OHIO LEGISLATIVE SERVICE COMMISSION

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Office of Research and Drafting

Legislative Budget Office

H.B. 200
135th General Assembly

Fiscal Note & Local Impact Statement

Click here for H.B. 200's Bill Analysis

Version: As Introduced

Primary Sponsors: Reps. Callender and T. Young

Local Impact Statement Procedure Required: No

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Highlights

- Credit for taxes paid by pass-through entities (PTEs) to other states on behalf of Ohio residents with ownership interests in those PTEs may reduce state personal income tax revenue starting in FY 2024.
- The revenue loss appears indeterminate, possibly minimal.

Detailed Analysis

The bill modifies income tax treatment of income subject to other states' pass-through entity (PTE) taxes. Pass-through entities include S corporations, partnerships, and limited liability companies. PTEs generally share the characteristic of "passing through" tax liability to their owners, thereby taxing income only at the owner level and avoiding taxation at both the entity and owner levels. For taxes paid on an Ohio resident taxpayer's behalf by a PTE in which the taxpayer has an ownership interest to another state or the District of Columbia, under the bill the Ohio taxpayer would be required to add those PTE taxes to his or her federal adjusted gross income (FAGI), to the extent those taxes were deducted in arriving at FAGI. But the taxpayer would be allowed to claim a credit for such taxes.

The PTE tax of the other state or District of Columbia may have been enacted to comply with U.S. Internal Revenue Service Notice 2020-75 or paid on a combined return. As was the case with S.B. 246 of the 134th General Assembly, the bill is a response to a provision of the 2017 federal Tax Cuts and Jobs Act, which limited the amount of state or local income or general sales tax (SALT) that a federal income taxpayer could deduct to $10,000 (for married taxpayers filing separately, $5,000). Under an Internal Revenue Service determination (Notice 2020-75), taxes paid by a PTE are not taken into account for federal income tax purposes in applying the SALT deduction limitation to an individual who is a partner or owner of the PTE.

LBO is not aware of public information on the amount of tax paid by PTEs on behalf of out-of-state PTE owners. Such information, if available, could inform an estimate of the bill's fiscal effects. Net income less loss of PTEs in 2019 nationwide was about $1.3 trillion, as indicated by U.S. Internal Revenue Service data. The two primary provisions of the bill would affect state revenue in opposite directions, though. The revenue effect of the bill is uncertain, possibly minimal.[1]

The bill affects taxes due for tax year 2023. At their option, taxpayers could apply the bill's provisions to tax year 2022. The bill's effects would start in FY 2024 (assuming timely enactment). To the extent that GRF tax revenue is decreased by the bill, revenue to the Local Government Fund (LGF, Fund 7069) and the Public Library Fund (PLF, Fund 7065) would be reduced. Each fund receives 1.66% of GRF tax revenue under codified law.

The Department of Taxation may incur costs to implement and administer the bill's provisions. These costs may be paid from GRF line item 110321, Operating Expenses.

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[1] Identical provisions are part of the Senate-passed version of the main operating budget bill, H.B. 33.