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Bill Analysis

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Primary Sponsors: Sens. Blessing and Antonio

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SUMMARY

- Levies a tax on any landlord that owns 50 or more single-, two-, or three-family houses in a single county.
- Imposes the tax on a monthly basis, at a rate of $1,500 for each such house owned on the first day of the month.
- Requires a group of commonly owned or controlled persons to file and pay the tax as a combined taxpayer group.
- Divides the revenue from the new tax equally between the Low- and Moderate-Income Housing Trust Fund and the Local Government Fund.
- Imposes a penalty for failure to file or pay the tax equal to the number of taxable houses owned multiplied by 5% of the median Ohio home price.
- Imposes a criminal penalty for filing a fraudulent refund claim, classified as a fifth degree felony and punishable by a fine of up to $750,000.
- Requires pass-through entities to provide the applicable county auditor with contact information related to each taxable house the entity owns or transfers.
- Requires taxpayers to provide information on their income tax or commercial activity tax returns about any taxable house that gave rise to taxable income or gross receipts.

DETAILED ANALYSIS

Housing market impact tax

The bill imposes a new tax on certain high-volume landlords, beginning in the first full calendar year after the tax's effective date.[1] The tax, referred to as the "housing market impact tax," is imposed on any person or combined taxpayer group that owns 50 or more "taxable houses" in a single county. A taxable house is any single-family, two-family, or three-family dwelling.[2] When a county auditor is aware that a landlord owns the requisite number of houses, the auditor must provide notice on the landlord's tax bill.

The tax is imposed monthly, and equals $1,500 for each taxable house owned by the taxpayer on the first day of each month.[3] Taxpayers must file a return and pay the tax for the preceding tax period by the 21st of each month.[4]

The Tax Commissioner may prescribe rules and adopt applicable forms to implement the tax. These rules are not subject to the requirements in continuing law governing agency review of rules to identify regulatory restrictions or the removal of two regulatory restrictions upon adoption of one regulatory restriction.[5]

Persons subject to tax

The tax applies to any landlord owning the requisite number of houses in Ohio, regardless of the landlord's organizational form, e.g., corporation, pass-through entity, sole proprietor, business trust, estate, etc., but does not apply to 501(c)(3) nonprofit organizations, port authorities, or county land reutilization corporations, i.e., land banks.[6]

Combined taxpayer group

The bill requires a group of commonly owned or controlled persons, including the common owner, to file and pay the tax as a combined taxpayer group. Common ownership or control means a more-than-50% ownership interest. A combined taxpayer group must designate a reporting person to file returns and receive legal notices. Each member of the group remains jointly and severally liable for the tax and associated penalties and interest, and each member is subject to assessment.[7]

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[1] Section 4.

[2] R.C. 5755.01(A).

[3] R.C. 5755.01(G) and 5755.02.

[4] R.C. 5755.03(A), with conforming change in R.C. 113.061.

[5] R.C. 5755.07.

[6] R.C. 5755.01(B), (D), and (E), with conforming change in R.C. 5725.26.

[7] R.C. 5755.01(C) and (F) and 5755.011.

Use of revenue

On the 28th day of each month, the Director of Budget and Management is required to transfer 50% of the revenue from the new tax to the Low- and Moderate-Income Housing Trust Fund, which is administered by the Ohio Housing Finance Agency and the Department of Development and funds housing grants and loans for community development corporations, emergency shelters, nonprofit organizations, families, and individuals.[8] The remaining 50% is transferred to the Local Government Fund (LGF).[9] The LGF, which is currently funded from a percentage of monthly state tax collections, is allocated monthly to counties, municipalities, townships, and park districts through various statutory and locally adopted allocation formulas.[10]

Penalties and interest

The bill imposes a penalty on any taxpayer who fails to file a required return or pay the full amount of tax owed. The penalty is calculated by multiplying the number of taxable houses the taxpayer owns on the first day of the tax period by 5% of the median Ohio home price according to the most recent American Community Survey published by the U.S. Census Bureau.

Interest accrues against unpaid amounts at the normal statutory rate of three percentage points above the current yield on marketable United States government securities having a remaining maturity of three years or less. The interest accrues from the due date to the time the tax is paid or an assessment is issued, whichever occurs first.[11]

The Tax Commissioner is authorized to waive penalties, but not interest.[12]

Refunds

Refunds are available for overpaid, illegal, or erroneously paid taxes. A taxpayer must generally apply for a refund within four years of the overpayment. Interest accrues on refund amounts at the same rate as it accrues on underpayments.[13]

As with other taxes, refunds must be offset for various debts to the state, including unpaid taxes, workers compensation premiums, unemployment compensation contributions, and motor vehicle fees, and incorrect medical assistance payments.[14]

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[8] R.C. 174.02.

[9] R.C. 5755.03(C)(3).

[10] R.C. 131.51, 5747.50, 5747.503, 5747.51, and 5747.53, not in the bill.

[11] R.C. 5703.47, not in the bill.

[12] R.C. 5755.04, with conforming change in R.C. 5703.263.

[13] R.C. 5755.05, with conforming changes in R.C. 5703.052, 5703.053, 5703.70, and 5703.77.

[14] R.C. 5755.051, with conforming change in R.C. 4303.26.

The bill imposes a criminal penalty on anyone who files a fraudulent refund claim, classifying the offense as a fifth degree felony and subjecting the taxpayer to a fine of up to $750,000, in addition to the standard penalties.[15]

Assessments

As with other taxes, the Tax Commissioner may issue assessments for unpaid or unreported taxes. The assessment provisions are substantially the same as for other state taxes. The statute of limitations for issuing an assessment is four years unless fraud or failure to file is involved, in which case there is no time limit.[16]

Municipal housing market impact tax prohibition

The bill prohibits municipal corporations from using their home rule authority to levy a tax that is the same as or similar to the housing market impact tax.[17]

Reporting of taxable houses

The bill requires that any pass-through entity (PTE) − i.e., any S corporation, partnership, and or limited liability company − that owns a taxable house, even if it owns less than 50 such houses, provide and maintain a record of contact information for each house with the county auditor of the county in which the house is located.

The bill requires an initial filing from any such PTE within one year of the provision's effective date. The entity must file a statement with the applicable county auditor reporting the address and parcel number of the house and providing contact information for the PTE and one of its owners.[18]

The bill imposes a similar reporting requirement whenever a taxable house is conveyed to a PTE or more than 50% of an ownership interest in a PTE that directly or indirectly owns a taxable house is transferred. When a taxable house is conveyed to a PTE, the property transfer statement that the grantee must submit to the county auditor under continuing law must include contact information for the entity and one of its owners. The same information must be reported within 30 days of the over-50% transfer of an ownership interest in a PTE that directly or indirectly owns a taxable house.[19]

The bill also requires that taxpayers of the income tax and the CAT report information about any taxable houses that give rise to reportable income or losses or taxable gross receipts. Any such taxpayer must report on the applicable tax return the parcel identification number and county of any taxable house to which the person's income, losses, or taxable gross receipts

[15] R.C. 5755.052 and 5755.99.

[16] R.C. 5755.06, with conforming changes in R.C. 131.02, 5703.19, 5703.50, and 5703.90.

[17] R.C. 715.013.

[18] Section 3.

[19] R.C. 319.202.

are attributable, even if the taxpayer owns less than the 50-house threshold of the housing market impact tax.[20]

HISTORY

Action	Date
Introduced	02-28-23

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[20] R.C. 5747.081 and 5751.051.