



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

Mackenzie Damon

Am. H.B. 11*

132nd General Assembly
(As Reported by S. Ways and Means)

Reps. Scherer, Schaffer, Rogers, Blessing, Hambley, Henne, Retherford, Anielski, Antonio, Ashford, Barnes, Boyd, Craig, Dever, Ginter, Green, Holmes, Householder, T. Johnson, McColley, Miller, O'Brien, Patterson, Patton, Reineke, Riedel, Ryan, Seitz, R. Smith, Sprague, Sweeney, Thompson, Wiggam, Young, Rosenberger

BILL SUMMARY

- Incorporates into Ohio income tax law changes to federal tax law taking effect since February 14, 2016.
 - Declares an emergency.
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CONTENT AND OPERATION

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 February 14, 2016.¹ Three federal changes, described below, are being incorporated. 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.

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.²

* This analysis was prepared before the report of the Senate Ways and Means Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

¹ R.C. 5701.11.

² Cf. *State of Ohio v. Gill*, 63 Ohio St.3d 53 (1992).

The amendments to the IRC that the bill incorporates are the following federal income tax provisions enacted since February 14, 2016:

- Gross income exclusion for Olympic and Paralympic prizes for medal winners whose federal adjusted gross income is \$1 million or less;³
- Gross income exclusion of an employee's receipt of payments or reimbursements from a "qualified small employer health reimbursement arrangement," which is not itself a federally tax-qualified employer-provided group plan but may reimburse up to \$4,950 (individual) or \$10,000 (family) in expenses for employees having coverage under the Affordable Care Act without the employer incurring a federal excise tax charge;⁴
- Extension to file amended returns for combat-related injury or other service-related disability severance payments improperly subjected to tax withholding (such payments are exempted from withholding and excluded from federal gross income).⁵

Effect of incorporation

All of the federal amendments relate to exclusions from federal gross income that directly reduce a taxpayer's federal adjusted gross income, the starting number for determining the taxpayer's Ohio adjusted gross income or Ohio taxable income. If these amendments were not incorporated, an affected taxpayer would have to add the excluded amount to the taxpayer's federal adjusted gross income or taxable income for purposes of computing the taxpayer's Ohio tax liability.

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 April 1, 2015, and before February 14, 2016, to irrevocably elect to apply to the taxpayer's state tax calculation the federal tax laws that applied to that taxable year. (The April and February 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.

³ "United States Appreciation for Olympians and Paralympians Act of 2016," H.R. 5946, 114th Cong.

⁴ "The 21st Century Cures Act," H.R. 34, 114th Cong.

⁵ "Combat-Injured Veterans Tax Fairness Act of 2016," H.R. 5015, 114th Cong.



The bill updates this election so that it may be made for a taxpayer's taxable year ending after February 14, 2016, but before the bill's effective date. The act 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.

Emergency clause

The bill declares an emergency, causing the bill to become effective immediately and exempting it from the referendum.⁶

HISTORY

ACTION	DATE
Introduced	02-01-17
Reported, H. Ways & Means	02-14-17
Passed House (97-0)	02-15-17
Reported, S. Ways & Means	---

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⁶ Section 3.

