<u>10:00 a.m. (EST)</u>
1-866-362-9768
552-970-8972#

Tax Committee
October 11, 2017

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OMA Tax Committee Meeting Sponsor:

OMA Tax Policy Committee

October 11, 2017

AGENDA

Welcome & Self-Introductions	Shay Music, Chairman The J.M. Smucker Company
Guest Speaker	Christopher Netram, Vice President of Tax and Domestic Economic Policy, National Association of Manufacturers
Presentation - The Internet of Things and the Undiscovered Opportunity in R&D Tax Credits	Randy Emmons and David Swatosh, BDO USA, LLP
OMA Counsel's Report	Mark Engel, Bricker & Eckler LLP
OMA Public Policy Report	Rob Brundrett, OMA Staff
Guest Speaker	Joe Testa, Ohio Tax Commissioner

Please RSVP to attend this meeting (indicate if you are attending in-person or by teleconference) by contacting Denise: dlocke@ohiomfg.com or (614) 224-5111 or toll free at (800) 662-4463.

Additional committee meetings or teleconferences, if needed, will be scheduled at the call of the Chair.

Thanks to Today's Meeting Sponsor:

Christopher Netram

Vice President of Tax and Domestic Economic Policy

Christopher Netram is vice president of tax and domestic economic policy at the National Association of Manufacturers (NAM). In this capacity, he leads the policy and advocacy work on tax, corporate governance, shareholder activism, executive compensation, pensions and employee benefits. In addition, he works to ensure the manufacturing voice is brought to these legislative and regulatory issues before Congress and the administration.

Prior to his work at the NAM, Mr. Netram served as the deputy chief of staff and tax counsel to a senior member of the House Ways and Means Committee. In that role, Mr. Netram drove the legislative strategy for tax, financial services, budget and small business issues. He drafted legislation regarding the taxation of pass-through entities, principles of which were incorporated into the House Republican tax reform blueprint. Prior to his service in the House, Mr. Netram served as tax counsel and budget adviser to a senior member of the U.S. Senate, during which he authored bipartisan bills on tax and retirement issues.

Mr. Netram was previously a manager in the national tax department of a Big Four accounting firm, where his practice focused primarily on tax planning for mergers and acquisitions. He has also covered international tax and corporate governance issues for Tax Analysts, publishers of Tax Notes, a leading source of news and commentary on tax policy.

A native of New York, Mr. Netram received his B.A. in liberal studies from the University of Central Florida, his J.D. from The Catholic University of America and his LL.M. in taxation from Georgetown University. In addition, Mr. Netram serves as a lecturer at Catholic University's law school.

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DAVID W. SWATOSH, CPA, MSA, MST

Senior Manager, R&D Tax Services

EXPERIENCE

David has more than 15 years experience in Public accounting, including significant experience in tax compliance and consulting for corporations, flow-through entities, and individuals.

Since 2008, David has been advising and assisting companies to identify and document their R&D tax credits. He has helped identify more than $80 million in R&D benefits for companies of all sizes and industries. Through the 1,000's of interviews he's conducted with engineers, scientists, and software developers regarding their R&D and R&D-related activities, David has been able to bridge the gap between the Internal Revenue Service ("IRS") and the companies claiming the Credit.

David also has extensive experience with the IRS Compliance Assurance Process ("CAP") Program, working collaboratively with an IRS team to identify and resolve potential R&D Credit issues before the tax return is filed each year.

David's professional experiences include serving a wide range of companies in the following industries:

- Manufacturing
- Consumer Products
- Aerospace
- Automotive
- Plastics
- Metal Stamping
- Software
- Engineering
- Defense
- Chemical

PROFESSIONAL AFFILIATIONS

American Institute of Certified Public Accountants
Detroit Economic Club
Michigan Association of Certified Public Accountants

EDUCATION

M.S. Taxation, Walsh College
M.S., Accounting, Eastern Michigan University
B.A., Business Administration, Adrian College

Joseph W. Testa
Tax Commissioner

Joseph W. Testa was appointed Ohio Tax Commissioner by Governor John Kasich in January 2011. He is the 18th tax commissioner to lead the Ohio Department of Taxation.

Testa leads an agency of about 1,000 employees that is responsible for administering and enforcing most state and many local government taxes, including the state income tax, state and local sales taxes, and several business taxes. In total the Department of Taxation brings in approximately $30 billion in revenues to support schools and services across Ohio.

Mr. Testa has more than 30 years of public service, including a 25 years as an elected official in Franklin County. He served as Franklin County Recorder for seven years and County Auditor for 17 years.

Joe earned a Master of Labor & Human Resources degree from The Ohio State University, Fisher College of Business. He also holds a Bachelor of Arts degree in Public Administration from the University of Central Florida.

Testa is a veteran having served in the U.S. Navy (1968-72) from which he received a Vietnam Service Medal.

He is married, the father of two sons, and has three granddaughters.

TAX REFORM

MORE *jobs* | FAIRER *taxes* | BIGGER *paychecks*

UNIFIED FRAMEWORK FOR FIXING OUR BROKEN TAX CODE

SEPTEMBER 27, 2017

TAX REFORM

MORE *jobs* | FAIRER *taxes* | BIGGER *paychecks*

OVERVIEW

> *It is now time for all members of Congress — Democrat, Republican and Independent — to support pro-American tax reform. It's time for Congress to provide a level playing field for our workers, to bring American companies back home, to attract new companies and businesses to our country, and to put more money into the pockets of everyday hardworking people.*
>
> President Donald J. Trump | Milwaukee Journal Sentinel | September 3, 2017

President Trump has laid out four principles for tax reform: First, make the tax code simple, fair and easy to understand. Second, give American workers a pay raise by allowing them to keep more of their hard-earned paychecks. Third, make America the jobs magnet of the world by leveling the playing field for American businesses and workers. Finally, bring back trillions of dollars that are currently kept offshore to reinvest in the American economy.

The President's four principles are consistent with the goals of both congressional tax-writing committees, and are at the core of this framework for fixing America's broken tax code.

Too many in our country are shut out of the dynamism of the U.S. economy, which has led to the justifiable feeling that the system is rigged against hardworking Americans. With significant and meaningful tax reform and relief, we will create a fairer system that levels the playing field and extends economic opportunities to American workers, small businesses, and middle-income families.

The Trump Administration and Congress will work together to produce tax reform that will put America first.

TAX REFORM

MORE *jobs* | FAIRER *taxes* | BIGGER *paychecks*

GOALS

The Trump Administration, the House Committee on Ways and Means, and the Senate Committee on Finance have developed a unified framework to achieve pro-American, fiscally-responsible tax reform. This framework will deliver a 21st century tax code that is built for growth, supports middle-class families, defends our workers, protects our jobs, and puts America first. It will deliver fiscally responsible tax reform by broadening the tax base, closing loopholes and growing the economy. It includes:

- Tax relief for middle-class families.
- The simplicity of "postcard" tax filing for the vast majority of Americans.
- Tax relief for businesses, especially small businesses.
- Ending incentives to ship jobs, capital, and tax revenue overseas.
- Broadening the tax base and providing greater fairness for all Americans by closing special interest tax breaks and loopholes.

This unified framework serves as a template for the tax-writing committees that will develop legislation through a transparent and inclusive committee process. The committees will also develop additional reforms to improve the efficiency and effectiveness of tax laws and to effectuate the goals of the framework. The Chairmen welcome and encourage bipartisan support and participation in the process.

TAX REFORM

MORE jobs | FAIRER taxes | BIGGER paychecks

TAX RELIEF AND SIMPLIFICATION FOR AMERICAN FAMILIES

Over the last decade too many hard-working Americans have struggled to find good-paying jobs, make ends meet, provide for their families and plan for their retirement. They are the focus of this framework. Strengthening and growing the middle class, and keeping more money in their pockets, is how we build a stronger America. By lowering the tax burden on the middle class, and creating a healthier economy, we can give American families greater confidence and help them get ahead. At the same time, taxpayers deserve a system that is simpler and fairer. America's tax code should be working for, not against, middle-class families.

"ZERO TAX BRACKET"

Under the framework, typical middle-class families will see less of their income subject to federal income tax.

The framework simplifies the tax code and provides tax relief by roughly doubling the standard deduction to:

- $24,000 for married taxpayers filing jointly, and
- $12,000 for single filers.

To simplify the tax rules, the additional standard deduction and personal exemptions for the taxpayer and spouse are consolidated into this larger standard deduction. This change is fundamental to a simpler, fairer system.

In combination, these changes simplify tax filing and effectively create a larger "zero tax bracket" by eliminating taxes on the first $24,000 of income earned by a married couple and $12,000 earned by a single individual.

INDIVIDUAL TAX RATE STRUCTURE

Under current law, taxable income is subject to seven tax brackets. The framework aims to consolidate the current seven tax brackets into three brackets of 12%, 25% and 35%.

Typical families in the existing 10% bracket are expected to be better off under the framework due to the larger standard deduction, larger child tax credit and additional tax relief that will be included during the committee process.

An additional top rate may apply to the highest-income taxpayers to ensure that the reformed tax code is at least as progressive as the existing tax code and does not shift the tax burden from high-income to lower- and middle-income taxpayers.

The framework also envisions the use of a more accurate measure of inflation for purposes of indexing the tax brackets and other tax parameters.

ENHANCED CHILD TAX CREDIT AND MIDDLE CLASS TAX RELIEF

To further simplify tax filing and provide tax relief for middle-income families, the framework repeals the personal exemptions for dependents and significantly increases the Child Tax Credit. The first $1,000 of the credit will be refundable as under current law.

In addition, the framework will increase the income levels at which the Child Tax Credit begins to phase out. The modified income limits will make the credit available to more middle-income families and eliminate the marriage penalty in the existing credit.

The framework also provides a non-refundable credit of $500 for non-child dependents to help defray the cost of caring for other dependents.

Finally, the committees will work on additional measures to meaningfully reduce the tax burden on the middle-class.

INDIVIDUAL ALTERNATIVE MINIMUM TAX (AMT)

The nonpartisan Joint Committee on Taxation (JCT) and the Internal Revenue Service (IRS) Taxpayer Advocate have both recommended repealing the AMT because it no longer serves its intended purpose and creates significant complexity. This framework substantially simplifies the tax code by repealing the existing individual AMT, which requires taxpayers to do their taxes twice.

ITEMIZED DEDUCTIONS

In order to simplify the tax code, the framework eliminates most itemized deductions, but retains tax incentives for home mortgage interest and charitable contributions. These tax benefits help accomplish important goals that strengthen civil society, as opposed to dependence on government: homeownership and charitable giving.

WORK, EDUCATION AND RETIREMENT

The framework retains tax benefits that encourage work, higher education and retirement security. The committees are encouraged to simplify these benefits to improve their efficiency and effectiveness. Tax reform will aim to maintain or raise retirement plan participation of workers and the resources available for retirement.

OTHER PROVISIONS AFFECTING INDIVIDUALS

Numerous other exemptions, deductions and credits for individuals riddle the tax code. The framework envisions the repeal of many of these provisions to make the system simpler and fairer for all families and individuals, and allow for lower tax rates.

DEATH AND GENERATION-SKIPPING TRANSFER TAXES

The framework repeals the death tax and the generation-skipping transfer tax.

COMPETITIVENESS AND GROWTH FOR ALL JOB CREATORS

Small businesses drive our economy and our communities, and they deserve a significant tax cut. This framework creates a new tax structure for small businesses so they can better compete. Furthermore, America's outdated tax code has fallen behind the rest of the world – costing U.S. workers both jobs and higher wages. In response, the framework puts America's corporate tax rate below the average of other industrialized countries and promotes greater investment in American manufacturing.

TAX RATE STRUCTURE FOR SMALL BUSINESSES

The framework limits the maximum tax rate applied to the business income of small and family-owned businesses conducted as sole proprietorships, partnerships and S corporations to 25%. The framework contemplates that the committees will adopt measures to prevent the recharacterization of personal income into business income to prevent wealthy individuals from avoiding the top personal tax rate.

TAX RATE STRUCTURE FOR CORPORATIONS

The framework reduces the corporate tax rate to 20% – which is below the 22.5% average of the industrialized world. In addition, it aims to eliminate the corporate AMT, as recommended by the non-partisan JCT. The committees also may consider methods to reduce the double taxation of corporate earnings.

"EXPENSING" OF CAPITAL INVESTMENTS

The framework allows businesses to immediately write off (or "expense") the cost of new investments in depreciable assets other than structures made after September 27, 2017, for at least five years. This policy represents an unprecedented level of expensing with respect to the duration and scope of eligible assets. The committees may continue to work to enhance unprecedented expensing for business investments, especially to provide relief for small businesses.

INTEREST EXPENSE

The deduction for net interest expense incurred by C corporations will be partially limited. The committees will consider the appropriate treatment of interest paid by non-corporate taxpayers.

OTHER BUSINESS DEDUCTIONS AND CREDITS

Because of the framework's substantial rate reduction for all businesses, the current-law domestic production ("section 199") deduction will no longer be necessary. Domestic manufacturers will see the lowest marginal rates in almost 80 years. In addition, numerous other special exclusions and deductions will be repealed or restricted.

The framework explicitly preserves business credits in two areas where tax incentives have proven to be effective in promoting policy goals important in the American economy: research and development (R&D) and low-income housing. While the framework envisions repeal of other business credits, the committees may decide to retain some other business credits to the extent budgetary limitations allow.

TAX RULES AFFECTING SPECIFIC INDUSTRIES

Special tax regimes exist to govern the tax treatment of certain industries and sectors. The framework will modernize these rules to ensure that the tax code better reflects economic reality and that such rules provide little opportunity for tax avoidance.

THE AMERICAN MODEL FOR GLOBAL COMPETITIVENESS

The framework puts America on a level international playing field and puts an end to the incentives for shipping jobs overseas.

TERRITORIAL TAXATION OF GLOBAL AMERICAN COMPANIES

The framework transforms our existing "offshoring" model to an American model. It ends the perverse incentive to keep foreign profits offshore by exempting them when they are repatriated to the United States. It will replace the existing, outdated worldwide tax system with a 100% exemption for dividends from foreign subsidiaries (in which the U.S. parent owns at least a 10% stake).

To transition to this new system, the framework treats foreign earnings that have accumulated overseas under the old system as repatriated. Accumulated foreign earnings held in illiquid assets will be subject to a lower tax rate than foreign earnings held in cash or cash equivalents. Payment of the tax liability will be spread out over several years.

STOPPING CORPORATIONS FROM SHIPPING JOBS AND CAPITAL OVERSEAS

To prevent companies from shifting profits to tax havens, the framework includes rules to protect the U.S. tax base by taxing at a reduced rate and on a global basis the foreign profits of U.S. multinational corporations. The committees will incorporate rules to level the playing field between U.S.-headquartered parent companies and foreign-headquartered parent companies.

THE INTERNET OF THINGS AND THE UNDISCOVERED OPPORTUNITY IN R&D TAX CREDITS

PRESENTING TODAY

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LEARNING OBJECTIVES & OVERVIEW

TODAY'S AGENDA

- What is IoT
- Why IoT is Important in Manufacturing
- IoT-Bottom Line Effect
- R&D Under the Radar
- Questions

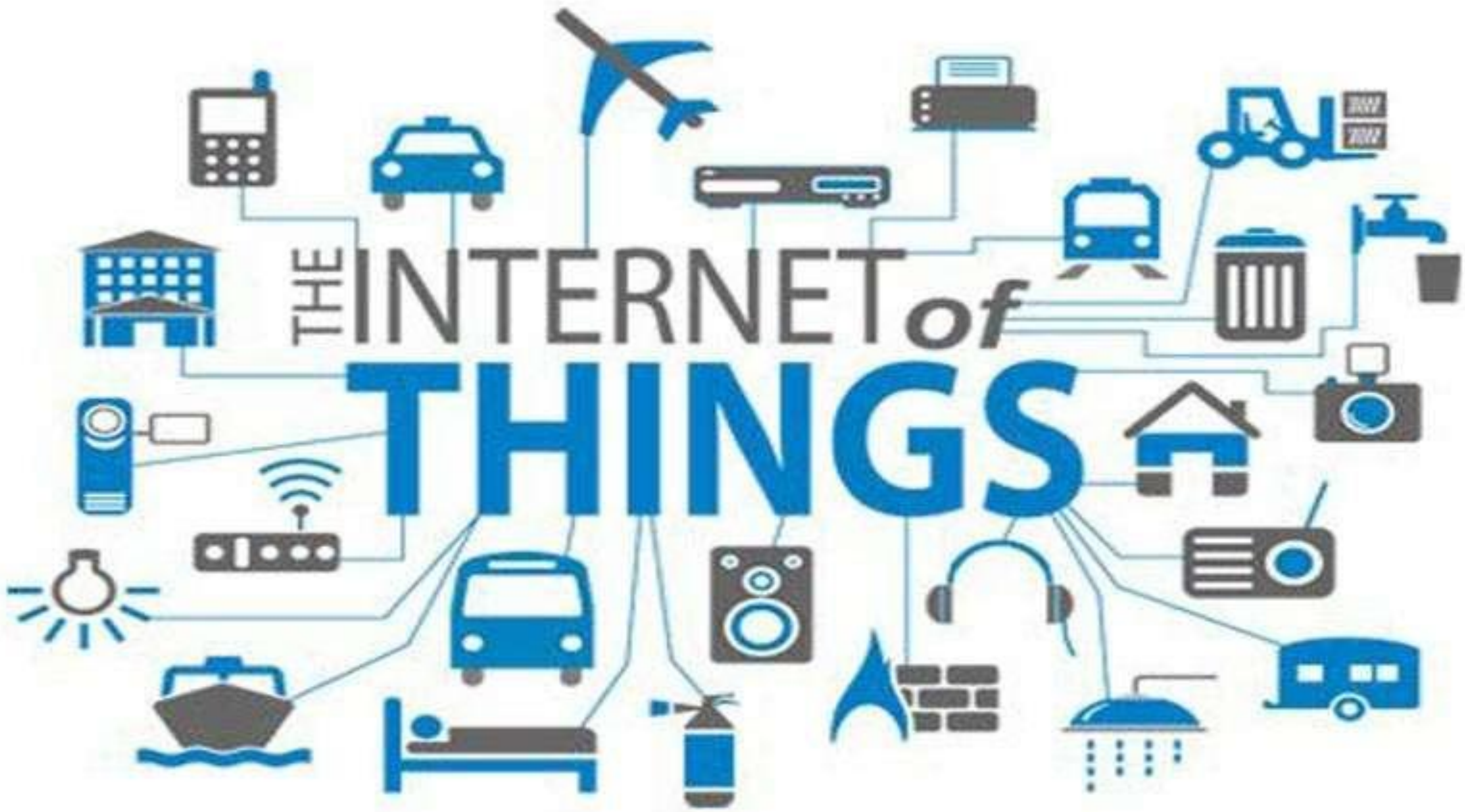
LEARNING OBJECTIVES

- Learn what IoT is and why manufacturers are implementing strategies.
- Explain how to take advantage of federal and state R&D tax credits to offset IoT investments

