



Summary of Legislation

Amended Substitute House Bill 119 (effective June 30, 2007; certain provisions may be effective September 29, 2007; other provisions may have other effective dates); Various Revised Code sections.

Am. Sub. H.B. 119 is the blue-print for the fiscal priorities for Fiscal Years (FY) 2008-2009. As with previous budget bills, the biennial budget contained a number of significant changes to Ohio's tax laws. One of the cornerstones of the budget was the unprecedented expansion of the homestead exemption program that provides a \$25,000 exemption from the market value of every senior citizen's or permanently and totally disabled individual's home. Of equal significance to the expansion of the homestead exemption program is the uninterrupted continuation of the tax reform package contained in H.B. 66 from the 126th General Assembly. The following is a very general summary of the tax-related provisions that were contained in Am. Sub. H.B. 119 (for more in-depth summaries, please refer to the pertinent tax sections contained in this report).



Real and Personal Property Taxes: The act increases the exemption to up to \$25,000 of market value (\$8,750 of taxable assessed value) of the owner's homestead for all homeowners who are: (1) age 65 years or older, (2) permanently and totally disabled, or (3) a surviving spouse at least 59 years of age on the date of death whose spouse had been receiving the tax reduction. The amount of the credit will be calculated using the effective tax rate applied to the property, net of the 10 percent and 2.5 percent rollbacks. As with the previous program, the bill requires that schools and local governments be fully reimbursed with state-General Revenue Funds (GRF) for their loss of local property tax revenue. The expanded homestead exemption program will be effective for real property for tax year 2007, meaning that qualifying homeowners will first experience the tax reductions with property tax bills paid in calendar year 2008.

Other Property Tax Changes: The act also requires that counties with populations exceeding 200,000 must require residential rental property owners to file with the county auditor; increases the percentage of property tax collections credited to county real estate assessment funds; and makes clarifying changes to payment schedules and valuation methodology for the phase-out of the tangible property tax on telephone and inter-exchange telecommunications companies.

Individual Income Tax: H.B. 119 establishes a new income tax deduction of up to \$10,000 to defray qualifying organ donor expenses incurred while making an organ do-

nation; creates a nonrefundable tax credit – which will be equal to 15 cents per gallon of alternative fuel sold during calendar year 2008 and 13 cents per gallon of alternative fuel sold during calendar year 2009 – for a retail service station located in Ohio which sells alternative fuels (E85, B20); allows a school district to seek a “dual purpose” income tax levy for both current operating expenses and permanent improvements; authorizes a school district to adopt a resolution to reduce the school district income tax rate in 0.25 percent increments; prohibits any municipal corporation from levying the municipal income tax on any compensation paid to employees within a United States Air Force base, unless the person resides in the municipal corporation; and precludes a municipality from requiring a company to withhold municipal income taxes when sickness or accident disability payments are made.

Corporation Franchise Tax: The budget bill extends the nonrefundable Ohio coal tax credit of \$1 per ton of Ohio coal that is burned by an electric generating facility to Jan. 1, 2010; the bill also creates a nonrefundable tax credit – which will be equal to 15 cents per gallon of alternative fuel sold during calendar year 2008 and 13 cents per gallon of alternative fuel sold during calendar year 2009 – for a retail service station located in Ohio which sells alternative fuels (E85, B20).

Sales and Use Tax: H.B. 119 changes the application of the Ohio sales tax on motor vehicle purchases made by nonresidents of Ohio. Under the new statute, nonresidents will be required to pay Ohio sales tax on their vehicle purchases if the consumer's home state (1) collects sales tax from Ohio residents for their vehicle purchases, and (2) offers a credit for taxes paid in Ohio. The amount of tax charged for these nonresident motor vehicle purchases is the lesser of the lowest combined state and local sales tax rate (currently 6 percent) or the amount of tax that would otherwise be owed in their home state.

The act replaces the accelerated sales tax payment schedules with a single schedule for all taxpayers required to remit the sales and use tax by electronic funds transfer (EFT). Beginning on Jan. 1, 2008, a taxpayer will be required to remit 75 percent of their contemporaneous month's tax liability and the reconciliation payment from the previous month's liability on the 23rd day of each month.

