Ohio Legislative Service Commission

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Office of Research and Drafting

Legislative Budget Office

H.B. 467

133rd General Assembly

Bill Analysis

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Version: As Reported by House Ways and Means

Primary Sponsors: Reps. Scherer and Rogers

Michael Hinel, Attorney

SUMMARY

- Sets the rate of a withholding tax paid by certain pass-through entities on a percentage of its nonresident investors' distributive income equal to the income tax rate on taxable business income, effectively reducing those withholding rates.

DETAILED ANALYSIS

Pass-through entity withholding tax

Under continuing law, the Ohio income tax applies to income received by an owner or investor in a pass-through entity (PTE) from the PTE's business activities in the state. (Pass-through entities include S corporations, partnerships, and limited liability companies treated for federal income tax purposes like partnerships.) Under current law, in order to ensure collection of the tax from nonresident individuals and entities – which, aside from their ownership of the PTE, would not be required to file an individual tax return – a PTE is required to withhold the income tax due from its nonresident investors. This "withholding tax" is imposed directly on the PTE, even though the underlying tax liability belongs to the investors.

The bill sets the rates at which PTEs remit taxes on nonresident investor income equal to the 3% income tax rate that applies to taxable business income, effectively reducing the PTE withholding rates from 5% to 3% for individual investors[1] and from 8.5% to 3% for nonindividual investors.[2] The bill does not change an existing alternative means for a PTE to report and pay income taxes owed by its noncorporate investors: a PTE may file a composite

[1] R.C. 5747.41.

[2] R.C. 5733.41.

return (Form 4708) covering its investors and pay tax for them at the highest of the graduated tax rates for nonbusiness income (4.797% currently).[3]

The rate changes apply to a PTE's taxable years beginning on or after January 1, 2023.[4]

HISTORY

Action	Date
Introduced	01-14-20
Reported, H. Ways & Means	11-12-20

H0467-RH-133/ks

[3] R.C. 5747.08(D), not in the bill.

[4] Section 3.