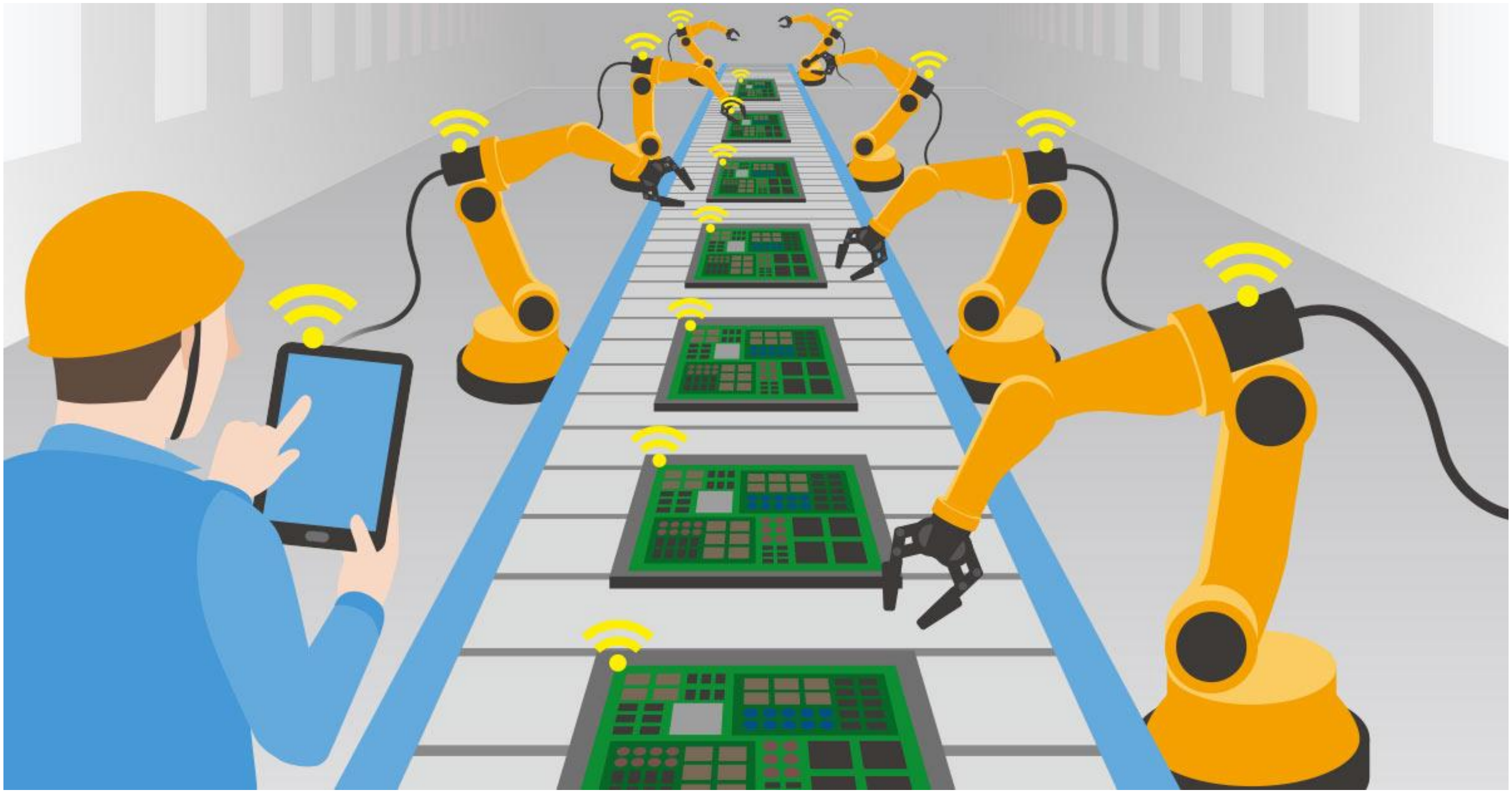
INTERNET OF THINGS

What is it and why does it matter?

WHAT IS "INTERNET OF THINGS"



HOW HAS IOT IMPACTED MANUFACTURING?



IOT-ENABLED PROCESSES AND PRODUCTS

IOT-ENABLED PLANTS AND PROCESSES BOOST PRODUCTIVITY…

Application of IoT to plants and processes impacted productivity *over the past year*:

- 15% expect more than 10% increase
- 28% expect 6-10% increase
- 30% expect 1-5% increase
- 18% expect no change
- 1% expect decrease
- 9% no IoT currently or planned

Application of IoT to plants and processes will improve productivity over the *next five years*:

- 29% expect more than 10% increase
- 32% expect 6-10% increase
- 26% expect 1-5% increase
- 6% expect no change
- 0% expect decrease
- 7% no IoT currently or planned

…AND PROFITABILITY

Application of IoT to plants and processes impacted <u>profitability</u> *over the past year*:

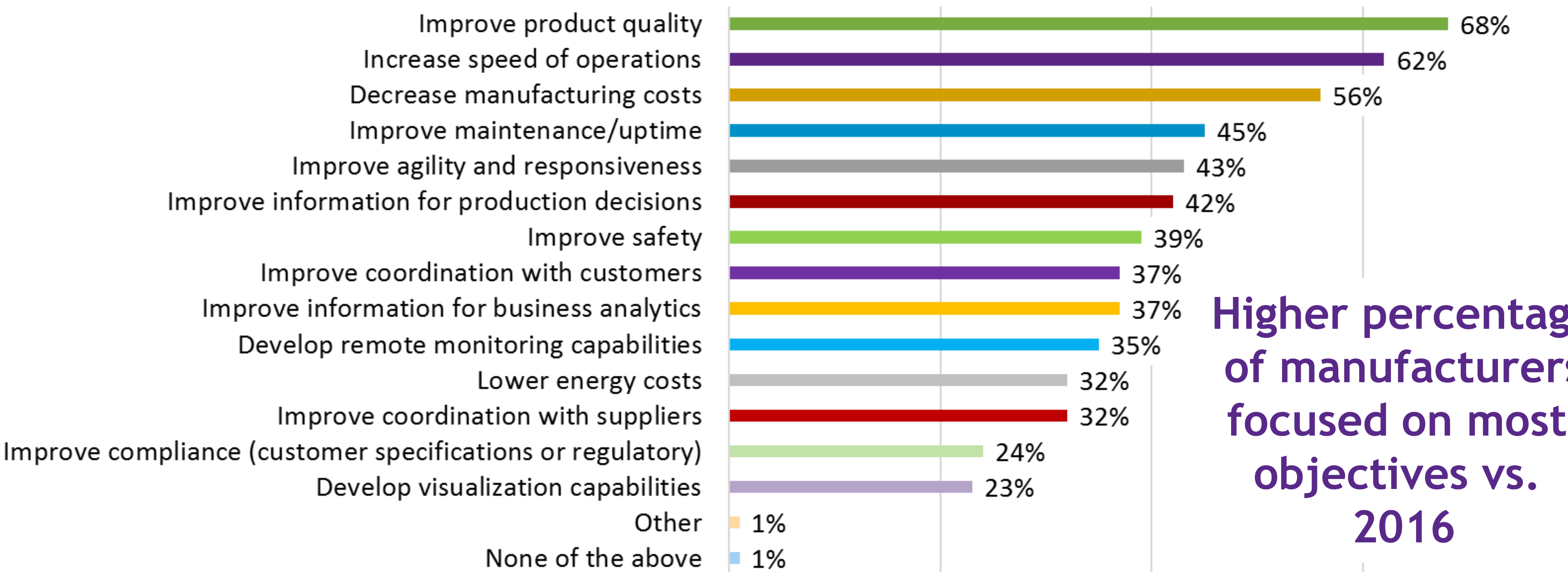
- 12% expect more than 10% increase
- 25% expect 6-10% increase
- 32% expect 1-5% increase
- 23% expect no change
- 1% expect decrease
- 8% no IoT currently or planned

Application of IoT to plants and processes will improve <u>profitability</u> over the *next five years*:

- 22% expect more than 10% increase
- 34% expect 6-10% increase
- 29% expect 1-5% increase
- 8% expect no change
- 0% expect decrease
- 7% no IoT currently or planned

QUALITY, SPEED & COST ARE TOP IOT OBJECTIVES

Plan to accomplish by incorporating smart devices and/or embedded intelligence into operations (% of participants)



Higher percentage of manufacturers focused on most objectives vs. 2016

IOT PRODUCTS BOOST REVENUE

64% of manufacturers report that application of IoT to products boosted revenues *over the past year*:

- 7% more than 10% increase
- 27% 6-10% increase
- 31% 1-5% increase
- 26% no change
- 1% decreased
- 9% no IoT currently or planned

80% of manufacturers expect the application of IoT to products will boost revenues *over the next five years*:

- 17% more than 10% increase
- 33% 6-10% increase
- 30% 1-5% increase
- 13% no change
- 0% decreased
- 7% no IoT currently or planned

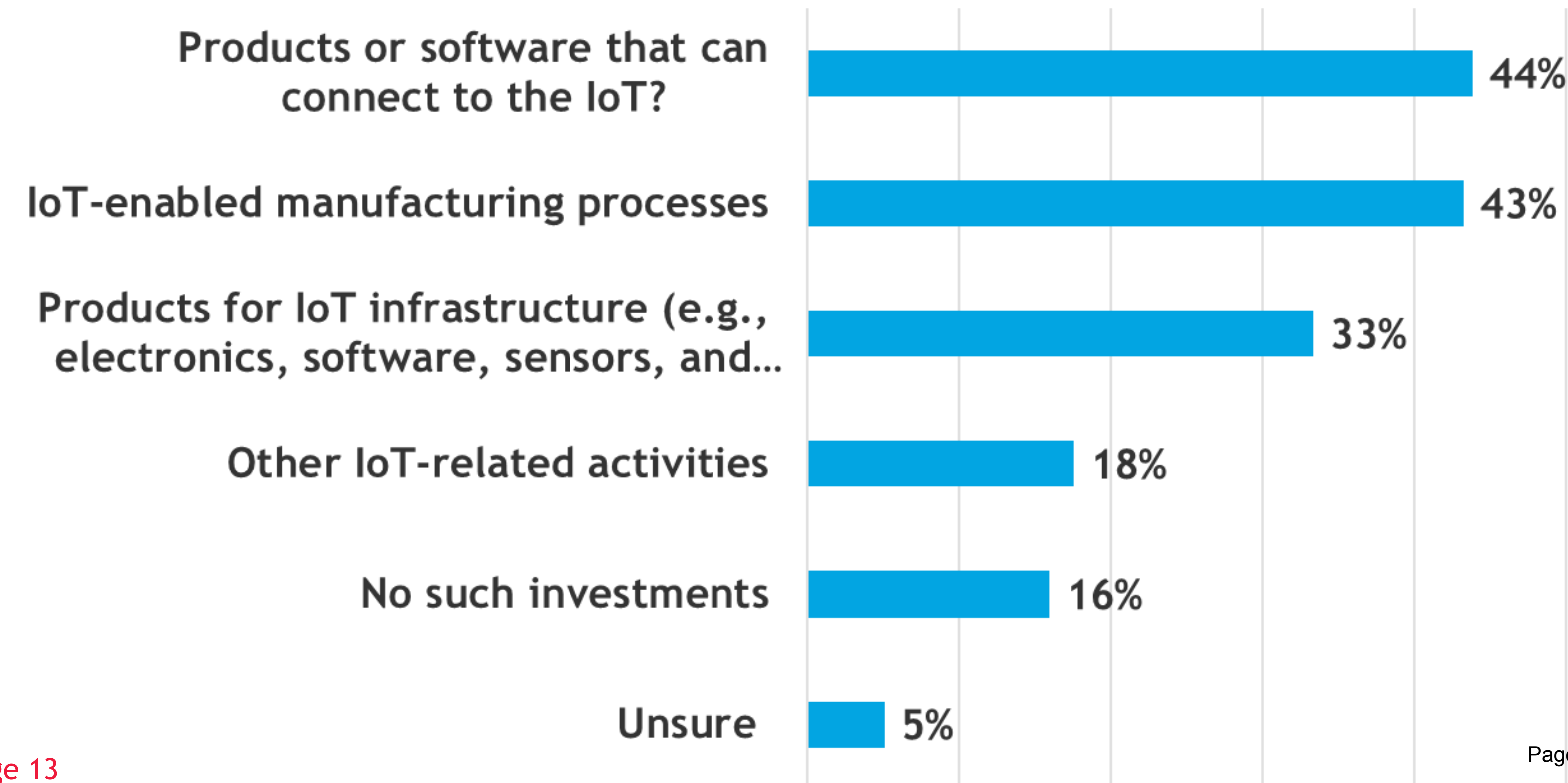
R&D UNDER THE RADAR

Are you missing opportunities to save on IoT investments?

MANUFACTURERS ARE FOCUSED ON INNOVATION

Almost 4 in 5 manufacturers are engaging in R&D credit-qualifying activities

Does your company currently invest in activities to develop new or improved functionality, performance, reliability, or quality for:



A MAJORITY ARE FAILING TO CLAIM CREDITS TO OFFSET COSTS

NEW DEVELOPMENTS WITHIN THE R&D CREDIT

Several taxpayer friendly changes to the R&D Credit, include:

- Protecting Americans Against Tax Hikes (“PATH”)
- New Internal-Use-Software Regulations
- Recent IRS Directive for LB&I Taxpayers (>$10M in assets)

QUESTIONS?

KEY TAKEAWAYS

- IoT integration is on the rise, and manufacturers are seeing the benefits
- The vast majority are seeing increased productivity and profitability, deepening potential competitive advantages
- But most are still missing out on cost-saving opportunities like research tax credits

SUMMARY

WANT MORE INFORMATION?

Read the full report at:
https://tinyurl.com/IoTstudyBDO

Visit us online at:
http://www.bdo.com/manufacturing

Email us:
remmons@bdo.com
dswatosh@bdo.com

Ohio | Department of Taxation

New Business Option for Municipal Net Profit Tax

Municipal Income Tax Reform – Optional, not Mandatory

Ohio businesses that decide to "**opt-in**" to the streamlined municipal net profit tax system will file **one** return through the Ohio Business Gateway (OBG), rather than with **each** municipality in which the taxpayer does business. OBG will accept electronic upload of tax returns from commercial software. The Ohio Tax Commissioner will be the administrator of this tax for the municipalities in which the business files.

New Provisions

- Tax collections will be distributed monthly to the appropriate municipality by the Ohio Department of Taxation (ODT), with interest, minus a .5% administrative fee.
- Municipalities will have access to the same information from ODT as they would have received on a filing made with the municipality.
- Municipalities can request that ODT review a business filing.
- Businesses choosing to opt-in commit for one year with an automatic renewal unless cancelled by the taxpayer.

Other Features

- The Commissioner will propose rules; prescribe forms; conduct audits; issue bills, assessments and refunds; handle appeals; certify debts; and conduct all other necessary administrative functions.
- Each municipality will retain control over the tax rates.
- Each municipality will retain control over the award of tax credits and will provide the taxpayer a certificate for each tax year stating the dollar amount of the credit the business is entitled to claim.
- Changes will be effective for tax years ending on or after January 1, 2018. Municipalities will administer the tax for years prior to the effective date (late filed/amended returns).
- When making the election, the business taxpayer will notify the commissioner and each of the municipalities in which the taxpayer did business during the previous tax year.
- No change in quarterly estimates or tax return due dates. Tax returns are due on the 15th day of the 4th month following the end of the taxpayer's taxable year. (e.g., Calendar year taxpayer return is due April 15th. The return for a taxpayer with a fiscal year end date of March 2019 is due July 15, 2019).

Advantages

- Reduce compliance costs for businesses up to an estimated $800 million annually if every business filing in more than one municipality opted-in.
- Economies of scale / more efficiency.
- Less costly than third-party administrators.
- Improved compliance / more expansive data sources to verify filing & payment accuracy; increased revenue for municipalities.

Municipal Net Profit & Other Tax Law Changes

House Bill 49: Biennial Budget

Presented by:

Joe Testa

Tax Commissioner

Ohio | Department of Taxation

Personal Income Tax

- **Eliminates the two lowest income tax brackets; now seven brackets.**
  - Incomes below $10,650 are no longer subject to tax.
    - This threshold will be annually adjusted for inflation.
- **College Savings Plan and STABLE Account deductions doubled from $2,000 to $4,000 in 2018 (filed 2019).**

Sales & Use Tax

- **Exempts digital music purchased and played from digital jukeboxes.** Effective 10/1/17.
- **Sales & use tax nexus for out-of-state retailers.**
  - Annual sales of at least $500,000.
  - Utilizes in-state computer software to make Ohio sales or a third party to enhance delivery of seller's website to Ohio consumers.
- **Adjust local sales tax rates by increments of 0.1% (not 0.25%) – effective July 1, 2018.**
- **Sales tax holiday: Aug. 3 – 5, 2018.**
  - Clothing/school supplies.

Tax Amnesty Program

- **Runs January – February 15, 2018**
- **Applies to the following taxes:**
  - Financial Institutions Tax
  - Commercial Activity Tax
  - State Income Tax
  - Alcohol, Tobacco, and Cigarette Excise Taxes – State and Local
  - State and Local Sales and Use Taxes
  - School District Income Tax
- **Impose no penalty and forgive 50% interest.**
- **Marketing campaign to begin late November.**

Other Tax Changes

- **Board of Tax Appeals decisions– No direct appeals to Ohio Supreme Court → local Court of Appeals.**
- **Transfer of local taxing authority funds**

Tax Simplification

- **25 Tax Simplification Items submitted – 25 accepted, including:**
  - Require tax compliance with all excise taxes before transfer/renewal of liquor permit.
  - Require vendors in the Habitual Offenders Program (HOP) to remain current in both sales tax and employer withholding.
  - No ODT fee (2.5%) for IT1040 donations (military, sick children, wildlife, etc.).
  - No ODT fee for Exempt Facility Applications; entire fee (O.5% of total project cost) to OH EPA.

