



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

Sam Benham

S.B. 203

132nd General Assembly
(As Introduced)

Sens. Dolan, Sykes, Eklund

BILL SUMMARY

- Reinstates the "throw-back rule" used in determining what amount of a business' income is apportioned to a particular municipal corporation for municipal income tax purposes.

CONTENT AND OPERATION

Throw-back rule

The bill reinstates a rule used to determine the share of a business' income subject to a municipal corporation's income tax. Continuing law governs the extent to which a municipal corporation may tax a business' net profits when a business operates both within and outside the municipal corporation. Under continuing law, when determining the portion of a business' net profits attributable to a municipality, the business uses a three-factor formula based on the business' payroll, sales, and property. The business' net profits are attributable to a municipal corporation in proportion to the average of the ratios of the business' payroll, property value, and sales in that municipality as compared to all the business' payroll, property, and sales everywhere. The bill modifies the formula's "sales factor."

Under current law, sales of goods are considered to be made in a municipality when the goods are (1) both shipped from and delivered within the municipal corporation or (2) delivered within the municipal corporation, but shipped from elsewhere, if employees of the business regularly solicit sales within the municipal corporation and the sale of the goods result from that solicitation. Otherwise, sales of goods are not considered to be made in the municipality. (Sales of services or of real property each are apportioned under a different rule unaffected by the bill.)

The bill reinstates a third criterion, often referred to as the "throw-back rule," according to which sales of goods are considered to be made in a municipal corporation if they are shipped from the municipal corporation, but delivered elsewhere, if the business, through its own employees, does not regularly solicit sales at the location where the goods were delivered. In effect, these sales are "thrown-back" to the municipality from which they are shipped and are included in the seller's sales factor for that municipality.¹

The throw-back rule had been in effect until it was repealed by H.B. 49 of the 132nd General Assembly for taxable years beginning in 2018 or later. The bill reinstates the throw-back rule beginning with the same taxable years.²

HISTORY

ACTION	DATE
Introduced	09-28-17

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¹ R.C. 718.02 and 718.82.

² Section 3 of the bill.

