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Fiscal Note & Local Impact Statement

Bill: H.B. 333 of the 132nd G.A. (L_132_0429-1)

Status: In House Ways and Means

Sponsor: Reps. Becker and Leland

Local Impact Statement Procedure Required: Yes

Subject: To allow married couples to file state income tax returns with an enhanced joint filer credit

State & Local Fiscal Highlights

	FY 2019	FY 2020	FUTURE YEARS
State General Revenue Fund			
Revenues	Potential loss	Loss between $650 million and $745 million	Annual loss growing with income from FY 2020 amount
Expenditures	Increase of $50,000	- 0 -	- 0 -
Counties, municipalities, townships, and public libraries (LGF and PLF)			
Revenues	Potential Loss	Loss between $22 million and $26 million	Annual loss growing with income from FY 2020 amount

Note: The state or school district fiscal year is July 1 through June 30. For example, FY 2018 is July 1, 2017 – June 30, 2018. For other local governments, the fiscal year is the calendar year.

- Beginning with tax year 2019, the bill permits married taxpayers filing a joint state income tax return to claim an enhanced joint filer credit that would effectively allow the couple to reduce their tax liability to no more than they would owe on a combined basis from filing separately. Revenue effects of this bill could begin in the latter months of FY 2019, but largely impact FY 2020 and years thereafter.
- The personal income tax revenue loss would be shared by the state General Revenue Fund (GRF, 96.66% in FY 2019, 96.68% in subsequent years), the Local Government Fund (LGF, 1.66%) and the Public Library Fund (PLF, 1.68% in FY 2019, 1.66% in subsequent years). Funds deposited into the LGF and PLF are distributed to counties, municipalities, townships, and public libraries according to statutory formulas.
- According to the Ohio Department of Taxation, the agency's Information Services Division would incur $50,000 in one-time costs to implement this policy.
- The tax department estimated a larger revenue loss than LSC for the As Introduced version of H.B. 333, which had an earlier effective date but a similar concept, and concluded it reduces GRF revenues by an amount between $790 million and $881 million in FY 2018 and between $829 million and $925 million in FY 2019.

- The personal income tax base serves as the base for one of the two types of school district income tax. Because the bill does not reduce the tax base, and all school district income tax levies are subject to flat (rather than progressive) tax rates, the bill will likely not impact any revenues raised by school districts.

Detailed Fiscal Analysis

Beginning with taxable year (TY) 2019, H.B. 333 changes the joint filing credit in a manner that permits married taxpayers filing jointly to claim the financial benefit that results from the more favorable filing status for their personal income tax (PIT). Federal law allows married individuals to file joint or separate federal income tax returns. Under continuing Ohio law, a married couple must file a joint state income tax return if they file a joint federal income tax return for the taxable year, and separate returns if either spouse files a separate federal return for the taxable year.

The joint filer credit under current law is between 5% and 20% of tax liability (based on a sliding scale) before this credit and some others, and after certain other credits, up to $650, and is available only if both taxpayers have Ohio adjusted gross income of at least $500 for the year. The intent of the proposed credit is to enable married couples to claim the difference between the taxpayers' tax liability when filing jointly, prior to calculating the credit, and their combined tax liabilities if they filed separately. The credit would be nonrefundable.

Fiscal effect

The bill would create a revenue loss under the income tax. Some taxpayers currently file jointly because that option yields a lower federal tax liability. These married couples might prefer to file separately in Ohio, but do not do so because the potential savings on their Ohio taxes is outweighed by the benefit of filing a joint federal tax return. The amount of the revenue loss from H.B. 333 depends on the number of taxpayers who would prefer to switch their state filing status to married filing separately and the average amount of savings for those taxpayers electing to do so. As mentioned above, the couple's filing status would match their federal status, and the joint filing credit would increase to reflect the better of the two filing status scenarios.

Ohio data from the 2015 American Community Survey (ACS) Public Use Microdata Sample, which is prepared by the U.S. Census Bureau, provides income amounts for each spouse in a household. The ACS also collects general information on the source of income, which enables end users to estimate whether the married couple would qualify for the joint filer credit under current law. LSC modeled the policy impact of H.B. 333 and then adjusted the resulting figure for the business income deduction,[1] which cannot be simulated using ACS data. The presence of this deduction may decrease the actual revenue cost, but the estimate is unavoidably rough. Nevertheless, the lower bounds of annual estimates contained in this Fiscal Note represent a hand adjustment to the modeled cost for the business income deduction.

Notably, the ACS data set does not indicate the married couple's tax filing status. Therefore, the LSC revenue estimate reflects the difference between a couple's two hypothetical choices – filing jointly or filing separately – rather than the difference between their current federal filing status and the alternative choice enabled by H.B. 333 (which may not be more advantageous in some instances).

