Ohio Legislative Service Commission

Bill Analysis

Joe McDaniels

S.B. 198

131st General Assembly
(As Introduced)

Sen. Jordan

BILL SUMMARY

- Prohibits municipal corporations from levying an income tax on compensation earned by nonresidents for personal services and on net profits from sole proprietorships owned by nonresidents.

CONTENT AND OPERATION

Municipal taxation of nonresident income

The bill prohibits municipal corporations from levying income tax on compensation earned by nonresidents for personal services and on net profits from sole proprietorships owned by nonresidents. Currently, home rule powers authorize municipal corporations to tax the incomes of resident individuals, nonresident individuals who earn income within a municipal corporation, and businesses with net profits apportioned to the municipal corporation. The power of municipal corporations to tax nonresidents has been upheld by the courts on the ground that individuals working in a municipal corporation enjoy the benefits and protections provided by the municipal corporation (such as police and fire protection) while working there. See *Angell v. Toledo* (1950), 153 Ohio St. 179 and *Thompson v. Cincinnati* (1965), 2 Ohio St.2d 292. Unlike most other home rule powers, municipal taxation powers are subject to limitation by the General Assembly (Article XVIII, Section 13, Ohio Constitution); the limitations are set forth primarily in Chapter 718. of the Revised Code.

The bill effectively ends municipal taxation of nonresident income, with the exception of net profits derived from a business other than a sole proprietorship. However, the change will not result in a reduction of tax liability in all cases. For persons who work in one municipal corporation, live in another, and are taxed by both, it is likely that at least some part of their tax liability to the municipal corporation where they live will be offset, since most municipal corporations grant a credit against their own income tax for at least some part of the income taxes their residents pay to another municipal corporation. Therefore, the bill's changes would result in a net reduction of tax liability only if the individual resides in an unincorporated area, a municipal corporation with a lower income tax rate than the municipal corporation in which the income was earned, or a municipal corporation that does not currently offer a full credit for income tax paid to another municipal corporation.

Municipal taxation of business net profits, other than the net profits of sole proprietorships owned by nonresidents, is not affected by the bill. Such net profits would remain taxable in accordance with the three-factor apportionment formula prescribed under continuing law. Income earned by resident individuals would also remain taxable.[1]

The bill's changes would begin to apply to taxable years beginning in 2016 or thereafter.

HISTORY

ACTION	DATE
Introduced	07-20-15

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[1] R.C. 709.023, 718.01, 718.02, 718.03, 718.04, 718.05, and 718.06.