In the ongoing efforts to bring Ohio into compliance with the Streamlined Sales and Use Tax Agreement, the act requires the Tax Commissioner to certify by Oct. 1, 2007 whether the SSTA Governing Board amended the Agreement to allow vendors with less than \$500,000 in annual

taxable delivery sales to continue using origin sourcing. Should that certification be made, the bill allows Ohio vendors with less than \$500,000 in annual delivery sales to continue using origin-based sourcing and authorizes an out-of-state vendor to use a uniform statewide rate equal to the lowest combined state and local sales tax rate (currently 6 percent). (Note: Because the Governing Board did not amend the Agreement prior to Oct. 1, 2007, no certification was made. As a result, vendors who had not converted to destination sourcing were allowed to continue collecting the sales and use tax under origin sourcing.

The act also returns the vendor discount for vendors who remit their sales tax payments in a timely manner to the permanent statutory rate of 0.75 percent; removes the six day limit on the sales tax exemption for nonprofit school booster organizations and primary and secondary school groups so that all sales by these organizations are exempt from the sales tax; and repeals the use tax exemption for cigarettes brought into Ohio for storage, use or consumption with a wholesale value of \$300 per month.

Excise Taxes: H.B. 119 repeals the \$300 per month cigarette excise tax exemption for cigarettes that are brought into Ohio for personal consumption and modifies the criminal penalties under Ohio Revised Code section 5743.99 for individuals who possess up to 1,200 sticks of cigarettes for personal consumption.

The act reduces the rate of the kilowatt-hour tax levied on the total electricity price complement that is paid by self-assessing commercial or industrial users from 4 percent to 3.5 percent beginning in FY 2009. An uncodified provision is included in the bill that requires the Tax Commissioner to review the rate, taking factors such as price fluctuations and influence on the state's economy into consideration.

The bill converts the temporary 0.9 percent motor fuel retailer discount that was included in H.B. 67 (127th General Assembly) to a discount for motor fuel dealers.

The budget bill creates the B-2a and S permits and makes changes to the A-2 permits to attempt to clarify how out-of-state and in-state wine manufacturers may ship directly to consumers and retail locations in Ohio.

Commercial Activity Tax: The act requires that 70 percent of annual CAT revenue continue to be credited to the school district tangible personal property tax replacement fund to be appropriated for school purposes for 2019 and thereafter (previous law directed 70 percent of CAT receipts to this fund through FY 2018).

Other Tax Credits: H.B. 119 expands the eligibility requirements for the job retention tax credit by allowing a company to qualify for the credit if the company contracts with an unrelated third party entity to build a new corporate headquarters and make other significant capital investments. In order to qualify, the following criteria must be met: (1) the initial term of the lease with the third party developer must be at least twenty years; (2) the total term

of the lease must be twice the term of the credit; and (3) the headquarters must be part of a mixed-use development including offices, research and development facilities, retail space or a hotel. Taxpayers meeting this eligibility requirement will still need to meet the investment thresholds to qualify for the JRTC, including employing at least 1,000 employees at the project site, and making \$100 million in capital investments over three years if the average wages are 400 percent of minimum wage (or \$200 million in capital investments over three years if the average wages are 150 percent of the federal minimum wage).

The bill requires recipients of the job creation tax credit and the job retention tax credit that are organized as pass-through entities to irrevocably elect pass-through treatment of these credits. This change allows PTE owners to apply these credits against either the entity's CAT liability or against the individual owners' income tax liability.

The act amends the cost benefit analysis requirements for the historic preservation tax credit by allowing taxes generated during the construction phase of the project to be included when determining whether there is a net revenue gain in state and local taxes.

Local Government Funds: The act makes significant changes to the distribution of the Local Government Fund and the Library and Local Government Support Fund (which has since been changed to the Public Library Fund). Beginning in January 2008, the funds will receive a designated percentage of all General Revenue Fund tax receipts. As a result, the LGF will receive 3.68 percent of all GRF tax receipts while 2.22 percent of all GRF tax receipts will be distributed to the Public Library Fund. By basing the distribution methodology on all GRF tax receipts, the act provides a more stable, predictable and sustainable means of continuing the state-local partnership of delivering public services to Ohioans.

The budget establishes a new Local Government Services Collaboration Grant Fund to provide \$1 million worth of grants to counties, municipalities and townships to help defray the costs of studying how to combine local government services such as police and fire protection, 9-1-1 emergency services, snow removal, road repairs, and public utility services.

Other significant tax legislation:

Substitute House Bill 157, 127th General Assembly (effective March 24, 2008 – certain sections effective December 21, 2007); Revised Code Sections: 5701.11, 5739.01, 5739.02, 5739.035, 5747.08.