Based upon this methodology, the personal income tax would lose up to $771 million for TY 2019, of which the General Revenue Fund (GRF) share could be up to several million dollars in FY 2019, and between $650 million and $745 million in FY 2020. The law change would likely not impact PIT receipts from employer withholding, but it could reduce PIT receipts received from some taxpayers via quarterly estimated payments, and two such TY 2019 payments are due before the end of FY 2019. The fiscal effect of H.B. 333 would profoundly impact annual returns filed for TY 2019, and the bulk of this fiscal effect will materialize in the form of larger taxpayer refunds and smaller amounts remitted during the tax filing season.

The estimate is predicated on 100% of Ohio's 1.8 million married couples filing a joint return to claim the joint filing credit on their state tax return in the most financially advantageous way. If some of these married couples do not maximize their financial benefit, the revenue loss could be less. In future years, this annual loss would grow in a pattern similar to married couples' income growth.

Potentially, the estimated revenue loss for the bill could be too low as evidenced by the higher tax department estimate for a similar policy set forth in the As Introduced version of H.B. 333. The tax department used a different data source and varying assumptions for the amount of income earned by each spouse, so the full range of outcomes presented in this Fiscal Note are indicative of the contrasting methodologies and data sources. Because the tax department's estimate reflects the As Introduced version of H.B. 333, it contemplates the revenue loss for all married couples in Ohio rather than those affected by Sub. H.B. 333 (L_132_0429-1), which only applies to couples that file joint returns. The exclusion of married couples filing separately is not a critical difference as the majority (approximately 85%) of married couples currently file a joint return for their state income tax.

The personal income tax revenue loss would be shared by the GRF (96.66% in FY 2019 and 96.68% in subsequent fiscal years), the Local Government Fund (LGF, 1.66%) and the Public Library Fund (PLF, 1.68% in FY 2019 and 1.66% in subsequent

[1] The business income deduction exempts the first $250,000 of business income from taxation and applies a 3% rate on income in excess of $250,000. This tax treatment is substantially different from the taxation of nonbusiness income, which is subject to a progressive income tax with up to eight different marginal rates.

years). Funds deposited into the LGF and PLF are distributed to counties, municipalities, townships, and public libraries according to statutory formulas. The bill may reduce LGF and PLF revenues for FY 2019 by a total amount up to $0.1 million. Estimated revenue losses for FY 2020 would grow to an amount between $22 million and $26 million, and losses in future years would be contingent on the growth in married couples' incomes.

The personal income tax base serves as the base for one of the two types of school district income tax. Because the bill does not reduce the tax base, and all school district income tax levies are subject to flat tax rates rather than a progressive rate structure, the bill will likely not impact any revenues raised by school districts.

Ohio Married Couples' Income Split Among Spouses	
Ratio of Each Spouse's Income to Couple's Total Income	**Number of Married Couples**
0% and 100%	374,727
5% and 95%	113,848
10% and 90%	117,383
15% and 85%	134,934
20% and 80%	163,300
25% and 75%	175,231
30% and 70%	201,818
35% and 65%	203,514
40% and 60%	227,549
45% and 55%	247,237
50% and 50%	167,062
Total Ohio Married Couples	**2,126,603**

The above table presents information about Ohio's married couples found in the ACS. The ACS inquired about a married person's income as well as the income of his or her spouse. The table expresses these replies in percentage terms. For example, the table shows that 374,727 married couples have one spouse that earns 100% of the couple's income, whereas 167,062 married couples report that each spouse earns approximately equal amounts of income, which is expressed as a 50/50 split of the couple's total income.

Tax department estimate of the As Introduced version of H.B. 333

The Ohio Department of Taxation utilized TY 2015 individual income tax data to estimate the As Introduced version of H.B. 333. The state tax return discloses business and nonbusiness income, so it is better positioned to model the impact of the business income deduction. Nonbusiness income is reported on a combined basis for those married couples filing jointly, so assumptions were necessary when splitting this combined amount between the two spouses.

In using the As Introduced version of H.B. 333, the tax department simulated models for married couples currently filing jointly and couples filing separately. The resulting conclusions implied a state revenue loss between $817.3 million and $911.6 million for FY 2018 and between $858.2 million and $957.5 million for FY 2019. The GRF share of these losses would be 96.66% of this all funds total in the current biennium.

Impact on agency expenditures

LSC contacted the tax department for their assessment of H.B. 333 on agency expenditures. The agency reported that its Information Services Division would incur $50,000 in one-time costs to implement the policy specified in the bill.

Synopsis of Fiscal Effect Changes

- The substitute bill delays this general tax policy change from TY 2017 to TY 2019, which reduces the GRF cost incurred during the FY 2018-FY 2019 biennium from an amount up to $1.47 billion to no more than several million.
- The substitute bill modifies the policy so that the benefit of filing separately is realized through an enhanced joint filer credit rather than electing a state filing status that differs from a couple's federal filing status. According to the tax department, this provision reduces the administrative costs from a "significant" amount to a one-time cost of $50,000.

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