Municipal Net Profit Tax Reform

Centralize and Standardize

Municipal Net Profit Tax Reform / Background

- 2016 'Listening tour' with Ohio business associations and their members.

  --Ohio State Fair: input from fairgoers

Q: "What is the biggest and most burdensome tax impediment you face?"

A: Consensus: Municipal income tax on business net profits.

- Compliance more costly than the amount of tax paid.

Municipal Net Profit Tax Reform / Background

- More than 600 cities/villages levy municipal income tax.

- Collected against:

  --Individual income
  --Employer withholding
  --Business net profit (approx. 14% of total collections)

Municipal Net Profit Tax Reform / Background

- **Total collections: $4.99 billion (CY 15).**
- **Administered by individual municipalities and 3rd party administrators.**
- **Business taxpayers required to file & pay in every municipality where income is earned.**
- **"Worst local tax system in the country" (*Tax Foundation*).**

Municipal Net Profit Tax Reform / The Plan

- Administer business net profit tax at state level.
- ODT already handles some local taxes (sales, SDIT, muni. Electric light, etc.).
- Could save businesses $800M if all businesses file centrally.
- NOTE: Sole proprietors and single member LLCs will continue to file with municipalities.

Municipal Net Profit Tax Reform / The Plan

- **Support: more than 30 statewide business assns. (OH Chamber, CPAs, Mfg., Contractors, NFIB, Restaurants, Retail Merchants, etc.).**

- **Advantages:**

  --Consistency / uniformity

  --Reduced costs for businesses and municipalities

  --More efficiencies / more data analysis

Municipal Net Profit Tax Reform / The Plan

- Now ‘Opt-in’.
- Business taxpayers choose: file and have NP tax administered by multiple individual municipalities or with ODT.
- Electronic filings through OBG.
- No federal returns needed.
- Data exchange: ODT – municipalities.

Municipal Net Profit Tax Reform / The Plan

- Revenue distributions monthly, with interest
- Administration fee to 0.5%
- Conduct reviews/audits at municipal request (*if supported by evidence*)
- Repeal 'throwback rule'

"Throwback" Rule
Old Law

10% of sales →

← Sales Throwback

City A **City B**

1. **All property**
2. **All wages**
3. **90% sales + 10% (throwback)**

Result for tax calculation – City A gets all net profits tax.
City B gets none.

“Throwback” Rule
New Law (HB 49)

HB 49 Outcome

City A

10% of sales

No sales throwback

City B

1. All property
2. All wages
3. 90% sales

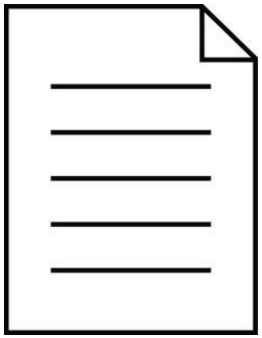
<u>Result for tax calculation</u>

- The sales are not thrownback to City A, but also not benefitting City B on net profit tax.
- City A no longer gets NP tax from sales taking place in City B.
- Benefits to taxpayer who has a reduced municipal net profit tax.

Municipal Net Profit Tax Reform / The Plan: ODT Role

- Propose rules.
  - View at tax.ohio.gov
- Prescribe forms.
- Issue bills, assessments, refunds.
- Conduct audits, certify debts.
- Handle appeals & all other administrative matters.

One uniform tax return



One consistent governing body

Municipal Net Profit Tax Reform / The Plan: Municipality Role

- **Retain responsibility for Emp. Withholding & Individual filings.**
- **Retain control over tax rate and tax credits.**
- **Retain access to taxpayer information.**

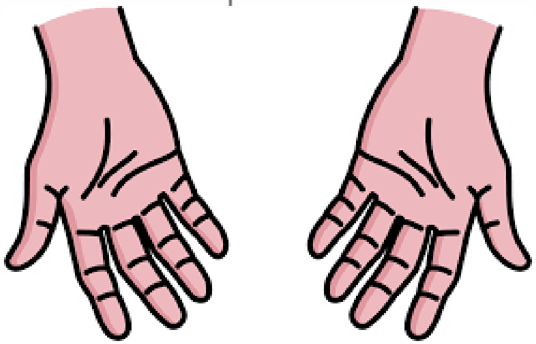
Municipal Net Profit Tax Reform / Collaboration

- **Soliciting input to maximize utility of new system from:**

  --Business advisory group: top priorities for taxpayer simplicity.

  --Municipalities working group: how best to coordinate data exchange.

Ohio | Department of Taxation



Businesses & Practitioners **Municipalities**

Municipal Net Profit Tax: Focus on Municipalities

- Working group of 6 municipalities and RITA.
- Clarifying roles & responsibilities under the law.
- Developing information booklet on MNP requirements in R.C. Chapter 718

Municipal Net Profit Tax: Focus on Business

- Sign up for new MNP Tax Alert for news & info.
- Proposed 4 Rules (comment thru 10/3; CSI thru late Oct).

    (1) Filing of returns and payments by electronic means.

    (2) Joint economic develop zones and districts (JEDZ & JEDD).

    (3) Change in taxable year and declaration of estimated taxes for short taxable years.

    (4) Consolidated tax return.

Municipal Net Profit Tax: Focus on Business

- Forms (*draft)*

  – MNP Tax Registration (available early @ tax.ohio.gov / after January 1 @ OBG)

    * Schedule: (municipalities / filed in previous year)
    * Schedule: (members of Consolidated Group)

  – MNP Tax Return

    * Schedule A: Adjustments to federal income
    * Schedule B: Apportionments

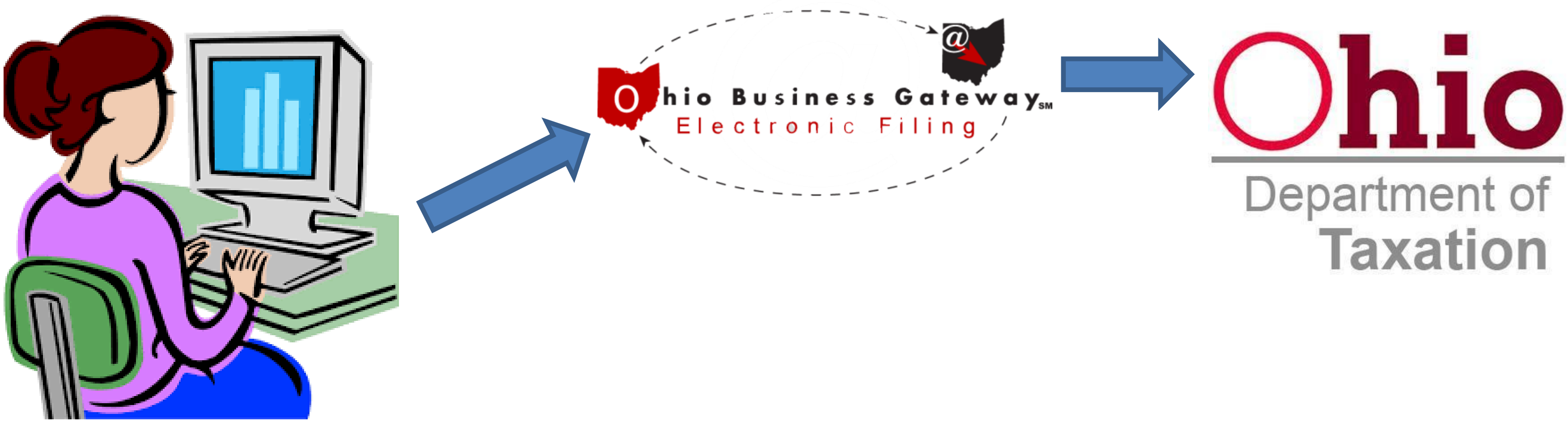
  – MNP Declaration of Estimated Taxes (w/Payment Sched.)

Municipal Net Profit Tax Reform: Timeline

- By March 1, 2018, businesses (calendar yr. filers).
- By April 15, 2018, make first quarterly estimated payment.
- By April 15, 2019, file Tax Year 2018 tax return.

Municipal Net Profit Tax Reform: Ohio Business Gateway (OBG)

- **Process/interface with commercial tax preparation software.**



Questions?

Joe Testa

Tax Commissioner

contactthecommissioner@tax.state.oh.us

OBM

September 11, 2017

MEMORANDUM TO:	The Honorable John R. Kasich, Governor The Honorable Mary Taylor, Lt. Governor
FROM:	Timothy S. Keen, Director TK
SUBJECT:	Monthly Financial Report

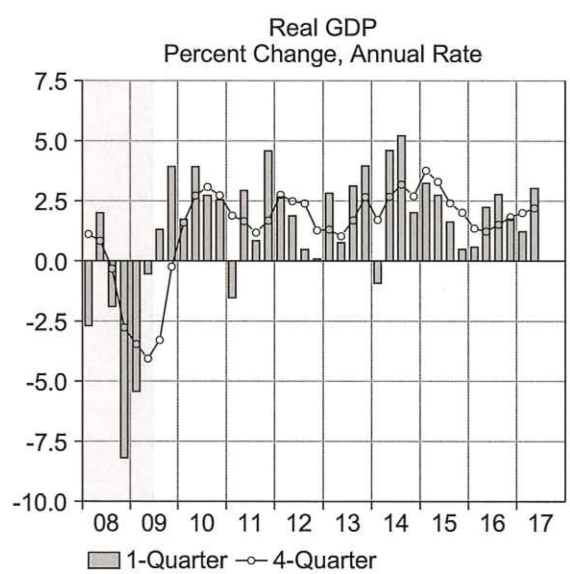
ECONOMIC SUMMARY

Economic Performance Overview

- Economic growth in the second quarter was revised up to 3.0%. Forecasters project about the same or stronger growth in the third quarter and a trend rate of 2% to 2.5% thereafter.
- U.S. employment increased by 156,000 jobs in August for a year-to-date average of 176,000 jobs per month. The unemployment rate increased to 4.4%.
- Ohio nonfarm payroll employment increased by 1,600 jobs in July to 34,400 jobs above the December 2016 level. The unemployment rate increased to 5.2%.
- The general picture remains consistent with uninterrupted growth into next year, although the state leading and coincident economic indicators constructed by the Philadelphia Fed are showing a growing number of states with declines.

Economic Growth

Real GDP growth during the second quarter was revised up from 2.6% to 3.0%, compared with 1.2% in the first quarter. Compared with a year earlier, real GDP was up by 2.2% in the second quarter. The growth rate was 1.5% for all of 2016, which is the slowest rate of growth for any calendar year since the end of the 2007-2009 recession.



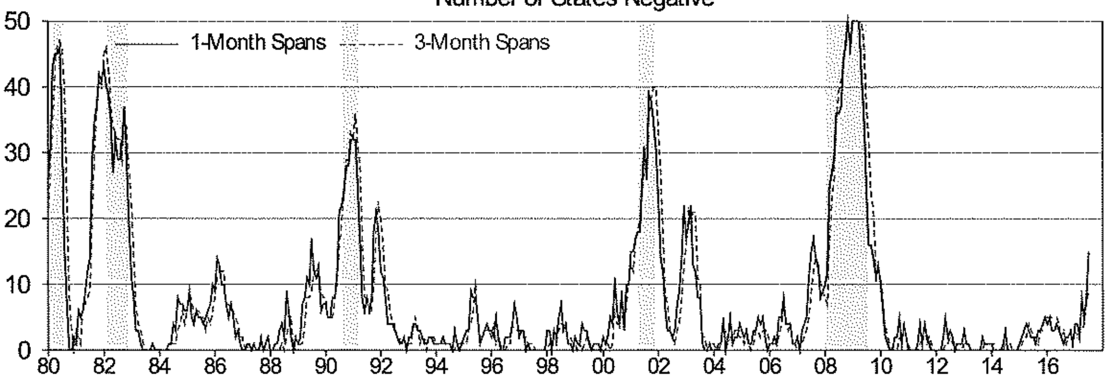
The upward revision reflected positive adjustments to personal consumption expenditures and to nonresidential fixed investment. A downward adjustment to state and local government spending subtracted from the upward revision to GDP growth. After the adjustments, personal consumption expenditures accounted for approximately two-thirds of growth during the second quarter, followed by nonresidential fixed investment, net exports, and federal government spending. State and local government spending made the only notable negative contribution.

The change in the **Ohio coincident economic index,** from the Philadelphia Federal Reserve, was revised up from unchanged to +0.1% for June, but the index decreased 0.2% in July for the first measurable decline since December 2009. Single-month declines in the index have been infrequent, but did occur five times during the three years prior to the onset of the 2007-09 recession. The index is composed of four labor market indicators, and has represented general business conditions accurately over time.

Leading economic indicators remain consistent with uninterrupted expansion through year-end. The composite **Leading Economic Index,** compiled by the Conference Board, increased by 0.3% in July for the eleventh straight monthly gain. The smoothed 6-month rate of change in the index was 4.6%, up from a recent low of zero in May 2016. Eight of the ten components made positive contributions again in July, led by the interest rate spread, which was followed by the ISM New Orders index. Building permits, which added the most to the index in June, subtracted in July.

At the same time, however, the breadth of gains in state-level composite coincident indexes, compiled by the Philadelphia Federal Reserve, which has been a leading indicator for the national economy in the past, deteriorated further in July. The number of state indexes declining jumped from eight in June to fifteen in July. The last time that the number increased to at least fifteen was in July 2007 – five months prior to the beginning of the last recession. The number of states for which the index decreased over three-month spans increased from seven in June to nine in July – also for the first time since July 2007.

State Composite Coincident Indexes
Number of States Negative

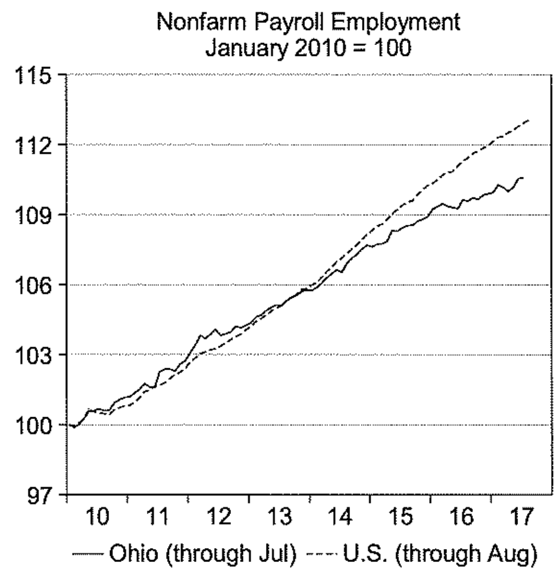


The diffusion of state leading economic indexes also deteriorated in July, as the indexes for seven states were negative, up from two in June and five in May. Ohio was among the seven states with negative values in July – it's first negative reading since the recession. (The Ohio index was negative in August, September, and October 2016 at one point before being revised into positive territory.) The index is designed to predict the rate of change in the coincident index during the next six months, but can be volatile from month-to-month and is often revised significantly, limiting its predictive power.

The **consensus among forecasters** is for continued growth in real GDP in the second-half of the year. In particular, the Federal Reserve Bank of Atlanta projects growth of 3.2% in the third quarter, based on the trajectory of major indicators during the second quarter and data available so far for the third quarter. The Federal Reserve Bank of New York projects growth of 1.9%. The more-stable Blue Chip consensus, which is an average of forecasts from a group of professional forecasters, calls for 2.7% growth, with a range of 2.1% to 3.2% from the average of the lowest ten to the highest ten forecasts.

Employment

Nonfarm payrolls across the country increased by 156,000 jobs in August, somewhat below expectations for an increase of about 179,000. In addition to the lower-than-expected rise, the June and July gains were revised down by a total of 41,000. The increase in employment in August is below the average of 176,000 per month during the previous twelve months, but in line with the average of 160,000 per month during the most recent six months. The initial August estimate is the least reliable of the twelve months, having been revised upward by an average of 55,000 jobs since 2000, according to IHS Markit.



Employment increased by 36,000 in manufacturing, with more than one-third of the increase occurring in motor vehicles and parts; 28,000 in construction, with most of the increase occurring in specialty trade contractors; and 6,000 in mining, all in support activities. Other notable gains occurred in professional and business devices, which increased 22,000 and health care, which increased 20,000. Employment decreased in only two major sectors, down 9,000 in government and 8,000 in information, primarily in motion picture and sound recording.

The **unemployment rate** increased to 4.4%, but has been little changed since March. The unemployment rate has been below 4.5% for five months. The broadest measure of unemployment, the U-6 unemployment rate, was unchanged at 8.6% and has been below 8.9% for five months. The U-6 unemployment rate includes those who say that they want to work but have stopped looking because they believe they cannot find a job and those working part-time who would prefer full-time work.

Overall, the market appears healthy for job seekers. In June, the number of job openings increased to a new high of 6.2 million for this expansion. The 4-week average of initial unemployment claims fell in August back to near the 44-year low reached in May. Additionally, in the Conference Board survey of consumer confidence in August, the percentage of respondents characterizing jobs as plentiful, minus those characterizing jobs as hard to get, increased to its highest mark since 2001.

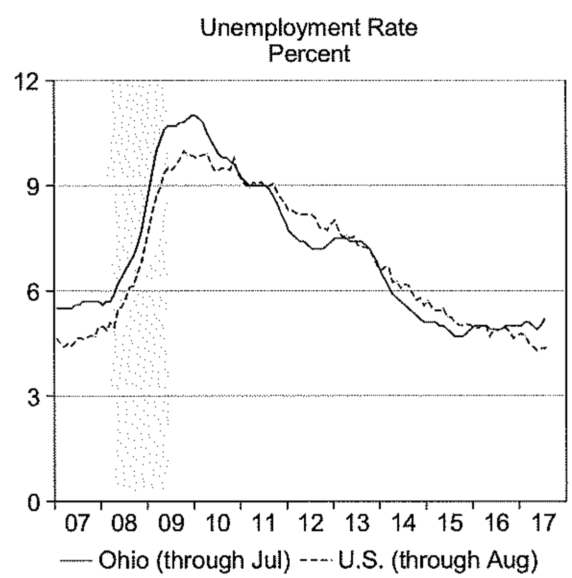
Average hourly earnings of all employees on private nonfarm payrolls increased 0.1% to only 2.5% above the year earlier level. Even so, the steady growth in wages recently indicates that labor markets are tightening gradually, and is likely to support policy changes by the Federal Reserve in coming months designed to constrain credit.

