



# Ohio Legislative Service Commission

## Bill Analysis

Jennifer A. Parker

### Am. H.B. 19

131st General Assembly  
(As Passed by the House)

**Reps.** Scherer, McClain, Cera, Baker, Boose, Burkley, Henne, Rogers, Schaffer, Slaby, Anielski, Barnes, Blessing, Brown, Buchy, Cupp, Derickson, Dever, DeVitis, Dovilla, Duffey, Gerberry, Ginter, Gonzales, Green, Grossman, Hackett, Hambley, Hill, Koehler, Kraus, Landis, Leland, M. O'Brien, S. O'Brien, Patterson, Perales, Reineke, Rezabek, Romanchuk, Ruhl, Ryan, Slesnick, Sprague, Sweeney, Thompson, Rosenberger

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## BILL SUMMARY

- Incorporates into Ohio income tax law changes to federal tax law taking effect since March 22, 2013.
- Declares an emergency.

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## CONTENT AND OPERATION

### Incorporation of Internal Revenue Code changes

The bill incorporates into Ohio tax law recent changes to the Internal Revenue Code (IRC) or other federal law taking effect after March 22, 2013.<sup>1</sup> The changes being incorporated are those enacted by the "Tax Increase Prevention Act of 2014," which took effect December 19, 2014. The incorporation applies to only general, undated references to the IRC or other federal laws, and does not apply to references that specify a date.

Ohio tax law incorporates by reference parts of the IRC and other federal laws. Periodic amendments to federal law do not become part of Ohio law unless they are incorporated by an act of the General Assembly.<sup>2</sup>

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<sup>1</sup> R.C. 5701.11.

<sup>2</sup> Cf. *State of Ohio v. Gill*, 63 Ohio St.3d 53 (1992).

The principal amendments to the IRC that the bill incorporates are the following income tax provisions:

- Elementary and secondary school teacher deduction for classroom expenses
- Qualified tuition expenses deduction
- Exclusion of IRA distributions for charitable purposes
- Depreciation cost recovery period adjustments for race horses and motor sports entertainment complexes and certain leasehold improvement property, restaurant property, and retail improvement property
- Bonus depreciation deductions and enhanced expensing (Ohio departs from federal income tax law and generally requires taxpayers to spread the immediate tax reductions from bonus depreciation and enhanced expensing in equal parts across six years)
- Exclusion of 100% of gain on certain small business stock
- Exclusion of discharge of principal residence indebtedness for individuals
- Parity for exclusion for employer-provided mass transit and parking benefits
- Depreciation allowance for second generation biofuel plant property
- Deduction for energy efficient commercial buildings
- Election to expense advanced mine safety equipment
- Special expensing rules for certain film and television productions
- Basis adjustment to stock of S corporations making charitable contributions of property
- Income adjustments for businesses in a designated empowerment zone

Most of the foregoing provisions are extensions of pre-2014 federal provisions. Many of them are extended only for a limited period of time. (For more information about the federal amendments, see the "Estimated Revenue Effects Of H.R. 5771, The 'Tax Increase Prevention Act of 2014,' Scheduled for Consideration by the House of



Representatives on December 3, 2014," December 3, 2014 by The Joint Committee on Taxation, available at [www.jct.gov](http://www.jct.gov)).

### **Effect of incorporation**

All of the federal amendments relate to exclusions or deductions affecting a taxpayer's federal adjusted gross income (or taxable income for trusts and estates), the starting number for determining the taxpayer's Ohio adjusted gross income or Ohio taxable income. If these amendments were not incorporated, a taxpayer would have to add these exclusions or deductions to the taxpayer's federal adjusted gross income or taxable income for purposes of computing the taxpayer's Ohio tax liability for taxable years beginning in 2014 and thereafter.

The bill also revises Ohio tax law with respect to an election available to taxpayers whenever federal amendments become incorporated. Current law authorizes a taxpayer whose taxable year ended after December 20, 2012, and before March 22, 2013, to irrevocably elect to apply to the taxpayer's state tax calculation the federal tax laws that applied to that taxable year. (The December and March dates are the dates of the two most recent incorporations.) The election was available to taxpayers who were subject to the personal income tax and to electric companies that are subject to municipal income taxes.

The bill updates this election so that it may be made for a taxpayer's taxable year ending after March 22, 2013, but before the bill's effective date. The act retains a provision specifying that similar elections made under prior versions of the law remain effective for the taxable years to which the previous elections applied.

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## **HISTORY**

<b>ACTION</b>	<b>DATE</b>
Introduced	01-28-15
Reported, H. Ways & Means	02-10-15
Passed House (96-0)	02-11-15

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