Tax Return Check-off for Preparers: Beginning in tax year 2008, the act directs the Tax Commissioner to include on state income tax returns a box that a taxpayer may check to authorize a paid tax preparer to speak to the Department of Taxation regarding matters concerning the return. As a result, a taxpayer may grant permission to allow the department to contact the preparer with questions regarding the return and authorize the preparer to provide

the department with missing information, to contact the department for information about the taxpayer's refund or payments, and to respond to notices that the taxpayer has received from the department.

Sales and Use Tax Exemption for Electronic Publishing Services: The bill establishes a new exemption from the sales and use tax for the sale of property used by electronic publishers. Electronic publishing is defined as providing access to various types of information in an electronic format primarily to business customers – including federal, state and local governments – to conduct research. The exemption includes property used for the development, acquisition, formatting, editing, storage and dissemination of electronic publishing services.

Incorporation of Federal Changes to the Internal Revenue Code: Under the act, all changes to the Internal Revenue Code or other laws of the United States between Dec. 28, 2006, and the act's effective date of Dec. 21, 2007 will be incorporated into all references to those laws in the Revised Code's tax title.

Substitute House Bill 224, 127th General Assembly (effective March 24, 2008); Revised Code Sections: 718.05.

The act prohibits municipal corporations from requiring a taxpayer to file the municipal income tax annual return earlier than the federal income tax filing date and requires the municipality to accept the facsimile signature of a tax preparer. Also, the act requires municipal income tax forms to include a box that the taxpayer may check in order to allow the tax preparer to communicate directly with the municipal tax administrator.

Substitute House Bill 372, 127th General Assembly (effective March 24, 2008); Revised Code Sections: 5747.01.

Personal Income Tax Exemption for Military Retirement Pay: The act exempts military retirement pay from the Ohio income tax for pension incomes received after Jan. 1, 2008. Military retirement income includes any amounts received as retired military pay for service in the United States Army, Navy, Air Force, Coast Guard or Marine Corps. Any of these amounts would then no longer be considered retirement income for purposes of calculating the retirement income credit. The act also exempts a portion of some federal civil service pensions when the pension is based upon the retiree's total years of service – including both military and civil service time. Under this provision, an individual will be able to exempt a prorated amount of their federal Civil Service Retirement System pension based upon the proportionate amount of the pension attributable to their military service.

Incumbent Worker Training Grant Program: The act also creates the incumbent worker training grant program to replace the Ohio training tax credit.

Amended Substitute House Bill 24, 127th General Assembly (effective December 21, 2007); Revised Code Sections: 718.01.

Municipal Income Tax Health Care Deductions: The act permits a municipal corporation to allow sole proprietors to deduct from the net profit reported on their federal Schedule C the amount paid during the taxable year for medical care insurance premiums for the sole proprietor, his or her spouse, and dependents. The deduction is allowed to the same extent health insurance premiums are deductible for federal income tax purposes. Additionally, the act expressly permits a municipal corporation to allow an individual to claim the same tax preferences for municipal income tax purposes that federal law allows for health savings accounts. An individual subject to the income tax of a municipal corporation that adopts an ordinance or resolution authorizing a Health Savings Account (HSA) deduction would be able to deduct cash contributions to the HSA to the same extent contributions are deductible for federal income tax purposes.

Collection of Watershed Conservancy District Assessments: The bill prohibits a conservancy district established under Revised Code Chapter 6101 that includes all or parts of more than sixteen counties from collecting or levying an assessment. Property owners in the affected watershed conservancy district who filed challenges to their assessments and were denied may file an appeal with the Ohio Supreme Court within 30 days of the effective date of the bill. Finally, the act states that it is the intent of the General Assembly to evaluate the organization and composition of certain watershed districts and their method of calculating the assessment, including any economic burden it may cause to the property owners in the district.

Amended Senate Bill 20, 127th General Assembly (effective August 30, 2007); Revised Code Sections: 5747.37.

The act increases the adoption tax credit a taxpayer can claim against the Ohio income tax from \$500 to \$1,500 and allows taxpayers to carry the credit forward if it exceeds the amount of tax due for up to two additional consecutive taxable years.

Substitute House Bill 149, 126th General Assembly (effective April 4, 2007); Revised Code Sections: 149.311, 5725.151, 5725.24, 5733.01, 5733.47, 5733.98, 5739.011, 5747.76, 5747.98.