Ohio nonfarm payroll employment increased by 1,600 jobs in July, and the June increase was revised higher from 11,500 jobs to 19,200 jobs. Gains in leisure and hospitality (+5,200), government (+4,100), and financial activities (+1,200) were partly offset by declines in other services (-2,600), professional and business services (-2,400), and construction (-1,700).

During the twelve months ending in July, Ohio employment increased by 47,500 jobs. The largest gains were in education and health services (+17,900), leisure and hospitality (+9,500), and financial activities (+9,200). Employment declines occurred in trade, transportation and utilities (-4,900), manufacturing (-1,000), and other services (-1,000).

Among the **contiguous states**, year-over-year employment growth was strongest in Michigan (+1.4%), followed by Kentucky (+1.2%), Pennsylvania (+1.0%), Ohio and Indiana (+0.9%), and West Virginia (+0.2%), which broke a long negative string in June. Manufacturing employment increased year-over-year in Michigan (0.6%), Indiana (0.2%), and was unchanged in Kentucky. It fell 0.2% in Ohio, 0.5% in Pennsylvania, and 2.4% in West Virginia.

The **Ohio unemployment rate** increased by 0.2 percentage point to 5.2% in July. The rate is up 0.5 points from the cyclical low of 4.7% reached in October 2015, but had been in the 4.7% to 5.1% range since December 2014. The increase since the October 2015 low point has resulted from a larger increase in the Ohio labor force (+88,200) than in total employment (+56,300).



Across the country in July, the unemployment rate increased from the month before by a statistically significant amount in three states: Alaska, Maine, and South Dakota. The only significant decrease occurred in Texas. The unemployment rate was unchanged or not statistically different from the month before in all of the other states.

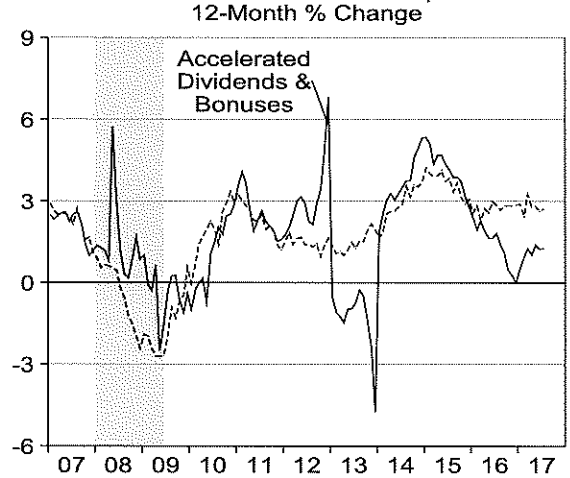
Consumer Income and Consumption

Personal income and spending growth both bounced back in July from a soft June. **Personal income** increased 0.4% after essentially no change in June. The rebound reflected continued strong growth in wage and salary disbursements and the passing of the effect from a one-time special dividend paid by Costco in May. Compared with a year earlier, personal income was up 2.7% and wage and salary disbursements were up 2.5%. This represents a deceleration from growth of about 3% in the first half of calendar year 2017.

The **Consumer Price Index** (CPI) increased 0.1% in July after no change in June and declines in two of the three months before that. The price of gasoline was unchanged in July after large declines the two previous months. Excluding prices of food and energy, the CPI was higher by 0.1%. Compared with a year earlier, the CPI was higher by 1.7% and excluding food and energy, the CPI was up by 1.7%. The Median CPI from the Federal Reserve Bank of Cleveland, which is an alternative measure of the trend in inflation, tracked slightly higher at 2.1% year-over-year. The measure of inflation that is most closely watched by the Federal Reserve (personal consumption spending minus food and energy) was 1.4% year-over-year – still well below the 2% threshold targeted by the Fed.

Monthly **personal consumption expenditures** picked up to 0.3% in July, and the June rise was revised up to 0.2%. Spending on durable goods increased 0.6%, and the June change was revised up from a decline of 0.4% to a gain of 0.6%. The strong increase in purchases of durable goods outpaced the small increase in unit sales of light motor vehicles, which rose from 16.6 million units to 16.7 million units. Spending on nondurable goods bounced back from a decline in June to a 0.5% gain in July, and spending on services increased 0.2%.

Real Income and Consumption
12-Month % Change



— Real Disposable Personal Income
---- Real Personal Consumption Expenditures

Hurricane Harvey likely cut into consumer spending during late August, but recovery spending is expected to add to growth in the fourth quarter. Light motor vehicle sales fell from 16.7 million units in July to 16.0 million units at a seasonally adjusted annual rate across the country in August. IHS Markit projects that hurricane effects will subtract 0.3 percentage points from growth in real personal consumption expenditures in the third quarter, in large part reflecting lost income of hourly workers that is estimated by IHS Markit to have totaled $25 billion to $35 billion at an annual rate in the last week of August. Retail spending in southeastern Texas, which accounts for approximately 3% of the country's economic activity, was severely depressed during the storm.

As has been the case following major storms in the past, activity is expected to rebound in subsequent quarters as destroyed property is replaced. In the wake of Katrina and Rita – back-to-back hurricanes that hit the gulf in August and September 2005 – growth in real personal consumption expenditures slowed from 3.1% in the third quarter to 1.5% in the fourth quarter, but rebounded to 4.6% in the first quarter of 2006. In part encouraged by federal tax incentives passed in response to the storms, business investment in plant and equipment followed a similar but accentuated pattern, slowing from 8.4% to 3.0% and then rebounding to 20.2%, all at annual rates.

Consumer attitudes brightened further in August, back to near recent highs. The Conference Board measure of **consumer confidence** increased to its highest level since March, and before that since December 2000. The increase was driven by better assessments of the current situation, although assessments of future conditions also improved.

The University of Michigan/Reuters survey painted a similar picture in August, although the better overall mood resulted entirely from better expectations, as assessments of current conditions deteriorated a bit. Homebuying was identified as a major challenge, reinforcing data about the limited number of homes for sale and rising prices. In addition, the improvement in expectations during August occurred almost entirely among households with annual incomes above $75,000. Since the presidential election last fall, however, sentiment has improved across all income levels. Households were positive about buying cars, as prices recently have moderated.

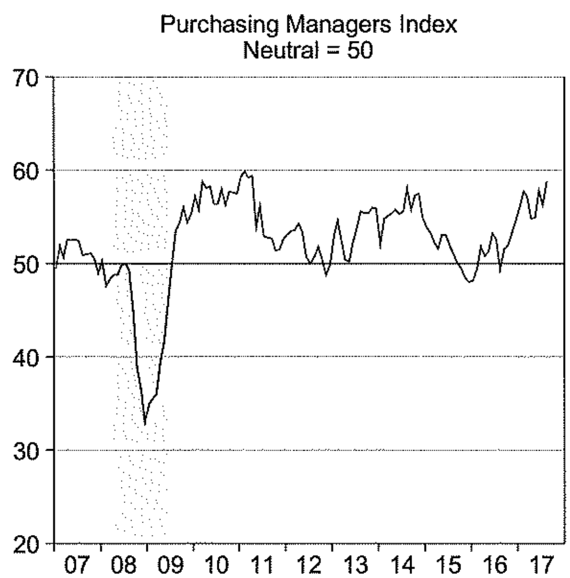
Manufacturing

Industrial production in manufacturing decreased 0.1% in July for the third monthly decline in five months. Utility production increased 1.6%, and mining output increased by 0.5%. Total industrial production increased 0.2%.

The decrease in manufacturing output reflected a 3.6% decrease in production of motor vehicles and parts, which was the third monthly decline in a row. Excluding motor vehicles and parts, manufacturing output increased 0.2%. The June change was revised up from 0.1% to 0.3%. Compared with a year earlier, manufacturing production was up by a modest 1.2%.

Production across the country in some industries that are key employers in Ohio was generally weak during July. In addition to the drop in production of motor vehicle and parts, production in primary metal decreased 1.2%, production of machinery decreased by 0.1%, and production in fabricated metal was unchanged. Production was higher than a year ago in these industries except motor vehicle and parts, which was lower by 5.0%.

Striking a more optimistic note than industrial production, reports from **purchasing managers** of improving conditions in manufacturing remained broad-based in



August, indicating future improvement in manufacturing output is likely. The PMI® increased from 56.3 to a 76-month high of 58.8 for the twelfth consecutive month above the neutral level of 50. At 60.3 and 61.0, respectively, the New Orders and Production sub-indexes remained near recent highs. With the exception of the sub-index for Customer Inventories, all other sub-indexes either improved or were little changed, pointing to continued strengthening in the manufacturing sector through the summer.

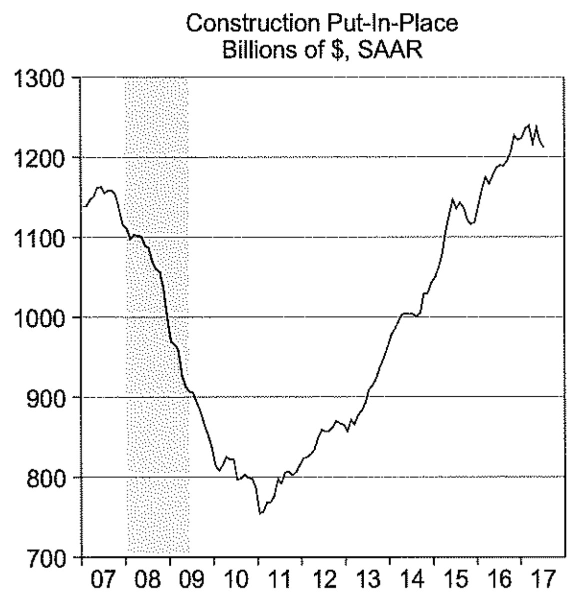
Of the eighteen industries tracked by the Manufacturing ISM® *Report on Business*, fourteen reported growth in the latest month. Among the industries with a disproportionate effect on Ohio manufacturing employment, fabricated metal products, machinery, and transportation equipment all reported expansion while primary metals reported contraction.

One respondent in the machinery industry reported, "Demand for light construction equipment continues to be strong; usually at this time of year, demand slackens." A survey participant in the Transportation Equipment industry reported that "Sales remain strong month-to-month."

The depreciation in the foreign exchange value of the **U.S. dollar** appears to be a positive factor for domestic manufacturing. The trade-weighted index decreased by almost 10% from its recent peak in December 2016 to late August. Trade flows appear to have begun to respond to the lower dollar as well as to a pickup in overseas growth, as exports of goods climbed 10.8% from the beginning of 2016 through June 2017. Even excluding exports of petroleum products, which are up significantly over the period, exports have begun to reverse the decline seen during the year and a half ending in January 2016.

Construction

Construction put-in-place decreased 0.6% in July for the third monthly decline in four months. Activity again declined in both the private sector (-0.4%) and the public sector (-1.4%). Compared with a year earlier, total construction was up just 1.8%, reflecting a 4.1% year-over-year increase in private construction and a 5.6% decrease in public construction.



The weakness in **private** construction in July resulted from a 0.8% rise in residential construction that was more than offset by a 1.9% decline in nonresidential construction. Within residential, a 0.8% decline in multi-family was more than offset by a 0.8% rise in single-family and 1.4% rise in improvements. Nonresidential was held back by a large decline in commercial and small declines across all of the other sectors.

The weakness in **public** construction put-in-place reflected a 2.6% decrease in residential and a 1.4% decrease in nonresidential. The weakness in nonresidential was concentrated in a large decline in education, with a mix of small increases and decreases across the other sectors.

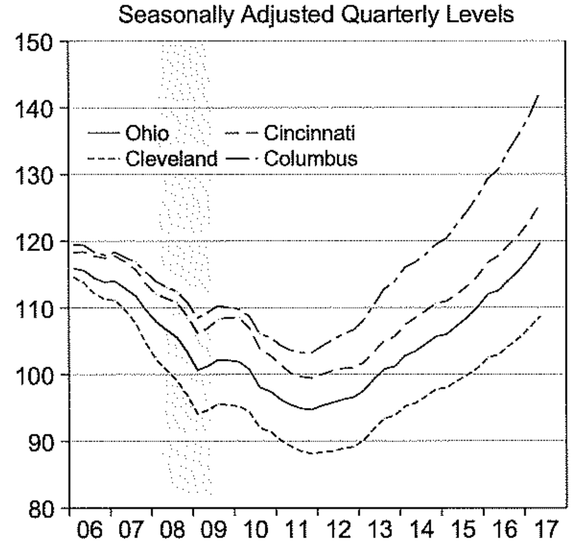
Housing starts remained stalled in July on a 3-month moving average basis. Total starts were unchanged as a 1.3% increase in single-family starts were offset by a 3.1% decrease in multi-family starts. Relatively flat activity in June-July followed three monthly declines in a row during March-May and four in the five months of January-May, all on a 3-month moving average basis.

Total starts sank across the Midwest in July after a strong 14.3% increase in June. Single-family increased 0.5%, but was more than offset by a 13.1% drop in multi-family starts, which had increased 30.4% in June. Compared with a year earlier, Midwest starts were still 3.7% higher due to a 22.2% year-over-year rise in single-family that outweighed a 25.7% decline in multi-family. More-forward-looking housing permits were equally lackluster in July, down 0.1% across the country on a 3-month moving average basis and down 3.7% across the Midwest.

Home sales are still being constrained by supply, according to reports. Existing home sales fell 0.7% in July, falling to the lowest level since last October on a 3-month moving average basis. In the Midwest, existing home sales fell 2.8%. New home sales followed the same pattern, decreasing 1.0% nationally and 2.0% in the Midwest. Compared with a year earlier, both existing and new home sales were higher across the country and lower in the Midwest on a 3-month moving average basis.

Home prices across the country posted their 64th consecutive monthly increase in June, rising by 0.4% to 5.8% above the year earlier level, according to the Case-Shiller index. According to the Freddie Mac index, home prices increased 1.7% in the second quarter to 6.8% above the year earlier level. In comparison, prices across Ohio increased 1.9% in the quarter and 6.3% from a year ago. In major metro areas in Ohio, prices increased 2.1% in the quarter and 6.6% from a year ago in Cincinnati; 1.6% in the quarter and 5.6% from a year ago in Cleveland; and 2.6% in the quarter and 8.9% from a year ago in Columbus, after seasonal adjustment.

Freddie Mac Home Price Indexes
Seasonally Adjusted Quarterly Levels



REVENUES

August **GRF receipts totaled $2,638.9 million** and were $28.8 million (1.1%) above the estimate. Monthly tax receipts totaled $1,968.8 million and were $25.8 million (1.3%) above the estimate, while non-tax receipts totaled $670.2 million and were $3.0 million (0.5%) above the estimate. Transfers in were only $17,000 against an estimate of zero. Variances for the fiscal year-to-date by category are provided in the following table ($ in millions).

Category	Includes:	YTD Variance	% Variance
Tax receipts	Sales & use, personal income, corporate franchise, financial institutions, commercial activity, MCF, public utility, kilowatt hour, foreign & domestic insurance, other business & property taxes, cigarette, alcoholic beverage, liquor gallonage, & estate	$23.6 million	0.7%
Non-tax receipts	Federal grants, earnings on investments, licenses & fees, other income, intrastate transfers	$3.0 million	0.2%
Transfers	Budget stabilization, liquor transfers, capital reserve, other	$15.1 million	15.7%
TOTAL REVENUE VARIANCE:		**$41.7 million**	**0.7%**
Non-federal revenue variance		**$41.5 million**	**1.1%**
Federal grants variance		**$0.2 million**	**0.0%**

On a year-over-year basis, monthly receipts were $374.8 million (12.4%) below August of the previous fiscal year. Tax revenues increased by $30.4 million (1.6%) from last August, but federal grants and other income fell sharply. Federal grants in the GRF and Medicaid spending are expected to decline from last year, not just in August but for the year as a whole, as an important source of Medicaid funding has shifted from the GRF to a dedicated purpose fund. In fiscal years 2010-2017, Medicaid managed care company premiums were subject to the sales tax and the revenue was deposited into the GRF. This revenue helped support Medicaid spending from the GRF; the subsequent drawdown of federal revenue was therefore also deposited into the GRF. Beginning in fiscal year 2018, the sales tax no longer applies to Medicaid managed care premiums. Instead, a new federally approved Medicaid related provider tax on member months of managed care companies is levied. Receipts from this tax, as is the case with all other Medicaid related health care provider taxes, go into a dedicated purpose fund and help support Medicaid spending. The federal dollars drawn down by the disbursement of these non-GRF funds are deposited into a dedicated federal fund, not the GRF. This change will reduce non-auto sales tax receipts, GRF Medicaid spending, and related federal grant revenue in fiscal year 2018.

The increase from last August in tax receipts was due primarily to the commercial activity tax (CAT), which was $40.3 million (16.0%) higher than last August, and the income tax, which grew by $34.5 million (5.3%). The non-auto sales tax decreased by $50.2 million (6.9%). Again, this is due to the elimination of the sales tax on managed care Medicaid premiums. This will distort year-over-year comparisons throughout fiscal year 2018 (July was the exception, since the last tax revenues were received in July, based on June premiums).

GRF Revenue Sources Relative to Monthly Estimates – August 2017

($ in millions)

Individual Revenue Sources Above Estimate		**Individual Revenue Sources Below Estimate**	
Auto Sales Tax	$10.7	Commercial Activity Tax	($2.2)
Non-Auto Sales Tax	$9.0	Kilowatt Hour Tax	($1.2)
Personal Income Tax	$5.5	Natural Gas Distribution Tax	($1.0)
Other Income	$3.4	Other Sources Below Estimate	($1.9)
Cigarette and Other Tobacco Tax	$1.6		
Alcoholic Beverage Tax	$1.2		
Financial Institutions Tax	$1.2		
Other Sources Above Estimate	$2.5		
Total above	**$35.1**	**Total below**	**($6.3)**

(Note: Due to rounding of individual sources, the sum of sources above and below estimate may differ slightly from the total variance.)

Non-Auto Sales and Use Tax

July non-auto sales and use tax collections totaled $681.5 million and were $9.0 million (1.3%) above estimate. This partly offset the $26.8 million shortfall from July, so that for the year, collections are $17.8 million (1.2%) below estimate.

