

How Ohio's tax changes impact the financial services industry

September 9, 2013

In brief

This past December and June, Ohio Governor John Kasich signed Ohio House Bills [510](#) and [59](#), which made significant changes to Ohio taxes impacting the financial services industry. H.B. 510 changes the way certain small and captive finance lenders, as well as dealers in intangibles, are taxed. H.B. 59 implements personal income tax changes including across-the-board rate reductions, a 50% deduction for small business investor income, and an election for certain pass-through entity investors participating in a composite tax return. Ohio financial services businesses should examine the changes and determine whether action is required to realize certain benefits – such as whether their Ohio non-resident individual investors may want to elect to file separate individual income tax returns.

In detail – H.B. 510

Dealers in intangibles, captive finance companies subject to the CAT

Under current applicable law, qualified dealers in intangibles are generally subject to the Dealer in Intangibles Tax (DIT), a property tax based on shares and capital. Effective in 2014, H.B. 510 repeals this tax and subjects most dealers in intangibles to the Commercial Activity Tax (CAT). Dealers owned by financial organizations, however, will be subject to the state's financial institution tax (FIT) (please [click here](#) for our summary of the FIT).

Under current applicable law, captive finance companies are generally subject to the DIT.

H.B. 510 provides that such companies will generally be subject to the CAT effective in 2014.

The bill specifies that a captive finance company is not a 'nonbank financial organization' and therefore will be subject to the CAT in 2014. A captive finance company generally is one that conducts 'financing transactions' with certain affiliates such as making or selling loans, extending credit, and leasing. Securitization companies, 'grandfather unitary' savings and loan companies, credit unions, and Federal Farm Loan Act entities will become subject to the CAT as well.

The preceding changes may provide certain dealers in

intangibles based in Ohio as well as captive finance companies and small lenders doing business in Ohio a tax reduction while maintaining certain "in lieu of all other taxes" benefits these taxpayers currently enjoy. However, these changes will impose a total shift in tax base, rates, and compliance rules that these companies should understand and follow starting in 2014.

In detail – H.B. 59

Pass-through entity investor may elect to file a separate return

Generally, Ohio allows a pass-through entity to file a composite return on behalf of owners whose only source of Ohio income is from the pass-through entity. Ohio allows

investors who determine that they have more than one source of Ohio income (and therefore must file separate individual tax returns) a refundable credit against their personal income tax equal to the proportionate share of tax paid by a pass-through entity that mistakenly filed a composite return on their behalf.

Effective for taxable years beginning on or after January 1, 2013, H.B. 59 allows all investors in a pass-through entity participating in a composite return to elect to also file a separate individual income tax return and claim the refundable credit. An investor may benefit by filing a separate return due to differences in the taxation rate and rules between a composite return and a separate individual return such as the new 50% small business investor deduction discussed further below.

Personal income tax cuts and earned income tax credit

For tax years beginning in 2013, H.B. 59 phases in a 10% reduction in income tax rates for all brackets from 2013 to 2015. Rates are generally reduced by 8.5% for 2013, 0.5% for 2014, and the remaining 1% for 2015. Current law authorizes the tax commissioner to make inflation adjustments to tax bracket amounts. However, under H.B. 59, the commissioner is precluded from making these adjustments for the 2013 to 2015 tax years.

50% personal income tax deduction for small business investor income

Effective for tax years beginning on or after January 1, 2013, H.B. 59 provides a personal income tax deduction equal to 50% of the taxpayer's Ohio small business investor income. The deduction is capped at \$125,000 per taxpayer (\$62,500 each for separate filing

spouses). Pass-through entities may not claim this deduction and the deduction is not available to estates and trusts.

The takeaway

H.B. 510 and 59 were designed to reform the tax treatment of certain financial industry businesses to make Ohio a more attractive state from which to provide financial services.

Certain changes may provide some pass-through entity investors with Ohio apportioned income with a tax benefit retroactive to the beginning of 2013. Some of the benefits such as the small business investor deduction will only be realized if taxpayers take action in 2013 or 2014 and elect to file a separate non-resident return. Other benefits will come through proper application of the new law. Taxpayers should evaluate the impact the new laws have on their business and determine if any action is necessary to secure benefits.

Let's talk

If you have any questions regarding the above, please contact:

State and Local Tax Services

James Manley
Partner, *Cleveland*
+ 1 (216) 875-3252
james.r.manley@us.pwc.com

Lesa Shoemaker
Partner, *Columbus*
+1 (614) 629-5373
lesa.shoemaker@us.pwc.com

Raymond L. Turk
Partner, *Cleveland*
+1 (216) 875-3074
ray.turk@us.pwc.com

Sam Melehani
Partner, *Los Angeles*
+1 (213) 356-6900
sam.melehani@us.pwc.com

Brian Rebhun
Partner, *New York*
+1 (646) 471-4024
brian.rebhun@us.pwc.com

© 2013 PricewaterhouseCoopers LLP, a Delaware limited liability partnership. All rights reserved. PwC refers to the United States member firm, and may sometimes refer to the PwC network. Each member firm is a separate legal entity. Please see www.pwc.com/structure for further details.

Solicitation

This content is for general information purposes only, and should not be used as a substitute for consultation with professional advisors.