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OHIO LEGISLATIVE SERVICE COMMISSION

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H.B. 48
134th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsor: Reps. Roemer and Pavliga

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SUMMARY

- Incorporates into Ohio income tax law changes to federal tax law taking effect since March 27, 2020.
- Declares an emergency.

DETAILED ANALYSIS

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 27, 2020.¹

Several changes to federal law are incorporated, including several changes made by the “Consolidated Appropriations Act, 2021,” H.R. 133 of the 116th Congress, in December of 2020. Several of these changes directly affect the tax base of many Ohio income tax taxpayers by increasing or decreasing federal adjusted gross income (FAGI), the starting number for determining a taxpayer’s Ohio taxable income.² The incorporated changes also affect the tax base of school districts levying an income tax on the basis of FAGI.³

The following is a list of some of the most significant of the federal law changes affecting Ohio law:

¹ R.C. 5701.11(A).

² R.C. 5747.01(A), not in the bill.

³ R.C. 5748.01(E), not in the bill.

Changes affecting individuals

- A temporary look-back rule for determination of earned income for purposes for the earned income tax credit (EITC). (Ohio allows a piggy-back credit based on a taxpayer's federal EITC.)
- The extension of an exclusion from gross income for the discharge of indebtedness of a qualified principal residence.
- An extension of the temporary allowance of a deduction for charitable contributions by nonitemizers.
- A clarification that the educator expense tax deduction includes expenses for personal protective equipment and other supplies related to the prevention of the spread of COVID-19.
- An exclusion for emergency financial aid grants.
- The transition from a deduction for qualified tuition and related expenses to an increased phase-out threshold of the Lifetime Learning Credit.
- Temporary special rules for health and dependent care flexible spending arrangements.

Changes affecting businesses

- The allowance of a 30-year depreciation period for certain residential rental property.
- The temporary allowance of a full deduction for business meals (generally, business meals are only 50% deductible).
- A clarification of the tax treatment of Paycheck Protection Program loan forgiveness, including a clarification that expenses paid with covered loans can be deductible.
- An extension of the payment deadline for certain deferred payroll taxes (including certain self-employment taxes).
- The extension of the work opportunity tax credit. (Ohio allows a deduction for employee wages that could not be deducted from the business owners' FAGI due to the work opportunity credit.)
- The extension of an exclusion for certain employer payments of student loans.

Reason for incorporation

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.⁴ 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.

⁴ See *State of Ohio v. Gill*, 63 Ohio St.3d 53 (1992).

If federal tax law amendments are not incorporated, an affected taxpayer would have to adjust the taxpayer's federal adjusted gross income or taxable income, either by adding or subtracting the relevant amounts, in order to compute the taxpayer's Ohio tax liability.

Alternative tax law election

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 March 30, 2018, and before March 27, 2020, to irrevocably elect to apply to the taxpayer's state tax calculation the federal tax laws that applied to that taxable year. (The two 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 and telephone companies that are subject to municipal income taxes.

The bill allows this election to be made for a taxpayer's taxable year ending after March 27, 2020, but before the incorporation provision's effective date. The bill 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.⁵

HISTORY

Action	Date
Introduced	02-03-21

H0048-I-134/ts

⁵ R.C. 5701.11(B).