The non-auto sales tax underperformed the estimates by $187 million (2.0%) in fiscal year 2017. Growth for fiscal year 2017 was only 2.4%. As a result, OBM sharply scaled back growth estimates for this tax in fiscal year 2018. After one adjusts for sales tax collections from Medicaid Health Insuring Corporations (MHICs), estimated growth for all of fiscal year 2018 is only 2.5%.

July was the last month of MHIC sales tax collections. Beginning in August, the sales tax on MHIC capitation payments was replaced by a Medicaid related provider tax on member months of both Medicaid and non-Medicaid managed care companies, which is being deposited into a non-GRF dedicated purpose fund. As a result, non-auto sales tax collections are expected to be negative relative to fiscal year 2017 in all of the remaining 11 months of fiscal year 2018.

August is the first example of decreases relative to the prior year due to the elimination of the sales tax on capitation payments for Medicaid managed care. August collections were $50.2 million (6.9%) below last year's level.

The table below shows that, if one subtracts MHIC collections from both fiscal year 2017 and fiscal year 2018, August growth was actually 2.4%. Weak July performance has held year-to-date growth down to 0.9%.

Non-Auto Sales Tax Revenue Growth Without MHIC– July and August

($ in millions)

	Jul-16	Aug-16	FY 17 YTD	Jul-17	Aug-17	FY 18 YTD
Non-auto sales tax GRF	$837.6	$730.3	$1,567.9	$842.1	$681.5	$1,523.6
Non-auto sales tax PLF (Library Fund)	$18.5	$14.2	$32.6	$19.0	$14.6	$33.6
Non-auto sales tax, all funds	$856.1	$744.4	$1,600.5	$861.1	$696.1	$1,557.2
MHIC revenues (state)	$64.3	$64.4	$128.7	$71.7	$0.0	$71.7
GRF and PLF revenues without MHIC	$791.8	$680.1	$1,471.8	$789.4	$696.1	$1,485.5
Change from prior year in non-MHIC collections				-$2.4	$16.0	$13.7
Pct. change from prior year in non-MHIC collections				-0.3%	2.4%	0.9%

Auto Sales Tax

Auto sales tax collections in August were $135.7 million, which was $10.7 million (8.6%) above estimate. Collections were $2.4 million (1.8 %) above last August's level.

The August overage in the auto sales tax more than offset the $1.5 million July shortfall and collections for the year are now $9.2 million (3.8%) above estimate. For the year, revenues have grown by $3.6 million (1.5%) from last year.

For fiscal year 2018 as a whole, auto sales tax collections are expected to decline by 2.5%, as unit sales of new autos are not expected to reach fiscal year 2017 levels. As noted in last month's issue of this report, the estimates for fiscal year 2018 anticipate year-over-year declines in 9 of the 12 months. However, there has been modest growth in collections in July and August, contrary to expectations.

At the national level, new vehicle sales this July and August were 16.8 million and 16.1 million units, respectively, representing significant drops from the 17.4 million and 17.5 million sales pace of the same months last year. The drop in light trucks has been smaller, which would tend to mitigate sales tax revenue drops since trucks tend to be more expensive, but it remains to be seen whether the sales tax can continue to grow with reductions in new unit sales.

Personal Income Tax

August personal income tax receipts totaled $692.0 million and were $5.5 million (0.8%) above estimate.

Most payment categories performed well in August, and withholding was again the best performer, coming in above estimate by $8.8 million (1.2%). Refunds were the only significant negative coming in $4.8 million (15.1%) above estimate. However, since refunds were below estimate in July, they are still below estimate by $1.5 million (1.5%) for the year.

After above estimate collections in both July and August, withholding collections are $26.5 million (1.9%) above estimate. This is a reversal of the pattern from fiscal year 2017, when withholding ran below estimate by about 3% for most of the year (although the final shortfall was somewhat smaller at -2.7%). Total income tax collections for the year are $34.7 million (2.8%) above estimate.

On a year-over-year basis, August GRF income tax collections were $34.5 million (5.3%) above August 2016 collections. For the year, collections are up by $93.0 million (7.8%). All payment categories have improved from last year, except for annual return payments, and the decline there has been less than $1 million.

FY2018 PERSONAL INCOME TAX RECEIPTS BY COMPONENT ($ in millions)

	Estimate Aug	Actual Aug	$ Var Aug	Actual Aug-2017	Actual Aug-2016	$ Var Y-0ver-Y
Withholding	$720.3	$729.1	$8.8	$729.1	$692.6	$36.5
Quarterly Est.	$9.6	$11.0	$1.4	$11.0	$9.6	$1.4
Trust Payments	$0.3	$0.5	$0.2	$0.5	$0.3	$0.2
Annual Returns & 40 P	$8.9	$9.6	$0.7	$9.6	$8.9	$0.7
Other	$7.9	$7.3	($0.6)	$7.3	$7.7	($0.4)
Less: Refunds	-$31.8	-$36.6	($4.8)	($36.6)	($34.0)	($2.6)
Local Distr.	($28.7)	($28.8)	($0.1)	($28.8)	($27.7)	($1.1)
Net to GRF	$686.5	$692.0	$5.5	$692.0	$657.4	$34.6

Commercial Activity Tax

Commercial activity tax (CAT) August receipts deposited in the GRF totaled $291.2 million and were $2.2 million (0.7%) below the estimate. However, due above estimate collections in July of $9.7 million, receipts for the year are $7.5 million (2.2%) above estimate.

The first quarterly payment of fiscal year 2018 was due on August 10. Some businesses file and pay in July, so combined July and August net collections provide a more accurate picture of quarterly performance than August by itself (there are also late payments in September, but these are much smaller, around $10 million, and don't affect the quarterly total much).

For the year, GRF CAT receipts are $55.0 million (18.9%) above collections for the first two months of last year. This increase is partly due to a change in the allocation method contained in H.B. 49 (the biennial budget bill) that increased the GRF share of CAT receipts from 75 percent to 85 percent.

We can decompose the GRF increase into a total collections increase and a law change impact by looking at all funds CAT receipts. All funds collections have increased by $18.7 million (4.8%), growing from $390.6 million to $409.3 million. The GRF would have received an additional $14.4 million from that increase: the other $40.6 million is due to the change in the GRF percentage.

Cigarette and Other Tobacco Products Tax

Cigarette and other tobacco collections bounced back from their $7.6 million July shortfall in August, as collections were $1.6 million (1.9%) above estimate. This brought the year to date shortfall down to $6.0 million (5.5%). OBM continues to believe that this variance is a timing issue and not a source of concern.

GRF Non-Tax Receipts

GRF non-tax receipts totaled $670.2 million in August and were above estimate by $3.0 million (0.5%). Other income drove the overage, as this category was $3.4 million above estimate.

As discussed in the introductory section of this report, federal grants were almost exactly at the estimate, although they were $363.2 million (35.5%), below last year's level. As stated earlier, both GRF Medicaid spending and GRF federal revenues are expected to decrease significantly this year due to the elimination of the sales tax on Medicaid managed care payments and its replacement by a new tax whose revenues are not deposited in the GRF, and whose associated federal matching dollars are also not deposited in the GRF. For fiscal year 2018 as a whole, federal revenues are expected to decrease by $2.02 billion, or 17.2%.

Another factor depressing GRF federal grants in August is that in fiscal year 2018 GRF Medicaid spending and revenues will follow a somewhat different pattern than in prior years. To be specific, spending from non-GRF sources (sometimes referred to as "GRF offsets) will be spread more evenly throughout the year rather than concentrated in the last two months of the fiscal year. This means that, relative to fiscal year 2017, even setting aside the overall drop due to the replacement of the Medicaid sales tax, earlier months in the year will show lower GRF Medicaid spending and federal grants revenue than before.

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Ohio Manufacturers' Association

Tax Counsel Report
11 October 2017
By Mark A. Engel
Bricker & Eckler LLP

Administrative Actions:

The Tax Commissioner continues discussions regarding his review of O.A.C. 5703-9-21, the manufacturing sales tax rule. Following an earlier meeting, the Tax Commissioner proposed some minor changes to the rule. Proposed changes to the beginning point of manufacturing to expressly exclude activities that maintain an ingredient in a useable condition remain a point of contention between the Tax Commissioner and taxpayers.

In a notice dated September 19, 2017, the Department of Taxation announced that taxpayers subject to Ohio's pass-through entity, individual income, and school district income taxes that have been granted disaster tax relief by the Internal Revenue Service shall have the same extended deadline to meet their Ohio tax obligations. A copy of the announcement is attached to this report.

On September 7, 2017, the Department announced that it was suspending its audit program involving taxpayers paid by a professional employment organization ("PEO") who had claimed the benefit of the business income deduction, pending the resolution of two bills introduced into the general assembly. The two bills, H.B. 344 and S.B. 186, specifically provide that owners of pass-through entities who are paid through PEOs nevertheless qualify for the deduction. The department had been taking the position that since the individuals were being paid by the PEO, rather than through the business entity, the income did not qualify as business income.

Legislative Actions:

Sub. H.B. 49, the budget bill for 2018-2019, was discussed in our last report. One provision inserted into the bill that was not discussed was a tax amnesty program. A summary of that program is attached to this report.

Judicial Actions:

Ohio Supreme Court

In *MacDonald v. Cleveland Income Tax Bd. of Rev.*, Slip Opinion 2017-Ohio-7798, the Supreme Court held that the present value of a SERP, reported as qualifying wages at the time the individual retired from service, constituted a pension that was excepted from taxation under the city ordinance. The Court agreed that the specific exclusion afforded to pensions superseded the general provision that all qualifying wages were taxable.

In *Columbus City Schools Bd. of Edn. v. Franklin Cty. Bd. of Revision*, Slip Opinion No. 2017-Ohio-5823, the Court determined that the Board of Tax Appeals may not simply uphold a determination of value made by the Board of Revision; rather the BTA must independently weigh the evidence upon which the BOR based its decision and make an independent determination of value. The Court also ruled that where a second complaint is impermissibly filed during an interim period and is dismissed, that complaint does not prevent the BOR or BTA from carrying its value determination forward to subsequent years.

In *Terraza 8, LLC v. Franklin Cty. Bd. of Revision*, Slip Opinion No. 2017-Ohio-4415, the Supreme Court ruled that following the amendment of R.C. 5713.03 in 2012, a recent arm's-length sale of property no longer conclusively establishes the value of the property. The sale still creates a presumption of value, but the party opposing the sale price may introduce evidence that the value is other than the price paid for the property. Further, the Court ruled this change was to be applied for tax years beginning on or after January 1, 2013.

In *West Carrollton City Schools Bd. of Edn. v. Montgomery Cty. Bd. of Revision*, Slip Opinion No. 2017-Ohio-4328, the Court rejected the contrary argument of the Board of Education and ruled that the price paid for raw land, plus actual construction costs of subsequently-constructed improvements, was not evidence of value sufficient to overcome a different (and lower) value assessed by the Count Auditor. The Court noted that the construction of the improvements was a change that negated the use of the acquisition price of the land to determine its value. It also held that the construction costs, incurred up to two years prior to tax lien date, were not credible evidence of value for the subsequent tax lien date.

In *Dialysis Centers of Dayton, LLC v. Testa*, Slip Opinion No. 201-Ohio-4269, the Court held that a property owner that provided health care to the general public without regard to the ability of the recipients to pay for the care sufficiently established its charitable use of the property. The Court specifically rejected the argument that some prescribed level of "charity" care was required before the property could be exempt.

<u>Ohio Court of Appeals</u>

Nothing to report.

Ohio Board of Tax Appeals

In *Central State Enterprises LLC v. Testa*, BTA No. 2016-380 (July 5, 2017), the BTA held that receipts from the future sales of grain commodities were receipts from the sale of tangible personal property that would be sourced for purposes of the CAT based on the place where the commodities were received by the purchasers. It rejected the taxpayer's argument that the receipts relating to the futures contracts were income from financial instruments that were sourced based upon the seller's principal place of business.

In *Greenscapes Home and Garden Products, Inc. v. Testa*, BTA No. 2016-350 (July 19, 2017), the BTA held that receipts from tangible goods picked up by common carriers selected by purchasers at a distribution center outside Ohio were sourced based on the "ship-to" address that was provided by the purchaser. It rejected the argument that receipts should be sourced based upon the place where the taxpayer's customers subsequently delivered the goods to their retail customers.

In *Narayan Flooring Inc. v. Montgomery Cty. Bd. of Revision*, BTA No. 2016-2587 (July 28, 2017), the BTA held that the evidence, consisting of a closing statement, bank appraisal, and oral testimony about the purchase of a property on which a business was located, was sufficient to establish that the value of real property was other than the total price paid in the transaction.

Tax Commissioner Opinion

Nothing to report.

Other

In *State of South Dakota v. Wayfair, Inc.*, 2017 S.D. 56 (Sept. 13, 2017), the Supreme Court of South Dakota struck down the state's economic nexus law requiring sellers located outside South Dakota to collect and remit use tax on sales to customers located inside South Dakota. In a terse decision, the Court held the provision clearly violated the physical presence requirement of *Quill Corp. v. South Dakota*, 504 U.S. 298 (1992).

On October 1, 2017, the 2020 Tax Policy Study Commission issued its latest report regarding Ohio's personal income tax. Two prior reports addressed the severance tax and the historic preservation tax credit. The commissioner held a number of hearings and gathered the comments of 43 individuals and groups, including the Ohio Manufacturers Association, regarding Ohio's personal income tax. In its summary and conclusion, the Commission does not discuss the merits of a flat income tax. However, it does note that if such a tax is to be implemented, tax credits and expenditures need to be vetted thoroughly in order to determine those that can be modified or eliminated in order to help pay for the revenue reduction that would accompany a flat tax. A copy of the Committee's summary and recommendation is attached to this report.

Ohio Tax Amnesty Program May Help Delinquent Taxpayers

Mark A. Engel
Bricker & Eckler LLP

As part of the bill adopting a new state budget for the next two years,[1] Ohio enacted a tax amnesty program. This program provides an opportunity for taxpayers owing certain taxes to become current without penalty and with one-half of any interest being forgiven.

The legislation calls for the Tax Commissioner to establish and administer a tax amnesty program with request to "qualifying delinquent taxes." "Qualifying delinquent taxes" includes most state taxes, including alcoholic beverage, financial institution, sales and use, personal and school district income, and commercial activity taxes. The taxes must be due and payable as of May 1, 2017, are unreported or underreported, and remain unpaid.

"Qualifying delinquent taxes" does not include any tax for which a notice of assessment or audit notice has been issued, or for which a bill has been issued. It also excludes taxes for a period ending after the effective date of the law, or for which an audit has been or currently is being conducted.

The program runs from January 1, 2018, through February 15, 2018.

During the program, if a person pays the full amount of the qualifying delinquent taxes owed and one-half of the applicable interest, the Tax Commissioner shall waive or

[1] Am. Sub. H.B. 49, effective June 29, 2017.

abate all applicable penalties and one-half of any interest that is accrued. The Tax Commissioner may require a person to file original or amended returns or reports as a condition of participating in the program.

If a person participates in the program and pays the full amount of the delinquent qualifying taxes and interest, the person is not subject to any criminal or civil action with respect to the tax, and no assessment shall be issued with respect to the tax. Presumably a taxpayer who tries to game the program and purposefully underreports and pays its liability would not be protected by this provision, although the statute does not contain express language to that effect.

This is Ohio's fourth tax amnesty program; each of the prior programs has generated tens of millions of dollars.

For several years, Ohio has offered a voluntary disclosure program for some state taxes. Under this program, taxpayer may come forward anonymously to bring its past tax liabilities current. Under the voluntary disclosure program, a person must file returns and pay tax for the current tax period, and for the three prior tax years. As with the tax amnesty program, a person is not eligible for the voluntary disclosure program if it has already received notice of an audit or tax delinquency, or has been audited for the tax in question.

A person participating in the voluntary disclosure program must be the tax that is due plus the full amount of interest; however, all penalties are waived. The person must also agree to file returns and pay tax in the future, and all returns submitted as part of the program are subject to audit.

It appears the voluntary disclosure program will remain available during the tax amnesty program. Even though a person must pay the full amount of any interest owed in the voluntary disclosure program, a person only has to file returns and pay tax for the current period and the prior three years. Thus, a person may want to consider which program proves the more beneficial.

Engel, Mark

From: Ohio Department of Taxation <donotreply@tax.state.oh.us>
Sent: Wednesday, September 20, 2017 7:30 AM
To: Engel, Mark
Subject: Filing Extension for Those Impacted by Hurricanes Harvey and Irma

Ohio | Department of Taxation

Filing Extension for Those Impacted by Hurricanes Harvey and Irma

September19, 2017

The Ohio Department of Taxation will extend the due dates for a select group of taxpayers impacted by Hurricanes Harvey and Irma.

Each taxpayer subject to Ohio's pass-through entity, individual income, and school district income taxes that has been granted disaster tax relief by the Internal Revenue Service shall have the same extended deadline to meet their Ohio filing and payment obligations. The extension pertains to taxpayers that have previously obtained a federal extension to file their 2016 returns. It also includes the estimated tax payment for the third and fourth quarters of 2017. Impacted taxpayers have until **January 31, 2018** to meet their filing and payment obligations. However, the extension does not cover any balance due on the extended 2016 tax return. Statutory interest will be charged on the balance due when the return is filed. If you have questions, please call (800) 282-1780 for individual or school district income tax or (888) 405-4039 for pass-through entity tax.

For all other taxes administered by the Department, taxpayers affected by either Hurricane Harvey or Irma, and who file tax returns on accounts with mailing addresses located in one of the areas listed below will be granted a 45-day extension to meet their Ohio filing obligations that were due in the month of September.

Impacted areas:

The following Texas counties are eligible for relief: Aransas, Bee, Brazoria, Calhoun, Chambers, Fort Bend, Galveston, Goliad, Harris, Jackson, Kleberg, Liberty, Matagorda, Nueces, Refugio, San Patricio, Victoria and Wharton.

The following Louisiana parishes are eligible for relief: Acadia, Ascension, Avoyelles, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson Davis, Lafayette, Livingston, Pointe Coupee, St. Helena, St. James, St. Landry, St. Martin, St. Tammany, Tangipahoa, Vermillion, Washington, West Baton Rouge and West Feliciana.