Ohio Historic Preservation Tax Credit: The act authorizes a property owner to claim a refundable tax credit against the dealer in intangibles tax, corporation franchise tax, or personal income tax for rehabilitating a historic building. The credit is equal to 25 percent of the project's qualified rehabilitation expenses. Under the bill, the Director of Development may approve no more than 100 tax credit certificates for each of the two application periods – July 1, 2007 through June 30, 2008 and July 1, 2008 through June 30, 2009. Applications must be submitted to the State Historic Preservation Officer and the bill requires that the applications be accepted in the order in which they were filed.

To qualify for the tax credit, the project must meet the following criteria: (1) the building is listed on the national register of historic places or is located in a certified historic district; (2) the building is owned by the applicant; (3) the rehabilitation will satisfy standards prescribed under the National Historic Preservation Act and other standards for rehabilitation in accordance with federal regulations; and (4) receiving the credit is a major factor in the applicant's decision to rehabilitate the historic building or increase the level of investment in the project. If these criteria are met, there is a further test that must be passed. The Ohio Director of Development, in conjunction with the Tax Commissioner, must conduct a cost benefit analysis to determine if the project will result in net tax revenue gains to state and local government. If not, then the project will be rejected. The tax credits can only be claimed once the rehabilitation is completed.

Sales and Use Tax Exemption for Property used in Dairy Production: The act provides for an exemption from sales and use tax on equipment and supplies used to clean processing equipment that is part of a continuous manufacturing operation to produce milk, ice cream, yogurt, cheese, and similar dairy products for human consumption.

Amended Substitute House Bill 67, 127th General Assembly (effective April 3, 2007); Revised Code Sections: 557.10 and 5751.032.

Commercial Activity Tax Rate Adjustment: The act eliminates the potential upward adjustments in the commercial activity tax rate if the actual commercial activity tax (CAT) collections are at least 10 percent under the statutory revenue estimates during the three test periods of FY 2006-2007, FY 2009, and FY 2011. As a result of this change, the CAT rate can only be adjusted downward if the Tax Commissioner certifies that the actual collections exceeded estimates by 10 percent or more during the test periods.

Motor Fuel Excise Tax Shrinkage and Evaporation Discount: The bill provides a temporary two-year reduction in the evaporation and shrinkage allowance for timely filed motor fuel excise tax reports.

Statutory law governing the motor fuel excise tax (R.C. 5735.06) provides that a motor fuel dealer filing a timely monthly tax report with payment is entitled to deduct a discount equal to 3 percent of the fuel gallonage the dealer received minus 1 percent of the fuel gallonage sold to retail dealers (to cover the costs of filing the report and

to account for evaporation, shrinkage, and other losses). The main operating appropriations act for the 2006-2007 fiscal biennium, Am. Sub. H.B. 66 of the 126th General Assembly, reduced the discount to 2.5 percent (minus 0.83 percent of gallonage sold to retail dealers) during fiscal year 2006 and to 1.95 percent (minus 0.65 percent of gallonage sold to retail dealers) during fiscal year 2007.

Under the bill, the discount to motor fuel dealers is reduced again, this time to 1 percent, (minus 0.5 percent of gallons of motor fuel sold to a retail dealer) for FY 2008 and FY 2009. A refund is provided to motor fuel retailers equal to 0.5 percent of motor fuel taxes paid by the retailer. Finally, a retail dealer is allowed a vendor discount equal to 0.9 percent of the motor fuel taxes paid on motor fuel purchased by the retail dealer from July 1, 2007 through June 30, 2009.

Substitute House Bill 293, 126th General Assembly (effective March 30, 2007); Revised Code Sections: 135.353, 135.805, 135.806, 135.807, 5739.01.

County Linked Deposit Program: The act permits boards of county commissioners to establish property tax payment linked deposit programs for making low-interest loans to low to moderate income senior citizens and permanently and totally disabled persons to help them pay their real property taxes. The bill establishes programmatic and eligibility requirements, including annual reports, lending institution duties and lien certificates for the loans.

Sales and Use Tax Treatment of Employment Services: The bill amends the definition of "employment services" to change the responsibility for who pays the sales or use tax under certain circumstances. Specifically, where a company provides employment service personnel to a second company, who then provides those personnel as an employment service to a third company, the service that is taxable is now the service provided by the second company to the third company, rather than the service provided by the first company to the second company. (Note: This section became effective on Jan. 1, 2007.)

Amended Substitute House Bill 245, 126th General Assembly (effective July 6, 2006); Revised Code Sections: temporary law provisions.

Energy Content-Based Fuel Tax Rate Study: The act requires the Department of Taxation to issue a report that assesses the proposal of taxing alternative fuels by energy content rather than by volume.