2002

Amended Substitute House Bill 396; Effective June 13, 2002 R.C. 131.02, 5703.06

General/Administrative
Adds standards to the law regarding the compromise of delinquent tax claims that have been certified to the Attorney General's Office for collection. A tax claim may be compromised jointly by the Tax Commissioner and the Attorney General if doubt exists that the claim would be collected, a substantial probability exists that the claim would be refunded if paid in full, or an economic hardship exists. The previous statutory time limit of one year in which to make payments under a payment plan has been removed and payments made pursuant to a payment plan may be accepted over a reasonable period of time.

Amended Substitute House Bill 405; Effective December 13, 2001 Various Code Sections

Dealers in Intangibles Tax
Clarifies the Department's position that certain dealers in intangibles, which are subsidiaries of financial institutions and insurance companies, are not exempted from paying the Dealers in Intangibles tax. Beginning in Franchise tax year 2004, a credit is provided to financial institutions owning these "qualifying dealers" on the financial institution's Corporate Franchise tax return. Effective for Dealers in Intangibles tax year 2003, House Bill 405 also provides that brokerage commissions are to be sitused based on the billing address of the customer.

Sales Tax / Up-Front Sales Taxation of Leases
Provides for the up-front collection of Sales and Use taxes on leases for motor vehicles, watercraft, outboard motors, and aircraft. The change in the law also applies to leases of tangible personal property used for business purposes. Current exemptions for purchases of certain tangible personal property used in agriculture, manufacturing, mining, and food preparation are not affected by this change. Imposes the tax on the total amount to be paid by the lessee under the lease agreement. As under prior law, the total amount or price includes, but is not limited to, down payments, manufacturer rebates, interest, and documentary fees. Applies to new leases or renewals entered into on or after February 1, 2002.

Sales Tax / Sales Tax Holiday Study Committee
Creates a Sales Tax Holiday Study Committee consisting of eleven members, including the Tax Commissioner and three each from the House and Senate. Members also include representatives from the retail merchants, the Ohio Manufacturers' Association, consumer advocacy groups, and a county commissioner. Directs the committee to issue a report to the General Assembly by March 1, 2002.

Tobacco Stamp Discount
Reduces the discount tobacco wholesalers receive for affixing tax stamps to cigarette products from 3.6 percent to 1.8 percent. Increases the markup for wholesalers from 2 percent to 2.5 percent. Effective immediately.

Corporation Franchise Tax / Net Worth Exemption
Creates a net worth tax exemption for high-technology start-ups in their first three years of existence in Ohio. High-technology businesses include those engaged in research and development, technology transfer, information technology, biotechnology, or the application of new technology. Exemption applies only for tax years 2003 through 2007.

Individual Income Tax / Corporation Franchise Tax
Creates a job retention tax credit for certain corporate and non-corporate taxpayers beginning in tax year 2003 for a period of up to ten years. Bases eligibility upon the taxpayer making a capital investment, at a single site, of at least $200 million over a three-year period and retaining at least 1,000 full-time employees. Limits the credit to 75 percent of the Ohio Income tax withheld from all full-time employees at the project site.

Real Property / Edison Center Real Property Tax Exemption
Exempts vacant land owned by a non-profit agency, Edison Center, until the property is sold or leased, at which time the tax status will depend on its use, as in current law.

Personal Property / Camp Perry Tax Exemption
Exempts from taxation all tangible personal property held by the federally chartered, non-profit Corporation for the Promotion of Rifle Practice and Firearms Safety. Prior law only exempted tangible personal property that is surplus property. The corporation runs the Civilian Marksmanship Program at Camp Perry.

Local Government Fund
Modifies the "freeze" imposed by Am. Sub. H.B. 94. Local Government Funds will receive the lesser of the Am. Sub. H.B. 94 freeze levels or the amount that, notwithstanding Am. Sub. H.B. 94, would have been distributed by formula.