The islands of St. John and St. Thomas in the U. S. Virgin Islands are eligible for relief.

The municipalities of Culebra, Vieques, Canóvanas, and Loíza are eligible for relief.

All counties in Florida are eligible for relief.

In addition, the Department will work with any taxpayer located outside the disaster area but whose records necessary to meet a deadline occurring during the postponement period are in the affected area. These requests will be reviewed on a case-by-case basis. Please call (888) 405-4039 for specific instructions.

Ohio | Department of Taxation

Professional Employer Organizations

Recently, House Bill 334 and Senate Bill 186 have been introduced in the Ohio General Assembly, proposing to amend section 5733.40 of the Revised Code to provide that compensation and guaranteed payments paid by a professional employer organization (PEO) to the owner of a pass-through entity that has contracted with the organization will legally constitute a distributive share to the owner. Pending the outcome of these two bills, which propose a significant change in the law, the Department of Taxation's Audit Division has suspended audit activities related to individuals who received compensation from a PEO that they do not own, and who claimed a small business/business income deduction. All existing audit cases that have not reached an assessed status will be placed on hold and thus not progress to any further stages of the billing cycle. If the legislation passes, the Department will work with taxpayers to resolve the existing audits and billings related to the issue under current law. If the legislation fails to pass, the Audit Division will continue to apply the current law.

Co-Chairs' Report on Testimony Taken on Maximizing Ohio's Competitiveness, Flat Rate Income Tax, Tax Credits, and Other Tax Related Topics

October 1, 2017

Presented by the Co-Chairs of the 2020 Tax Policy Study Commission

Senator Bob Peterson | Representative Tim Schaffer

Summary and Recommendations

The final task for the Ohio 2020 Tax Policy Study Commission was to provide recommendations for moving Ohio to a flat tax of either three percent or three and a half percent. Throughout all of the testimony included in this report, there is a clear trend that while potentially beneficial, a transition to a flat tax is challenging with the amount of tax credits and expenditures that are currently available. Ohio forgoes over $7 billion annually in revenue through more than 120 specific exemptions that are currently in the Ohio Revised Code.

In testimony heard by the committee on November 19, 2015, Richard Vedder, Distinguished Professor of Economic Emeritus at Ohio University, testified that flat and low income tax rates generally support economic growth; however, it is difficult to achieve those tax rates with so many credits and deductions eroding the tax base. When asked how Ohio should handle a transition from a complex tax system to a flat tax, Dr. Vedder stated that a flat tax can only be adopted when the state has a surplus of revenue available, when unemployment is low, and when there are no crises going on in the state. A substantial amount of state revenues would have to be dedicated to lowering the tax to three percent.

In testimony on November 19, 2015, Albert Macre from Albert F. Macre & Co. Certified Public Accountants suggested that the Commission review the tax credits and expenditures if moving towards a flat tax is considered.

In testimony on February 24, 2016, The Buckeye Institute discussed their support for moving to a broader, more flat tax rate; however, in order to do so, the number of tax credits and expenditures need to be considered.

In testimony on February 24, 2016, the Ohio Manufacturers' Association articulated their concerns with the amount of tax credits and expenditures and the effect that these have on the tax base as a whole. They recommend that these items should be reviewed to determine what may be eliminated and then work towards a broader tax system that is fair for all taxpayers.

In testimony on June 20, 2016, The Ohio Society of CPAs stated that although moving to a flat tax rate would be simpler, they discussed concerns with the financial challenges that this could cause during tough economic times, and whether or not moving to a flat tax would be supplemented with increasing other taxes or adding sales taxes on new services. The testimony also mentions the need for a review of tax credits and deductions to help provide additional revenue to offset any changes made to the income tax rates.

In testimony on September 26, 2016, Policy Matters Ohio recommended against moving to a flat income tax due to the impact this could have on low-income Ohioans, and stated their preference for simplifying the tax system by eliminating unnecessary tax credits and expenditures.

In testimony on October 31, 2016, One Ohio Now indicated opposition to moving toward a flat tax, and suggested reviewing the tax expenditures and credits as a way to make Ohio's revenue system fairer.

The recent enactment of House Bill 9 (Boose – 131st General Assembly), which created the Tax Expenditure Review Committee to review all tax credits and expenditures, will provide the opportunity for the thorough review that was referenced by those testifying before the Commission. This committee is comprised of six legislators and the Tax Commissioner. HB 9 passed unanimously in both the House and the Senate and became effective on March 21, 2017.

Much of the responsibilities of this new committee tie in to the goals set forward for the final phase of the Ohio 2020 Tax Policy Study Commission, and will continue to be reviewed in this newly created committee. The purpose of HB 9 is to establish a formal structure to conduct cost-benefit analyses of Ohio's tax expenditures and provide recommendations for their improvement.

As stated throughout the testimony heard by the Commission and provided in this report, in order to implement a flat tax, the tax credits and expenditures need to be thoroughly reviewed to determine which ones can be eliminated or modified to free up some of the revenue needed to lower the rate. Although the Ohio 2020 Tax Policy Study Commission heard testimony on the tax credits and expenditures, a more thorough review is needed, and is required as part of the permanent Tax Expenditure Review Committee.

TO: OMA Tax and Finance Committee
FROM: Rob Brundrett
SUBJECT: Tax Public Policy Report
DATE: October 11, 2017

Overview

After an action packed first six months, capped by the passage of the state budget the General Assembly went home for the summer recess save for the two weeks legislators were in town to vote on veto overrides. The budget continued to be the focus of much legislative action prior to the recess. It was announced in the spring that the state was looking at an $800 million revenue shortfall. This news tempered any ambitious plans regarding tax laws.

The beginning of fall marked the return of the General Assembly. Both the House and Senate have been busy with committee hearings over the past several weeks. Numerous tax credit bills have been introduced and either having hearings or awaiting hearings in their respective committees.

OMA members remain engaged on the manufacturing sales and use tax exemption rule that is being reviewed by the Department along with looking for ways to make Ohio manufacturing even more competitive in regards to tax and economic development policy.

Tax Legislation

Senate Bill 9 – Sales Tax Holiday

Senator Kevin Bacon introduced Senate Bill 9 which provides for a three-day sales tax "holiday" in August 2017 during which sales of clothing and school supplies are exempt from sales and use taxes. The holiday was passed and used in 2016 as well. The bill was signed by the Governor in mid-June. You may have benefited during back to school shopping.

House Bill 27 – Workers' Compensation Budget

Representative Tom Brinkman introduced House Bill 27, which is the BWC standalone budget. The bill makes changes to the Workers' Compensation Law, makes appropriations for the Bureau of Workers' Compensation, and provides authorization and conditions for the operation of the Bureau's programs. The House made several changes including changing the amount of time an injured worker has to report an injury from two to one year, making it illegal for an illegal alien to receive workers' compensation and several changes to the firefighter presumptive cancer laws. The Senate removed the provision dealing with illegal aliens and the bill was passed and signed by the Governor at the end of June.

House Bill 28 – Industrial Commission Budget

Representative Tom Brinkman introduced House Bill 28, which is the Industrial Commission standalone budget. The bill makes appropriations for the Industrial Commission for the biennium, and provides authorization and conditions for the operation of Commission programs. The bill passed the House and Senate was signed by the Governor at the end of June.

<u>Senate Bill 36 – CAUV</u>

Senator Cliff Hite has reintroduced Senate Bill 36. SB 36 makes changes to the computation of the CAUV formula. CAUV is the alternative method for taxing agricultural property. The rate allows agricultural land to be taxed at the ag value of land as opposed to the commercial value of the land. The formula has proven to be controversial in the past. In recent years farmers have been seeing an increase in their property tax due to a variety of reasons. Making changes to the current formula has proven controversial especially to residents and local governments. The Senate unanimously passed the bill.

The standalone CAUV bills were tabled and the House and Senate included CAUV provisions in the state budget bill that was ultimately passed.

<u>House Bill 49 – State Operating Budget</u>

The General Assembly removed almost all of the governor's budget tax proposals in the version of House Bill 49 that was returned to his desk. Instead of additional personal income tax reductions and increases to several other taxes including the sales tax, the legislature, working with a bleak tax revenue forecast, opted for the tax status quo.

However, the General Assembly did work with the OMA and governor's office to allow for optional centralized business income tax filings at the municipal level and the elimination of the throw-back rule. Businesses will now have the option of filing one municipal income tax form through the Ohio Business Gateway, instead of filing returns in all the municipal corporations in which a business operates.

During final state budget negotiations the conference committee amended a Senate provision which eliminated the direct appeal to the Supreme Court of Ohio from cases decided by the Board of Tax Appeals (BTA). In a letter to House and Senate leaders, the OMA stated that it could not support the elimination of this important appeal.

Instead of removing the provision, the conferees amended the provision to permit a party to request that a BTA appeal be transferred to the Supreme Court of Ohio if the appeal involves a "substantial constitutional question or a question of great general or public interest."

When the budget bill was introduced the Governor had a much more ambitious plan than the tax laws that were ultimately passed. Originally the Governor proposed more income tax reductions. As introduced, the budget proposed a nearly $3.2 billion, 17% cut in income taxes over the two years beginning July 1. The number of income tax brackets would have been reduced from nine to five. The top tax rate would have dropped to 4.33%.

The proposed budget would have increased personal income tax exemptions for those earning less than $80,000. The administration said these changes would mean an additional 350,000 low-income Ohioans would pay no income tax.

Governor Kasich proposed to pay for this personal income tax decrease with an increase in sales and other taxes. The sales tax rate would have increased by 1/2% to 6.25%.

In the as introduced version the sales tax base would have expanded to additional services such as television subscriptions, elective cosmetic surgery, lobbying, landscape design, interior design and decorating, travel package and tours and repossession services. It also proposed to increase the state's severance tax on oil and gas and raise taxes on cigarettes, beer and wine.

With the concern regarding budget and tax revenue shortfalls the legislature opted for the scaled back status quo version along with some tweaks outlined by counsel's memo.

<u>Senate Bill 114 / House Bill 155 – Vehicle Training Tax Credit</u>
Senate Bill 114 and House Bill 155 are companion bills that authorize tax credits for expense incurred by employers to train a commercial vehicle operator. These bills would allow businesses to take credits against the CAT. A previous interested party was canceled due to the budget. The bill had one hearing in the House.

<u>Senate Bill 132 – Foreign Trade Zone CAT Credit</u>
The bill would establish a five-year pilot program whereby taxpayers with facilities in Ohio with activated foreign trade zone status may claim a nonrefundable commercial activity tax credit equal to the amount redeployed by the taxpayer to job creation and renewable energy resources. An interested party meeting is scheduled for the middle of the month.

<u>House Bill 185 – Political Contributions Tax Credit</u>
The bill expands the scope of political contributions that qualify for the income tax credit for contributions to political campaigns to candidates for any state, county, municipal, or district office. It had its first hearing in early June.

<u>House Bill 216 – Used Vehicle Trade-In Credit</u>
The bill authorizes a sales and use tax trade-in credit for purchases of used motor vehicles from a licensed dealer. The bill had two hearings prior to the summer break.

<u>House Bill 262 – Independent Budget Process</u>
The bill would provide for the preparation of a state biennial budget independent of that submitted by the Governor and to authorize the Legislative Service Commission, upon the request of the Speaker of the House of Representatives or the President of the Senate, to arrange for an independent actuarial review of a proposed bill, specified analyses of economic policy initiatives and state benchmarking data, and a study of the state's long-range financial outlook. The bill was introduced and referred to committee in June.

<u>House Bill 320 – Long-Range Financial Outlook Council</u>
The bill creates the Long-Range Financial Outlook Council for the purpose of informing the public and the General Assembly about the financial status of the state by studying financial and other conditions and issuing an annual long-range financial outlook report. The bill had its first hearing last month.

<u>Tax News</u>
<u>U.S. Supreme Court Refuses to Hear CAT Appeal from Out of State Manufacturer</u>
On June 12, 2017, the U.S. Supreme Court refused to entertain an appeal from the U.S. Court of Appeals for the Eighth Circuit that upheld the dismissal of an action by

Diversified Ingredients, Inc. in U.S. District Court in Missouri seeking declaratory and injunctive relief against the imposition of the commercial activity tax (CAT).

OMA's tax counsel, Mark Engel, of Bricker & Eckler, wrote a brief analysis of the case and summed it up this way: "The decision does not reach the merits of whether the CAT may be imposed upon a taxpayer who does not have a physical presence in Ohio. However, it is noteworthy for some other reasons. First, the trial and appellate courts both recognized that Ohio provides a plain, speedy and efficient remedy with respect to assessments of CAT. … Second, and in some respect more important, it reflects the willingness of federal courts to refrain from interfering with state tax matters. … Third, it represents yet another failed attempt to bring the question of economic nexus in the realm of state taxation before the Supreme Court."

All good news for the integrity of the Ohio CAT.

OMA Files Additional Comments on Manufacturing Sales & Use Tax

This summer the OMA submitted two rounds of comments to the Ohio Department of Taxation (ODT) regarding potential revisions to the manufacturing sales and use tax rule (OAC 5703-9-21). The comment period was opened as a result of the agency's rule review.

In all of its comments, the OMA focused on the treatment of materials and of equipment that are integral to the entire manufacturing process and should be treated favorably with respect to the tax.

ODT will be reviewing interested party comments and providing a revised rule draft to the public later this fall.

6/23/2017

The Honorable Ryan Smith
Chairman, Ohio House Finance Committee
77 South High Street, 13th Floor
Columbus, OH 43215

The Honorable Scott Oelslager
Chairman, Ohio Senate Finance Committee
1 Capitol Square, 1st Floor
Columbus, OH 43215

Dear Chairman Smith and Chairman Oelslager:

The Ohio Manufacturers' Association (OMA) has long supported an efficient, competitive tax system in Ohio. Part of that efficient tax system includes the right that taxpayers and taxing authorities have to appeal a decision from the Board of Tax Appeals (BTA) directly to the Ohio Supreme Court.

The OMA has concerns with changes made to the direct tax appeal process in the Senate version of the state budget bill. Included in the Senate omnibus amendment and incorporated in House Bill 49 was a provision that removes the authority to appeal a decision of the BTA directly to the Ohio Supreme Court. Instead, such appeals are now to be filed with the appropriate court of appeals only. The amendment removed the current option of appealing directly to the Ohio Supreme Court that taxpayers have used to ensure a consistent and predictable tax system in the state of Ohio.

We have appreciated outreach from the Court in the past days and find their rationale for reform to be reasonable. The Court expressed a willingness to compromise on the language presently contained in the House Bill 49, however their suggested compromise does not go far enough.

Given the limited timeframe for review, we cannot at this time support the Court's efficiency proposal without maintaining direct appeals of important tax commissioner cases that determine far-reaching matters of tax law. We are happy to work with you and the Court to accomplish those changes now in the budget, or later in the session. Absent resolution of favorable compromise, we cannot support the proposed change and urge the Conference Committee to remove the provision.

Thank you and we would be happy to discuss this issue in more detail.

Sincerely,

Ryan Augsburger
Vice President and Managing Director

Rob Brundrett
Director

CC: House Bill 49 Conference Committee Members
Mike Buenger

U.S. Supreme Court Refuses to Hear CAT Appeal from Missouri

Mark A. Engel
Bricker & Eckler LLP

On June 12, 2017, the United States Supreme Court refused to entertain an appeal from the United States Court of Appeals for the Eighth Circuit that upheld the dismissal of an action by Diversified Ingredients, Inc. in U.S. District Court in Missouri seeking declaratory and injunctive relief against the imposition of the commercial activity tax ("CAT"). The District Court dismissed the action on jurisdictional grounds, which decision was upheld by the Court of Appeals. As a result of the refusal of the Supreme Court to accept the case, the taxpayer will have to avail itself of the statutory appeal process should it be assessed CAT and wish to contest the assessment.[1]

Diversified Ingredients manufactures and sells commodities typically used to manufacturer and produce pet food products. Diversified has no business locations in Ohio and does not employ individuals to enter Ohio to make sales on its behalf. All customer orders are solicited and received outside Ohio, and all goods are shipped at the direction of the customer via common carrier. Some of those goods are shipped to locations inside Ohio.

Diversified sought injunctive relief prohibiting the Tax Commissioner from assessing CAT against it for the sales of goods shipped into Ohio. It claimed that declaratory relief was justified because it did not have an adequate remedy at law. It further claimed that the Interstate Income Act, 15 U.S.C. §381, also known as Public Law 86-272, protected it from taxation by Ohio. The Tax Commissioner moved to dismiss on the basis that the federal tax anti-injunction act, 28 U.S.C. §1341 ("TIA"), and considerations of comity, precluded federal intervention with state tax matters. The District Court held that the Ohio appeal scheme provided Diversified with an adequate remedy at law, such that declaratory relief was not appropriate. In addition, it held that the TIA and considerations of comity, absent the involvement of a fundamental right or irreparable harm, precluded its action in the case.[2]

On appeal, the Court of Appeals agreed with the District Court in all regards.[3] It rejected the argument that federal courts had exclusive jurisdiction to consider the immunity afforded by Public Law 86-272. It agreed that the Ohio process for contesting tax assessments was plain, speedy and efficient remedy that the TIA barred involvement by the federal courts in the matter. Because it relied upon the TIA, it refused to rule on the question of whether comity also barred the action. Diversified sought review by the Supreme Court of the United States, and that review was denied on June 12.

The decision does not reach the merits of whether the CAT may be imposed upon a taxpayer who does not have a physical presence in Ohio.[4] However, it is noteworthy for some other reasons. First, the trial and appellate courts both recognized that Ohio

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[1] *Diversified Ingredients, Inc. v. Testa*, Sup. Ct. No. 16-1266 (June 12, 2017).
[2] *Diversified Ingredients, Inc. v. Testa*, Dist. Ct. No. 4:15-CV-1935 RLW (E.D. Mo., May 19, 2016).
[3] *Diversified Ingredients, Inc. v. Testa*, App. Ct. No. 16-2791 (8th Cir., January 23, 2017).
[4] See *Crutchfield Corp. v. Testa*, __ Ohio St. 3d __, 2016-Ohio-7760 (2016).

provides a plain, speedy and efficient remedy with respect to assessments of CAT. Thus, challenges to assessments of CAT should be brought before and decided by Ohio Courts. Second, and in some respect more important, it reflects the willingness of federal courts to refrain from interfering with state tax matters. Whether couched in terms of the TIA or comity, the considerations are similar: A respect for states and their statutory tax schemes. Third, it represents yet another failed attempt to bring the question of economic nexus in the realm of state taxation before the Supreme Court.

