OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

Sam Benham

H.B. 592

131st General Assembly
(As Introduced)

Reps. Merrin, Amstutz, Schaffer, Ryan, R. Smith

BILL SUMMARY

- Exempts small business investment companies from the financial institutions tax both prospectively and retrospectively to the first year that tax was levied (2014).

CONTENT AND OPERATION

Taxation of small business investment companies

The bill exempts small business investment companies (SBICs) from the financial institutions tax (FIT).[1] The exemption applies both prospectively and retrospectively back to January 1, 2014, when the FIT was introduced.[2]

The FIT is a tax on banks and other kinds of financial institutions. Tax liability is determined on the basis of the portion of an institution's equity capital attributable to its Ohio business, as measured by the relative amount of its gross receipts that arise from Ohio operations. The tax rate is tiered according to an institution's Ohio equity capital: the rate is 0.8% on the first $200 million, 0.4% on the next $1.1 billion, and 0.25% for equity capital in excess of $1.3 billion. The minimum tax is $1,000. All revenue from the tax is credited to the General Revenue Fund.[3]

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[1] R.C. 5726.01.

[2] Section 3.

[3] R.C. Chapter 5726.

Small business investment companies

A small business investment company is a privately owned and managed investment fund licensed under federal law. An SBIC uses its own capital and, in most cases, securities guaranteed by the United States Small Business Administration to lend to and make equity investments in qualifying small businesses.[4] Up to two-thirds or three-fourths of their capital may be from the SBA-guaranteed securities, depending on prior fund management experience. Their investments generally are restricted to small businesses – i.e., those having maximum net worth of $19.5 million and net income of $6.5 million – and one-fourth of each SBIC's investments must be in even smaller businesses having maximum net worth of $6 million and net income of $2 million. SBICs are usually structured as limited partnerships with the investment manager serving as the general partner.

Residual tax status of SBICs

Any financial institution that is subject to the FIT is exempted from the commercial activity tax (CAT), which is a general tax on the gross receipts of all businesses that are not expressly exempted. One implication of being exempted from the FIT is, technically, to become subject to the CAT.[5] However, SBICs are structured in such a way that most of their income is investment income that is distributed to partners and which generally is not subject to the CAT. They would have some income as management fees but, to be taxable under the CAT, the fees would have to be at least $150,000.[6]

HISTORY

ACTION	DATE
Introduced	08-25-16

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[4] 15 U.S.C. 661 *et. seq*.

[5] R.C. 5751.01(E)(3).

[6] R.C. 5751.01(E)(1).