Amended Substitute Senate Bill 143; Various Provisions Effective March 22, 2002, June 21, 2002, August 1, 2002, and July 1, 2003 Various Code Sections

The Simplified Sales and Use Tax Model Act

Enacts the Simplified Sales and Use Tax Model Act (Ohio Revised Code Chapter 5740), allowing Ohio to participate in discussions with other states regarding the development of a streamlined Sales tax system. Directs Ohio, with representation by a three-member delegation, to participate in the discussions of the "implementing states" to develop the agreement. Provides that the Tax Commissioner or the Commissioner's designee will be the chairperson of the delegation; the Speaker of the House and the President of the Senate will each also choose a delegate. Ohio may only participate in plenary meetings of the group of implementing states if the meetings are open to the public.

The Sales and Use Tax Agreement

Delineates certain requirements that the interstate agreement must contain. These include state-level administration of Sales and Use taxes; a common tax base for state and local jurisdictions; central on-line registration for sellers; uniform standards for exempt sales, tax returns, and remittances; uniform standards for sourcing transactions to taxing jurisdictions; and consumer privacy. Before entering the agreement, requires the General Assembly to enact changes to Ohio law to enable certification that its Sales and Use tax laws are in compliance with the terms of the agreement.

Substantive Changes to Ohio Sales and Use Tax Law

Makes changes to Ohio law on issues where consensus has been reached. Generally, these simplification provisions have a delayed effective date of July 1, 2003. Changes the situsing of delivered goods to the location where the good is delivered and changes the situsing of mobile telecommunications services in compliance with the federal Mobile Telecommunications Sourcing Act, effective August 1, 2002.

Limits the frequency of local tax rate changes to the beginning of a calendar quarter and requires sixty-day notice of local rate changes. Adopts the interstate agreement's uniform definition of delivery charges and excludes them from the price on which Sales and Use taxes are calculated, as long as the delivery charge is separately stated on the bill or invoice, a codification of current practice in Ohio. Provides that registration by a business with the central system envisioned by the system cannot by itself be used to establish nexus for any other Ohio tax.

Restriction on the Payment of Use Tax on the Individual Income Tax Form

Prohibits the Tax Commissioner from requiring taxpayers to report or pay Use taxes on their Individual Income tax return, if taxes were paid at the time of purchase to Ohio or any other state. Codifies existing practice, as reflected on the Ohio Individual Income tax forms and worksheets.

Amended Substitute Senate Bill 144; Effective March 21, 2002 R.C. 901.13, 1345.021, 3706.01, 5733.46, 5733.98, 5747.75, 5747.98

Individual Income Tax / Corporation Franchise Tax

Creates tax credits against the Individual Income tax and the Corporation Franchise tax for investments in ethanol plants for which business plans have been approved by the Ethanol Incentive Board. Provides that ethanol plants are eligible for Ohio Air Quality Development Authority financing.

Substitute Senate Bill 200; Effective September 6, 2002 Various Code Sections

This "Taxpayer Services Bill," Sub. S.B. 200, modernizes Ohio tax laws to improve taxpayer compliance and to ease administration of the various taxes. Some changes institute new procedures or codify current practices, while others remove obsolete provisions of the Ohio Revised Code.

General Provisions

Authorizes the issuance of assessment correction notices to allow non-legal issues in assessments to be reviewed and modified by non-legal personnel; codifies Department appellate procedure regarding hearings on refund claims that are partially or fully denied; and standardizes all indexing to be based on the most recently completed calendar year information.

Corporation Franchise Tax

Increases the net operating loss carryover from 15 to 20 years; creates a "safe harbor" from penalties with respect to estimated payments; relieves employees from personal liability where employers failed to remit withholding taxes; and extends the statute of limitations for refunds.

Motor Fuel/Fuel Use Tax

Modernizes the Fuel Use tax and Motor Fuel tax laws; increases the statute of limitations for refunds; extends an exemption from the Fuel Use tax to other states and their political subdivisions; specifies that the selling of motor fuel does not constitute a "use" of the fuel; and authorizes the sharing of fuel use information to a third-party provider to enhance the administration and enforcement of the Fuel Use tax laws.

