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Ohio Legislative Service Commission

Office of Research and Drafting

Legislative Budget Office

S.B. 210
133rd General Assembly

Fiscal Note & Local Impact Statement

Click here for S.B. 210's Bill Analysis

Version: As Introduced

Primary Sponsor: Sen. Roegner

Local Impact Statement Procedure Required: Yes

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Highlights

- The bill would replace the current joint filer credit (JFC) with a new nonrefundable credit that would reduce taxes owed by husbands and wives filing jointly to the combined amount they would owe filing separately.
- Use of the credit would be at the option of taxpayers, and those couples whose combined tax would be higher if they filed separately could elect not to take this credit.
- The net revenue loss with the bill is estimated at $653 million, starting in tax year 2021, consisting of $11 million to each of the Local Government Fund (LGF, Fund 7069) and the Public Library Fund (PLF, Fund 7065), and $631 million to the GRF. FY 2022 would be the first fiscal year in which the full estimated revenue loss would occur, though there may be a small revenue loss in FY 2021 associated with estimated payments for tax year 2021.

Detailed Analysis

The bill, starting in tax year (TY) 2021, would allow husbands and wives filing jointly to claim a nonrefundable credit that would reduce their taxes owed to the combined amount due if they filed separately. For the calculation of how much they would owe if they filed separately, adjustments or credits that could be taken or claimed by either spouse on their separate returns could be claimed in the way that would minimize their combined tax due. The bill is permissive; taxpayers who would owe more if they filed separately would not be required to claim the credit. This could happen, for example, as a result of a taxpayer with more than $125,000 of business income being able to deduct up to $250,000 filing jointly but only

$125,000 filing separately.[1] On any business income over those amounts, tax before credits is figured at a 3% rate.

The revenue loss from taxing separately, rather than jointly, the incomes of spouses who filed jointly for TY 2016 is estimated to total $847 million on an all funds basis. In this calculation, TY 2019 tax rates were employed, and a portion of nonbusiness income is attributed to each spouse, while taxation of business income is held unchanged. Because of the latter and other simplifying assumptions, estimated revenue losses are only approximations. The revenue loss from the joint filer credit (JFC) in current law is estimated at $194 million. The bill repeals the current JFC, implying a net revenue loss of $653 million.

Background

Under Ohio law, husbands and wives who file joint federal income tax returns must file joint Ohio income tax returns; if either spouse files a separate federal income tax return, they must file separate Ohio income tax returns.[2] For tax purposes, Ohio income of individuals is split into business and nonbusiness income. Tax before credits is calculated on the nonbusiness portion using the same tax table regardless of whether the taxpayer is married filing jointly; married filing separately; or single, head of household, or qualifying widow or widower. Ohio has no separate joint filing brackets. The tax table is progressive, with higher marginal tax rates in higher income brackets. Consequently, married taxpayers who can have their nonbusiness incomes taxed separately will tend to pay lower rates at the margin, hence have a lower combined tax liability. An exception is married taxpayers whose nonbusiness income is all or substantially all earned by one of the two spouses. Tax before credits for these latter taxpayers on their nonbusiness income could be higher if they file separately and in consequence are unable to use the full exemption amount of one of the spouses to reduce taxable income. Some income of married taxpayers can readily be attributed to one or the other of the spouses, for example, income from employment. Other income is joint, such as receipts from financial instruments owned by both.

The JFC in current law may be claimed by taxpayers who file a joint return, if each spouse has $500 or more of qualifying income, defined as any amount included in Ohio adjusted gross income (OAGI) other than interest, dividends and distributions, royalties, rent, and capital gains. Amounts deducted in computing OAGI, such as the business income deduction and Social Security benefits taxable at the federal level, are not qualifying income. For TY 2017, 59% of returns filed jointly claimed the JFC. The credit equals a percentage of the amount of tax owed after certain credits have been subtracted.[3] A provision of H.B. 166 of the 133rd General Assembly (the enacted budget) tied these percentages to modified adjusted gross income (MAGI) less exemptions, with MAGI defined as OAGI plus any business income deducted in computing OAGI. The percentages are shown in the following table.

[1] R.C. 5747.01(A)(31), unchanged by the bill.

[2] R.C. 5747.08(E).

[3] The credits taken before the JFC are as specified in R.C. 5747.98 and include the retirement and senior citizen credits, the $20 per exemption credit, and other less commonly claimed credits.

MAGI Less Exemptions	Credit Percentage
$25,000 or less	20%
More than $25,000, not more than $50,000	15%
More than $50,000, not more than $75,000	10%
More than $75,000	5%

The current JFC is capped at a maximum of $650 per return, and is repealed by the bill.

Data

The analysis reported here was carried out on two samples, a sample of TY 2016 tax returns provided by the Department of Taxation[4] and a sample of Ohio households from the Census Bureau's American Community Survey (ACS).

The sample from the Department includes a limited number of line item entries from more than 140,000 returns, nearly 90,000 of which were filed jointly.[5] It does not show, for the joint returns, amounts of income earned by each of the two marriage partners, nor does it indicate how much of the business and nonbusiness income to attribute to each partner.

The ACS data used include incomes of Ohio married couples in the 12 months before the survey in 2017, the individual survey respondents' incomes, the incomes of their spouses, and weights with each set of sample values to use in estimating population values. Incomes of any other household members are excluded, as are data on married-couple households with an absent spouse. Values may be negative, indicating losses. Data generally are as reported by the survey respondents but are subject to maximums and minimums to prevent disclosure for high-income individuals in the sample or persons experiencing large losses.

The two samples are entirely separate, with no way to reliably link Department data on a specific taxpayer with ACS data on any specific household.

Analysis

The tax savings from the JFC in TY 2016 were estimated to be about $195 million on an all funds basis. This is the calculated amount of additional tax liability if the JFC is set to zero for all 2016 joint filers, in a model built using the sample provided by the Department. This amount is somewhat less than the $199.4 million estimated for FY 2017 in the Tax Expenditure Report, which was on a GRF basis rather than all funds. Calculated tax savings from the JFC, using the tax rate table for 2019 in the recently enacted H.B. 166 and the 2016 sample data, totaled virtually the same amount, $194 million.

[4] Please note that the sample provided does not include identifying information about the taxpayers in the sample.

[5] The sample includes weights for converting sample values to population estimates.

The 2017 ACS data indicate that the spouse with the higher income averaged about 75% of couples' combined incomes, and the spouse with the lower income averaged 25% of the total. These percentages, which relate to income from all sources, were used in combination with the taxpayer sample from the Department to generate a set of hypothetical nonbusiness income amounts for each spouse. As noted above, taxation of business income was held unchanged and not attributed to either spouse. The reduction in tax liabilities on the nonbusiness income, net of nonrefundable credits and calculated using the 2019 tax table, totals about $847 million on an all funds basis. The tax reduction due to the JFC totaled about 23% of this amount. In the aggregate, the reduction in income tax revenue from the JFC would be enlarged by the bill from $194 million in current law to $847 million, a net revenue reduction of $653 million.

The Local Government Fund (LGF) and Public Library Fund (PLF) each receive 1.66% of GRF tax revenue under codified law. The changes in the bill would go into effect in TY 2021. The higher percentages (1.68% and 1.70%, respectively) provided in uncodified law by H.B. 166 of the 133rd General Assembly will expire after June 2021. A $653 million all funds revenue loss from the bill implies about an $11 million revenue loss to each of the LGF and PLF, and a $631 million revenue loss to the GRF.

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