MEMORANDUM

TO: Robert A. Brundrett, OMA

FROM: Mark A. Engel, Bricker & Eckler LLP

DATE: August 17, 2017

RE: Update Memo for the Proposed Changes to Manufacturing Rule

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Updated Analysis

As you know, in May the department of taxation announced, as part of its periodic review of its rules, that it was reviewing the sales tax manufacturing rule. It proposed a few changes suggested by its audit division and circulated them for review. Following a meeting of interested parties, at which many comments were made, the department pulled back and re-examined the rule in light of the comments.

The department just issued its new revisions based upon those comments. There are not many, but they are significant.

First, in division (B)(1), the department originally added language to the fourth paragraph regarding the beginning of manufacturing. The added language indicated that activities to heat or mix raw ingredients in order to maintain their condition were not manufacturing. The references to heating or mixing are removed, so that any activity that maintains condition is not considered to be manufacturing.

The proposed changes to division(C)(12) and (13) remain. These changes incorporate statutory and decisional interpretations of the scope of the exemption.

One of the comments made during the meetings related to whether or not the manufacturing rule should include references to other exemptions. The department has suggested that division(D)(8) be revised to state that R&D equipment wasn't covered by this rule, but that it nevertheless was exempt. That reference, and examples 18 and 54 that referenced the provision, are stricken from the latest proposal for the rule.

Example 2 was revised slightly to differentiate between material handling from storage to the place of manufacturing, which is taxable, and handling equipment that introduces the material into the manufacturing process. This latter equipment is exempt.

Former example 54, addressing the R&D exemption, was removed and a new example relating to HVAC equipment was put in its place.

In response to another comment about mixing the conclusions relating to taxable and exempt equipment within examples, the conclusions in Example 64 were re-ordered so that all items that were not taxable were listed together.

Conclusion

In summary, many of the changes are minor, but positive. The change in the commencement of manufacturing, however, to exclude any equipment that maintains the condition of the material, remains problematic.

June 28, 2017

<u>VIA Electronic Mail</u>

Ohio Department of Taxation
ATTN: Laura Stanley
30 E. Broad St.
Columbus, OH 43216

Re: **OMA Follow Up Comments to Manufacturing Rule; OAC 5703-9-21: Ohio Department of Taxation Draft Revisions**

Dear Ms. Stanley:

As a follow-up to the meeting held at the Ohio Department of Taxation (ODT) on May 31, 2017, The Ohio Manufacturers' Association (OMA) is hereby providing ODT with written follow up comments to Ohio's Manufacturing Sales and Use tax rule 5703-9-21.

The OMA is dedicated to protecting and growing manufacturing in Ohio. The OMA represents over 1,400 manufacturers throughout Ohio. The OMA supports a reasonable and transparent state tax system that encourages investment and growth.

The OMA appreciates the opportunity to offer additional comments to the manufacturing sales and use tax exemption rules OAC 5703-9-21. These rules are important and valuable to Ohio's manufacturing competitiveness.

The OMA remains concerned with provisions included the draft proposal and are outlined as follows.

5703-9-21(B)(1) – Commitment of materials to the manufacturing process and initial storage.

1. Often when raw materials are received at a facility, they are unloaded, then screened or processed, (e.g., by magnets, to remove undesirable material such as wood or metals). These raw materials can also be mixed or blended before they are transported to "storage."

   The current rule states that commitment starts at the earlier of (i) the point where handling from initial storage ceases, or (ii) the point where the materials are mixed, measured, blended, heated, cleaned, or otherwise treated or prepared for manufacturing.

The above language is often ignored by auditors, who often claim this activity is “preliminary” action. Language should be added to the rule to explicitly consider such sorting and mixing activities as manufacturing prior to any “storage” declaration.

2. The rule should also state that equipment used to put or load raw materials into the first stage of manufacturing should be considered exempt for sales/use tax purposes because these pieces of equipment are necessary to complete the first step of the manufacturing process.

3. Equipment that is used to agitate materials to prevent products from becoming unsalable or unusable must be recognized as exempt from sales and use tax. These types of equipment are necessary to the manufacturing process. In many instances, without these types of processes, manufactured goods are ruined and unable to be sold or operate as designed. The rule should state that these types are part of the manufacturing process and are exempt.

5703-9-21 – Consistency in draft rules

1. The rule refers to related exemptions in some places and ignores related exemptions in other portions of the rule. For example, the reference to the R&D exemption is technically outside the manufacturing exemption, but it is related. Other related exemptions such as packaging or pollution control, are not mentioned. The rule should either include the mention of these exemptions or ignore all related exemptions. The current rule occupies a type of middle ground without offering much guidance in either direction.

The OMA appreciates the opportunity to comment on this draft to Rule 5703-9-21. We look forward to working with ODT as the rule review moves forward. If ODT has any questions regarding the foregoing, please do not hesitate to contact me or OMA’s tax counsel, Mark Engel at Bricker & Eckler LLP (513-870-6565).

Sincerely,

Rob Brundrett
Director, Public Policy Services

CC: Matt Chafin

September 29, 2017

VIA Electronic Mail

Ohio Department of Taxation
ATTN: Laura Stanley
30 E. Broad St.
Columbus, OH 43216

Re: **OMA Follow Up Comments to Manufacturing Rule; OAC 5703-9-21: Ohio Department of Taxation Draft Revisions**

Dear Ms. Stanley:

As a follow-up to the meeting held at the Ohio Department of Taxation (ODT) on August 30, 2017, The Ohio Manufacturers' Association (OMA) is hereby providing ODT with written comments and suggested rule language to Ohio's Manufacturing Sales and Use tax rule 5703-9-21.

The OMA is dedicated to protecting and growing manufacturing in Ohio. The OMA represents over 1,400 manufacturers throughout Ohio. The OMA supports an equitable and transparent state tax system that encourages investment and growth.

The OMA appreciates the transparent process and the opportunities to offer additional comments to the manufacturing sales and use tax exemption rules OAC 5703-9-21. These rules are important and valuable to Ohio's manufacturing competitiveness.

The OMA remains concerned with certain provisions included the draft proposal. OMA requests that the following language, added by ODT to the fourth paragraph of division (B)(1) of the rule, be deleted: "However, the maintain (sic) materials in the same state or form as they are received or measuring raw materials to verify quantities received, does not constitute commitment."

There are three reasons for this request. First, the prior sentence in the rule states that commitment occurs when the materials have been mixed, measured, blended, heated, cleaned, or otherwise treated or prepared for the manufacturing process. This seems to be inconsistent with then saying that heating, cooling, or agitating materials in order to maintain the condition of the materials is taxable.

Second, this language means that if a manufacturer purchases items separately and combines them, and then heats or agitates them to preserve them, the materials are committed to manufacturing and the items are exempt; but if it purchases the ingredients already mixed, and still has to heat or agitate them to maintain them, then it has not committed the materials to manufacturing and the items are taxable. This is inconsistent, illogical and isn't good policy.

Finally, no manufacturer is going to the expense to heat or agitate materials that it is not going to use. Those materials are indeed committed to the manufacturing process.

Thank you for the opportunity to comment on this draft to Rule 5703-9-21. We look forward to working with ODT as the rule review moves forward. If ODT has any questions regarding the foregoing, please do not hesitate to contact me at rbrundrett@ohiomfg.com or (614) 629-6814 or OMA's tax counsel, Mark Engel, of Bricker & Eckler LLP at (513) 870-6565.

Sincerely,

Robert A Brundrett

Rob Brundrett
Director, Public Policy Services

CC: Matt Chafin

The Ohio Manufacturers' Association

Creating an Ohio Manufacturing Investment Tax Credit

Background

As of the most recently available data (2015), Ohio manufacturing is responsible for 18% - $108 billion – of the state's Gross Domestic Product; this is greater than the contribution of any other Ohio industry sector. For comparison, the next most productive sector is government, which contributes $67.75 billion to GDP. Manufacturing is essential to Ohio's economy.

In the competitive domestic and global economies, every public policy decision that affects Ohio's business climate affects Ohio's manufacturing competitiveness. In turn, Ohio's manufacturing competitiveness determines the ability of the state to grow its economy and create jobs.

Ohio manufacturers require public policies that attract investment and protect the state's manufacturing legacy and advantage. These policies apply to a wide variety of issues that shape the business environment within which manufacturers operate.

Competition for Manufacturing Investment

Manufacturing is capital intensive. Manufacturers must continually innovate and make investments to compete in a global market. These investments include facilities, equipment, technology and materials.

Other states and countries continually try to lure Ohio manufacturers out of state with a mixture of credits and incentives. In order to protect and grow Ohio's foundational manufacturing industry, a state strategy to support the capital projects of manufacturers has much merit.

What can Ohio do to be more Competitive?

Introduction of a Manufacturing Investment Tax Credit which uses capital expenditures as the principle criteria as opposed to jobs created, would create significant economic benefit.

Productivity gains, which keep Ohio manufacturers competitive, are driven by capital investment in technology and equipment. Such investment is necessary for Ohio manufacturers to remain competitive and policies which encourage the investment should be implemented.

A nonrefundable tax credit could be calculated as a credit based on capital investment favoring manufacturing investment. The credit would be used to offset, withholding, sales or use taxes.

It is not that job creation is unimportant; quite the contrary. However, due to innovation in technology, many fruitful capital investments advance the competitiveness of Ohio manufacturers without necessarily or significantly impacting the number of jobs. What we're saying is: creating incentives for manufacturers to make the heavy capital investments that contribute to their companies' future is an investment in manufacturing growth in and of itself. Without which, current and future jobs are potentially at risk.

Contact:
Rob Brundrett
Director, Public Policy Services
rbrundrett@ohiomfg.com
(614) 629-6814

(A) As used in this section:

(1) "Affiliated group" means two or more persons related in such a way that one person owns or controls the business operations of another member of the group.

(2) "Cost" means cost as capitalized on the books of the person acquiring the property. If the property is leased, “cost” means the actual amount of any lease payments made during the credit period. “Cost” does not include so much of the basis of the property that is determined by reference to the basis of other property held at any time by the person acquiring the property.

(3) "Credit period" means the two consecutive calendar years ending immediately prior to January 1 of the calendar year in which a manufacturer first claims the credit provided by this section. A calendar year included in any credit period may not be included in another credit period for the same location.

(4) "Manufacturer" means a person who purchases, receives, or holds personal property for the purpose of adding to its value by manufacturing, refining, rectifying or combining different materials with a view of making a gain or profit by doing so.

(5) "Manufacturing machinery or equipment" means machinery and equipment, and tools and implements, including any associated patterns, jigs, dies, drawings, and business fixtures, used at a manufacturing facility by a manufacturer, and includes any such property leased to the manufacturer. “Manufacturing machinery or equipment” also includes machinery or equipment used by a manufacturer for research and development purposes.

(5) "New manufacturing machinery or equipment" means manufacturing machinery or equipment, the original use of which commences in this state with a manufacturer.

(7) “Purchase" means any acquisition, whether by lease or otherwise, of manufacturing machinery or equipment for a consideration, but only if

(a) the manufacturing machinery or equipment is not acquired by one member of a controlled group from another member of the same controlled group; and

(b) the basis of the manufacturing machinery or equipment of the person acquiring it is not determined in whole or in part by reference to the adjusted basis of such property of the person from whom it is acquired.

(B) A manufacturer that purchases new manufacturing machinery or equipment that the manufacturer locates in this state and uses as a manufacturer may claim a non-refundable credit against the following:

(1) Taxes withheld from the wages of employees and to be paid to this state pursuant to sections 5747.06 and 5747.07 of the Revised Code;

(2) Taxes collected from consumers, or otherwise owed by the manufacturer, and to be paid to this state pursuant to Chapter 5739 of the Revised Code; or

(3) Taxes to be paid to this state by the manufacturer pursuant to Chapter 5741 of the Revised Code.

The credit may be applied against more than one of the taxes set forth in this division, but the amount of any portion of the credit claimed against any one of the taxes described in this division shall not be claimed against any of the other taxes described in this division, or for any additional reporting period.

(C) The credit is available only if both of the following conditions are met:

(1) The purchases are made during the credit period; and

(2) In the case of such new manufacturing machinery or equipment purchased by the manufacturer, the cumulative cost of the new machinery or equipment for a single location, when added to the cumulative cost of any other such manufacturing machinery or equipment purchased by other members of an affiliated group of persons of which the manufacturer is a member, equals or exceeds five per cent of the aggregate cost of all tangible personal property located at the location where the purchases are to be installed at the close of the manufacturer's calendar year that ends the credit period.

A manufacturer may qualify for and claim a separate credit during a single credit period for the separate purchase of new manufacturing machinery or equipment at more than one location.

(D) The amount of the credit equals the following percentage of the cost of the new manufacturing machinery or equipment purchased during the credit period and located and used in this state by the manufacturer:

(1) twenty per cent, if the average rate of unemployment in the county in which the investment is made during the credit period is equal to or greater than at least 125 percent of the average rate of unemployment in the state of Ohio for the same period;

(2) fifteen per cent in all other cases.

However, the aggregate credit allowed to any manufacturer, or if the manufacturer is a member of an affiliated group of persons, to the affiliated group, shall not exceed five million dollars.

(E) The credit shall be claimed during the two calendar years immediately following the credit period. The credit may be claimed against such of the taxes provided in division (B) of this section and for any tax reporting period during the two calendar years as the taxpayer may determine, provided that the amount of the credit available to be claimed against any of the taxes shall be reduced by the amount of the credit claimed with respect to any other tax, or for any tax reporting period.

Tax

General Assembly Releases 2020 Tax Policy Study Commission Report
October 6, 2017

This week the 2020 Tax Policy Study Commission issued its final **report**. The 323 page report consisted largely of public testimony submitted over the course of the commission's hearings.

The main recommendation? That Ohio continue to study Ohio's tax system. The report stated that a "more thorough review is needed and is required as part of the permanent Tax Expenditure Review Committee."

The OMA participated in the hearings and provided testimony.

The OMA Tax Committee will look further into the report findings, among other topics, when it meets on October 11. **Register here**. *10/5/2017*

GOP Debuts "Fair and Simple" Tax Reform Plan
September 29, 2017

This week Republican House and Senate leaders unveiled their new tax reform plan. The plan, which can be **viewed at this new website**, has four principles:

1. Make the tax code simple, fair and easy to understand.
2. Give American workers a pay raise by allowing them to keep more of their hard-earned paychecks.
3. Make America the jobs magnet of the world by leveling the playing field for American businesses and workers.
4. Bring back trillions of dollars that are currently kept offshore to reinvest in the American economy.

Tax reform has been and is a major policy goal for Ohio manufacturers. *9/28/2017*

"GOP's Proposed Tax Reform Plan Significantly Changes The Rules"
September 29, 2017

OMA Connections Partner, Clark Schaefer Hackett (CSH), breaks down the nine-page "Unified Framework for Fixing Our Broken Tax Code."

CSH says the framework is "intended to serve as a template for the congressional committees to draft legislation to cut tax rates, simplify the tax code and provide a more competitive environment for businesses. It addresses tax issues that affect both individuals and businesses."

Read a **summary of changes from CSH**. *9/28/2017*

Impact of Tax Reform on Your Business
September 22, 2017

As tax reform moves through the legislative process, many taxpayers want to know how tax reform could affect their business.

To help answer this question, OMA Connections Partner, RSM, has created a business tax reform estimator tool based on current proposals.

RSM's tax reform liability estimator

RSM says: "The tax reform process is filled with uncertainty, and will continue to be, until final legislation is signed by the president. In light of this uncertainty, it is critical for you to monitor changes in the proposals for the possible effects on your business." *9/21/2017*

Ohio Business Gateway Modernization Project Update
September 22, 2017

The Gateway Modernization Project is not only focused on transforming the way transactions are completed in the Ohio Business Gateway, but also implementing new features and functional enhancements to improve the Gateway's user experience, reliability and efficiency.

Here **is information** about the major improvements coming with the modernized Gateway. *9/21/2017*

Repeal the Health Insurance Tax!
September 15, 2017

The National Association of Manufacturers is engaging in an effort to permanently repeal the health insurance tax. The health insurance tax is a tax on fully insured health plans that, unless repealed, will go into effect in 2018.

Rising health care costs stand in the way of increasing wages, hiring new employees, purchasing new equipment and making other needed investments that keep manufacturing competitive. One driver of these cost increases is the health insurance tax, a multi-billion dollar tax on fully insured health plans.

Click here to urge Congress to help manufacturers maintain a healthy workforce and continue doing right by their employees by eliminating the health insurance tax. *9/14/2017*

Trump's Guiding Principles for Tax Reform
September 8, 2017

OMA Connections Partner, GBQ, provides a summary of the president's tax reform principles: "Last week, President Trump, in a speech delivered at a manufacturing company in Missouri, discussed the need for tax reform and broadly outlined his vision of an "America First" tax system. While no specifics were discussed, the president did reaffirm his desire for a 15% business/corporate tax rate. In addition, the president outlined four principles guiding his tax reform efforts."

Click here to **read more from GBQ**. *9/6/2017*

Senate Overrides Six of Governor's Budget Vetoes
August 25, 2017

The Senate returned to session this week to deliberate on the budget vetoes of Governor Kasich, and the House's 11 veto overrides.

The Senate ended up voting to override 6 of the 11, largely dealing with Medicaid.

Read a **good summary** from OMA Connections Partner, Roetzel. *8/23/2017*

Ohio Sales and Use Draft Rules Examined
August 18, 2017

As reported last week, the Ohio Department of Taxation (ODT) **issued a second draft** of potential revisions to the manufacturing sales and use tax rule (OAC 5703-9-21) in response to comments submitted by the OMA and other interested parties.

Here is **a short memo** from OMA tax counsel Mark Engel of Bricker & Eckler about the changes and impacts contained in the latest version. Engel writes: "In summary, many of the changes are minor, but positive. The change in the commencement of manufacturing, however, to exclude any equipment that maintains the condition of the material, remains problematic."