Sales and Use Tax

Allows Department of Taxation and county auditor employees to disclose the name and address of a business, the vendor's license number (also the direct pay permit or sellers' Use tax account numbers) of a business, and the status of the account; allows consumers to apply directly to the Department for refunds; incorporates the provisions of federal law regarding the situsing of mobile telecommunications; expands direct pay authority; and exempts from the Sales tax all magazine subscriptions.

Amended Substitute Senate Bill 261; Effective June 5, 2002 Various Code Sections

Cigarette Excise Tax

Increases the cigarette excise tax rate from 24 to 55 cents per pack, effective July 1, 2002. Imposes a one-time floor tax (31 cents) on all unaffixed tax stamps and tax stamps affixed to inventory on-hand as of July 1, 2002.

Individual Income Tax / Taxation of Trust Income

Applies the Individual Income tax directly to the income of those trusts that are described in Internal Revenue Code Chapter 1, Subchapter J. The tax only applies to modified Ohio taxable income that is apportioned and allocated to Ohio. Certain qualified farm income is not taxed, and trusts exempted from the federal income tax for non-profit, charitable purpose-type organizations are not subject to the tax. Enacts the tax for three taxable years—2002, 2003, and 2004.

Individual Income Tax / Indexing Tax Rate Brackets

Beginning in tax year 2005, requires the Individual Income tax brackets to be indexed annually by the change in the Gross Domestic Product price deflator. The adjustment applies to taxable years beginning in the calendar year in which the adjustment is made, with the first adjustment in July 2005.

Individual Income Tax / Modifies Definition of "Business Income"

Amends the definition of "business income" to include income from liquidating all or part of a business, including gain from the disposition of goodwill. Reverses the effect of the Kemppel v. Zaino (2001), 91 Ohio St. 3d 420 decision.

Individual Income Tax / Non-resident Income Tax Credit (Pass-Through Entity Investor)

Requires that, for the purposes of computing the non-resident Income tax credit, a non-resident owning a 20 percent or more interest in a pass-through entity must apportion income from disposing of that interest on the basis of a three-year average of the entity's Ohio apportionment fractions.

Corporation Franchise Tax / Delay of Accelerated Depreciation Deduction

The Job Creation and Worker Assistance Act of 2002 (Public Law 107-147) permits businesses, in computing federal income tax, to claim an accelerated "bonus" depreciation deduction for property acquired between September 11, 2001 and September 10, 2004. The bill modifies the Corporation Franchise, Pass-Through Entity, and Individual Income tax computations to defer the Ohio tax benefits resulting from the bonus depreciation deduction. For Ohio purposes, the benefit is extended over six years rather than claimed immediately.

Corporation Franchise Tax / Attribution of Tax Items from Disregarded Entities

Codifies the Department's existing policy with respect to a corporation's ownership of a disregarded entity operating in Ohio. Requires a parent corporation, in computing Franchise tax liability, to include income generated by a disregarded entity (including gains and losses from the corporation selling an interest in the disregarded entity). When the corporation apportions income for the Franchise tax, the corporation must include the disregarded entity's or subsidiary's payroll, property, and sales apportionment data. The ownership of a disregarded entity located or doing business in Ohio establishes nexus between the owner-corporation and Ohio for Corporation Franchise tax purposes.

Corporation Franchise Tax / Removal of Unconstitutional Foreign Source Dividend Language

Changes the calculation of the net income-based measure of the Corporation Franchise tax in order to make statutory language consistent with a Supreme Court decision in Emerson Electric Co. v. Tracy (2000), 90 Ohio St. 3d 157. In the calculation of net income, increases from 85 percent to 100 percent the deduction for dividends derived from foreign subsidiaries.

Tax Study Committee

Creates the Committee to Study State and Local Taxes consisting of nine members, including three each from the House and Senate, as well as the Tax Commissioner, and the Directors of Development and Budget and Management. Directs the committee to examine the structure of state and local taxes in Ohio, including how that structure affects various sectors of the economy, such as business, industry and individuals. Specifies that a report with recommendations for improvements in the tax structure is due by March 1, 2003.