment level from $200 million to $100 million, and targets the credit toward new research and product development.

Trust tax corrections. Modifies the definition of qualifying trust income, deletes some unintended consequences for certain trusts, and provides for the allocation and apportionment of trust income in qualifying trusts. Modifies or corrects trust residency rules, the allocation of nonresident trusts' taxable income, and attributing ownership of businesses to trusts.

Harmonization of S.B. 200 and S.B. Bill 143. Harmonizes sales tax provisions drafted simultaneously for S.B. 200, the Taxpayer Services II bill and S.B. 143, the Streamlined Sales Tax bill.

Probate and estate tax thresholds. Clarifies that the threshold for filing an estate tax return remains at $338,333 and not the $2,000 suggested by probate law.