ODT is planning an interested party meeting at the end of August to discuss the newest draft version of the rule. Members interested in participating in the OMA work group should contact **Rob Brundrett**. *8/17/2017*

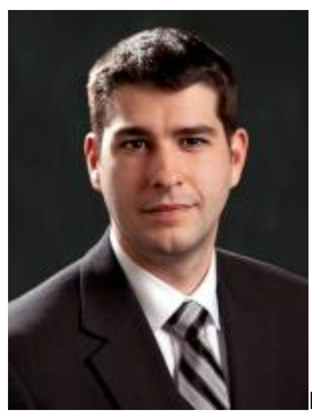
Ohio Department of Tax Responds to Sales & Use Tax Rule Comments
August 11, 2017

This week the Ohio Department of Taxation (ODT) **issued a second draft** of potential revisions to the manufacturing sales and use tax rule (OAC 5703-9-21) in response to comments submitted by the OMA and other interested parties.

In its second round of comments developed by a work group of members, OMA focused on the treatment of materials and equipment that are integral to the *entire* manufacturing process and, therefore, should be treated favorably with respect to the tax.

ODT is planning to hold an interested party meeting at the end of August to discuss the newest draft version of the rule. Members interested in participating in the OMA work group should contact **Rob Brundrett**. *8/10/2017*

OMA on the Need for Federal Tax Reform
July 21, 2017



In a recent **letter to the editor** of the Columbus Dispatch, OMA's Rob Brundrett, Director, Public Policy Services, stressed the importance of achieving federal tax reform.

Brundrett wrote: "A simpler tax code would reduce the tax burden and revive manufacturing in the United States.

"Comprehensive tax reform would benefit American manufacturing companies because it would allow them to maximize profits and expand their business. When a company is able to grow, it will hire more employees and put more American families to work. In fact, pro-growth tax reform will add more than 6 million jobs and contribute $12 trillion in gross domestic product in a 10-year period."

The OMA and **The National Association of Manufacturers** have designated federal corporate tax reform among must-do initiatives. 7/20/2017

Tax Expenditure Task Force Seated
July 21, 2017

A legislative task force charged with studying tax expenditures was seated this week. Created by **legislation** last session, the Tax Expenditure Review Committee consists of three members of the Ohio House and three members of the Ohio Senate together with the state tax commissioner:

House: Rep. Tim Schaffer (R-Lancaster), Rep. Gary Scherer (R-Circleville), Rep. John Rogers (D-Mentor)

Senate: Sen. John Eklund (R-Chardon), Sen. Scott Oelslager (R-N. Canton) and Sen. Vernon Sykes (D-Akron)

The group is charged with evaluating the merit of all tax credits, exclusions and carve-outs. The committee is to make recommendations to the General Assembly when it complete its study. *7/20/2017*

How Ohio's New Tax Law Changes Could Affect You and Your Business
July 21, 2017

On June 30, 2017, Governor John Kasich signed into law Ohio's fiscal year 2018 – 2019 budget bill, Am. Sub. H.B. 49. The bill contains a number of important tax law changes of which taxpayers and tax preparers should be aware.

OMA Connections Partner, Clark Schaefer Hackett, has **summarized them here**. *7/14/2017*

Budget Bill Contains Tax Changes
July 7, 2017

The state budget bill just enacted contains virtually none of Governor Kasich's proposed tax changes. However, it does contain tax provisions of interest to manufacturers.

The bill touches the personal income tax, the sales and use tax, the municipal income tax, the real property tax, tax amnesty, economic development, and direct appeals to the Ohio Supreme Court.

Read a memo on the changes prepared by Mark Engle, OMA tax counsel from Bricker & Eckler. *7/6/2017*

Business Taxes Spared as Budget Passes, Municipal Tax Payment Option Added
June 30, 2017

The General Assembly **removed** almost all of the governor's budget tax proposals in the version of House Bill 49 that was returned to his desk. Instead of additional personal income tax reductions and increases to several other taxes including the sales tax, the legislature, working with a bleak tax revenue forecast, opted for the tax status quo.

However, the General Assembly did work with the OMA and governor's office to allow for optional centralized business income tax filings at the municipal level and the elimination of the throw-back rule. Businesses will now have the option of filing one municipal income tax form through the Ohio Business Gateway, instead of filing returns in all the municipal corporations in which a business operates.*6/29/2017*

Legislature Removes Board of Tax Appeals Direct Appeal to Supreme Court
June 30, 2017

During final state budget negotiations the conference committee amended a Senate provision which eliminated the direct appeal to the Supreme Court of Ohio from cases decided by the Board of Tax Appeals (BTA). In a **letter to House and Senate leaders**, the OMA stated that it could not support the elimination of this important appeal.

Instead of removing the provision, the conferees **amended the provision** to permit a party to request that a BTA appeal be transferred to the Supreme Court of Ohio if the appeal involves a "substantial constitutional question or a question of great general or public interest." *6/28/2017*

OMA Files More Comments on Manufacturing Sales & Use Tax
June 30, 2017

This week the OMA submitted a **second round of comments** to the Ohio Department of Taxation (ODT) regarding potential revisions to the manufacturing sales and use tax rule (OAC 5703-9-21). The comment period was opened as a result of the agency's rule review.

In comments, the OMA focused on the treatment of materials and of equipment that are integral to the entire manufacturing process and should be treated favorably with respect to the tax.

ODT will be reviewing interested party comments and providing a revised rule draft to the public over the summer. *6/28/2017*

[U.S. Supreme Court Refuses to Hear CAT Appeal from Out of State Manufacturer]
June 16, 2017

On June 12, 2017, the U.S. Supreme Court refused to entertain an appeal from the U.S. Court of Appeals for the Eighth Circuit that upheld the dismissal of an action by Diversified Ingredients, Inc. in U.S. District Court in Missouri seeking declaratory and injunctive relief against the imposition of the commercial activity tax (CAT).

OMA's tax counsel, **Mark Engel,** of Bricker & Eckler, wrote this **brief analysis of the case** and summed it up this way: "The decision does not reach the merits of whether the CAT may be imposed upon a taxpayer who does not have a physical presence in Ohio. However, it is noteworthy for some other reasons. First, the trial and appellate courts both recognized that Ohio provides a plain, speedy and efficient remedy with respect to assessments of CAT. … Second, and in some respect more important, it reflects the willingness of federal courts to refrain from interfering with state tax matters. … Third, it represents yet another failed attempt to bring the question of economic nexus in the realm of state taxation before the Supreme Court."

All good news for the integrity of the Ohio CAT. *6/13/2017*

Portman Visits with OMA Members on Tax Reform
June 2, 2017

This week Senator Rob Portman visited the OMA to discuss tax reform with OMA members. The senator, who is a leader on the tax reform issue, talked about the chances of reform and asked for input from members.

Portman said that the "perfect is the enemy of the good" with tax reform, and that passage will depend on all parties being willing to compromise. He emphasized the tremendous disadvantage the current tax regime places on American manufacturers relative to European and Asian competitors.

He invited OMA members to work with him and his staff to help move reform forward. *6/1/2017*

6 Things to Know About the New Revenue Recognition Standard
May 26, 2017

According to OMA Connections Partner, Clark Schaefer Hackett (CSH), few accounting standards updates will impact as many entities as ASU 2014-09, "Revenue from Contracts with Customers."

CSH wrote: "The goal of the new standard is to eliminate issues of inconsistency with companies' application of the previous methods of reporting contract activity and create one set of revenue recognition principles that can be applied across all industries. The new standard also aims to provide more useful financial statement disclosures, and consideration of individual performance obligations within contracts and how revenue with those obligations is recognized."

Here are the **six most important things to know about ASU 2014-09** according to CSH. *5/23/2017*

Truck Driver Training Bill Would Harm CAT
May 19, 2017

This week the House Ways and Means Committee **heard sponsor testimony** from Reps. **Robert Sprague** (R-Findlay) and **Stephanie Howse** (D-Cleveland) on **House Bill 155**, a bill that would make employers eligible for up to a 50% match of up to $50,000 in an annual tax credit against the commercial activity tax (CAT) to train new drivers. Statewide, the tax credit would be limited to $3,000,000 per year.

The bill is just another in a long line of CAT credit proposals that the General Assembly has considered since the inception of the CAT in 2005. All new carve outs or credits to the tax strain its low rate and increase the likelihood of a rate increase.

The OMA continues to work with allies to protect the broad base and low rate of the current tax structure. *5/18/2017*

HB11 **INCORPORATING FEDERAL REVENUE CHANGES** (SCHERER G) To expressly incorporate changes in the Internal Revenue Code since February 14, 2016, into Ohio law.
Current Status: 3/30/2017 - **SIGNED BY GOVERNOR**; eff. 3/30/2017
State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-11

HB49 **OPERATING BUDGET** (SMITH R) Creates FY 2018-2019 main operating budget.
Current Status: 8/22/2017 - Consideration of Governor's Veto
State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-49

HB61 **TAX EXEMPTION-FEMININE PRODUCTS** (JOHNSON G, KELLY B) To exempt from sales tax the sale of tampons and other feminine hygiene products associated with menstruation.
Current Status: 10/10/2017 - House Ways and Means, (Second Hearing)
State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-61

HB70 **FUEL TAX TRANSPARENCY** (MERRIN D) To enact the "Fuel Tax Transparency Act" requiring stickers to be placed on retail service station pumps displaying the rates of federal and state taxes applicable to gasoline and diesel fuel.
Current Status: 3/15/2017 - House Government Accountability and Oversight, (First Hearing)
State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-70

HB86 **MINIMUM WAGE INCREASE** (SMITH K, CRAIG H) To increase the state minimum wage to ten dollars and ten cents per hour beginning January 1, 2019.
Current Status: 2/28/2017 - Referred to Committee House Economic Development, Commerce and Labor
State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-86

HB89 **AUGUST SALES TAX HOLIDAY** (PATTERSON J, KELLY B) To provide for a three-day sales tax "holiday" in August 2017 during which sales of clothing and school supplies are exempt from sales and use taxes.
Current Status: 2/28/2017 - Referred to Committee House Ways and Means
State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-89

HB104 **TAX REFUND ON BAD DEBTS** (SCHAFFER T) To allow vendors to receive a refund of sales tax remitted for bad debts on private label credit accounts when the debt is charged off as uncollectible by the credit account lender.
Current Status: 4/25/2017 - **REPORTED OUT**, House Financial Institutions, Housing and Urban Development, (Third Hearing)
State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-104

HB133 **DISASTER RELIEF ACT** (RYAN S) To create the Disaster Relief Act to exempt out-of-state disaster businesses and qualifying out-of-state employees from certain taxes and laws with respect to disaster work on critical infrastructure performed in this state during a declared disaster.

Current Status: 9/13/2017 - **PASSED BY HOUSE**; Vote 97-0

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-133

HB155 **VEHICLE TRAINING TAX CREDIT** (SPRAGUE R, HOWSE S) To authorize a tax credit for expenses incurred by an employer to train a commercial vehicle operator.

Current Status: 5/16/2017 - House Ways and Means, (First Hearing)

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-155

HB162 **TAX CREDIT-SOUND RECORDING** (SMITH K, LATOURETTE S) To authorize a refundable income tax credit for individual investors in a sound recording production company equal to a portion of the company's costs for a recording production or recording infrastructure project in Ohio.

Current Status: 5/9/2017 - House Ways and Means, (First Hearing)

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-162

HB173 **IN-HOME EMPLOYEES TAX CREDIT** (LATOURETTE S, PATTON T) To provide that compensation paid to certain home-based employees may be counted for purposes of an employer qualifying for and complying with the terms of a Job Creation Tax Credit.

Current Status: 5/9/2017 - House Ways and Means, (First Hearing)

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-173

HB177 **TAX EXEMPTION-COMMUNITY GYMS** (WEST T) To exempt memberships to gyms or other recreational facilities operated by charitable organizations from sales and use taxation.

Current Status: 10/10/2017 - House Ways and Means, (Second Hearing)

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-177

HB185 **POLITICAL CONTRIBUTIONS TAX CREDIT** (HAMBLEY S) To expand the scope of political contributions that qualify for the income tax credit for contributions to political campaigns to candidates for any state, county, municipal, or district office.

Current Status: 6/6/2017 - House Ways and Means, (First Hearing)

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-185

HB216 **USED VEHICLE TRADE-IN CREDIT** (HAMBLEY S, BRINKMAN T) To authorize a sales and use tax trade-in credit for purchases of used motor vehicles from a licensed dealer.

Current Status: 6/6/2017 - House Ways and Means, (Second Hearing)

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-216

HB243 **FIREWOOD SALES TAX** (PATTERSON J, CERA J) To exempt from sales and use taxation the bulk sale of firewood and certain other heating fuels, and to reimburse the Local Government Fund and Public Library Fund and county and transit sales tax collections for the resulting revenue losses.

Current Status: 6/20/2017 - House Ways and Means, (First Hearing)

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-243

HB262 **INDEPENDENT BUDGET PROCESS** (BUTLER, JR. J, ROMANCHUK M) To provide for the preparation of a state biennial budget independent of that submitted by the Governor and to authorize the Legislative Service Commission, upon the request of the Speaker of the House of Representatives or the President of the Senate, to arrange for an independent actuarial review of a proposed bill, specified analyses of economic policy initiatives and state benchmarking data, and a study of the state's long-range financial outlook.

Current Status: 6/20/2017 - Referred to Committee House Government Accountability and Oversight

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-262

HB314 **LAW ENFORCEMENT TAX CREDIT** (SCHAFFER T) To allow an income tax credit for law enforcement officials who purchase safety or protective items to be used in the course of official law enforcement activities.

Current Status: 9/12/2017 - Referred to Committee House State and Local Government

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-314

HB320 **LONG-RANGE FINANCIAL OUTLOOK COUNCIL** (HAGAN C, ROEGNER K) To create the Long-range Financial Outlook Council for the purpose of informing the public and the General Assembly about the financial status of the state by studying financial and other conditions and issuing an annual long-range financial outlook report.

Current Status: 9/19/2017 - House Financial Institutions, Housing and Urban Development, (First Hearing)

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-320

HB337 **TEXTBOOK SALES TAX EXEMPTION** (DUFFEY M) To exempt from sales and use tax textbooks purchased by post-secondary students.

Current Status: 9/19/2017 - Referred to Committee House Ways and Means

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-337

HB342 **LOCAL TAX ISSUES-ELECTION DATES** (MERRIN D) To permit local tax-related proposals to appear only on general and primary election ballots and not on an August special election ballot and to modify the information conveyed in election notices and ballot language for property tax levies.

Current Status: 10/11/2017 - House Government Accountability and Oversight, (First Hearing)

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-342

HB351 **NOAA AND PHS TAX EXEMPTION** (PERALES R, BUTLER, JR. J) To require municipal corporations to exempt from taxation the military pay of members of the commissioned corps of the National Oceanic and Atmospheric Administration and Public Health Service.

Current Status: 9/20/2017 - Introduced

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-351

HB371 **TAXES ON UNSOLD PROPERTY** (MERRIN D) To exempt from property taxation the increased value of land subdivided for residential development until construction commences or the land is sold.

Current Status: 10/4/2017 - Introduced

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-371

SB9 **AUGUST TAX HOLIDAY** (BACON K) To provide for a three-day sales tax "holiday" in August 2017 during which sales of clothing and school supplies are exempt from sales and use taxes.

Current Status: 6/13/2017 - **SIGNED BY GOVERNOR**; eff. 6/13/17

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-9

SB36 **AGRICULTURAL COMPUTATION** (HITE C) To require that the computation of the capitalization rate for the purposes of determining CAUV of agricultural land be computed using a method that excludes appreciation and equity buildup and to stipulate that CAUV land used for a conservation practice or enrolled in a federal land retirement or conservation program for at least three years must be valued at the lowest of the values assigned on the basis of soil type.

Current Status: 5/16/2017 - Referred to Committee House Ways and Means

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-36

SB65 **ENERGY STAR TAX HOLIDAY** (BROWN E) To provide a three-day sales tax "holiday" each April during which sales of qualifying Energy Star products are exempt from sales and use taxes.

Current Status: 3/22/2017 - Senate Ways and Means, (Second Hearing)

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-65

SB114 **CDL TRAINING TAX CREDIT** (HITE C) To authorize a tax credit for expenses incurred by an employer to train a commercial vehicle operator.

Current Status: 5/3/2017 - Senate Ways and Means, (First Hearing)

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-114

SB123 **PROPERTY TAX COMPLAINT PROCESS** (COLEY W) To limit the right to initiate most types of property tax complaints to the property owner and the county recorder of the county in which the property is located.

Current Status: 6/14/2017 - Senate Ways and Means, (Second Hearing)

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-123

SB131 **EMPLOYEE COMPENSATION-TAX CREDITS** (DOLAN M) To provide that compensation paid to certain home-based employees may be counted for purposes of an employer qualifying for and complying with the terms of a Job Creation Tax Credit.

Current Status: 6/6/2017 - Referred to Committee House Ways and Means

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-131

SB132 **TAX CREDIT-FOREIGN TRADE** (DOLAN M, EKLUND J) To establish a five-year pilot program whereby taxpayers with facilities in this state with activated foreign trade zone status may claim a nonrefundable commercial activity tax credit equal to the amount redeployed by the taxpayer to job creation and renewable energy resources.

Current Status: 4/26/2017 - Referred to Committee Senate Ways and Means

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-132

SB147 **OHIO RURAL JOBS ACT** (HITE C) To enact the "Ohio Rural Jobs Act" which authorizes a nonrefundable tax credit for insurance companies that invest in rural business growth funds, which are certified to provide capital to rural and agricultural businesses.

Current Status: 9/27/2017 - Senate Ways and Means, (Second Hearing)

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-147

SB176 **MUNICIPAL INCOME TAX RESTRICTIONS** (JORDAN K) To prohibit municipal corporations from levying an income tax on nonresidents' compensation for personal services or on net profits from a sole proprietorship owned by a nonresident.

Current Status: 9/7/2017 - Referred to Committee Senate Ways and Means

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-176

SB187 **DELINQUENT MUNICIPAL INCOME TAXES** (EKLUND J, WILSON S) To allow municipal corporations to charge delinquent taxpayers the costs of collecting municipal income taxes regardless of whether the costs are incurred before or after a judgment is entered against the taxpayer.

Current Status: 9/20/2017 - Referred to Committee Senate Finance

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-187

SB209 **PROPERTY TAX EXEMPTIONS-TIF** (COLEY W, EKLUND J) To modify the conditions that determine the relative priority of property tax exemptions when a parcel subject to a tax increment financing arrangement concurrently qualifies for another exemption.

Current Status: 10/3/2017 - Introduced

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-209