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

Tax Committee
April 9, 2019

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2019 Tax Committee Calendar
Meetings will begin at 10:00 a.m.

Tuesday, April 9
Tuesday, June 11
Wednesday, November 6

OMA Tax Committee Meeting Sponsor:

OMA Tax Policy Committee

April 9, 2019

AGENDA

Welcome & Self-Introductions:	Shay Music, Chairman The J.M. Smucker Company
State Financial Update	Rob Brundrett, OMA Staff
Special Guest Presentation	State Representative Gary Scherer, Vice Chairman, House Finance Committee
OMA Counsel's Report	Justin Cook, Bricker & Eckler LLP
Special Guest Presentation	Jeff McClain, Tax Commissioner, Ohio Department of Taxation
OMA Public Policy Report	Rob Brundrett, OMA Staff

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:

Representative Gary Scherer
92nd House District

State Representative Gary Scherer is currently serving his fourth term in the Ohio House of Representatives after being appointed to the 129th General Assembly. He represents the 92nd House District, which includes Fayette County, as well as portions of Pickaway and Ross counties. He serves as the Vice Chair of the Ways and Means Committee and is a member of the Finance Committee.

Representative Scherer is a lifelong resident of Ohio. He attended Miami University and The Ohio State University, where he obtained a B.S. in accounting. Throughout most of his career, he has worked as a CPA. In addition to his career in public accounting, Representative Scherer has worked for a time as the president of Circleville Oil Company. He previously held majority ownership of Buckeye Tax Professionals.

Representative Scherer has always strived to remain active within his community. Prior to joining the Ohio House, Representative Scherer served as president of the Circleville Rotary Club and the Circleville-Pickaway Chamber of Commerce. He also served as a trustee of the Berger Health System. Among other involvement, he continues to maintain his membership in the Ohio Farm Bureau, as well as his position as a finance committee member of his local church.

Representative Scherer and his wife of 42 years reside in Circleville. They have been blessed with three children and eight grandchildren.

The Ohio Statehouse Columbus, Ohio 43215 (614) 644-7928 rep92@ohiohouse.gov

Jeff McClain, Ohio Tax Commissioner

Jeff McClain was appointed Ohio Tax Commissioner by Governor Mike DeWine in January 2019.

Commissioner McClain comes to the Ohio Department of Taxation from the Ohio Chamber of Commerce where he served for three years (2016-19) as Director of Tax & Economic Policy. Prior to that Mr. McClain was elected to four, two-year terms (2009-2016) as state representative from the 87th House District. In the General Assembly, he was actively involved in budget and tax issues, particularly as Chair of the Ways and Means Committee. He also served as Vice-Chairman of Finance Committee, and Chairman of Finance Medicaid subcommittee.

Before serving in the state legislature, Mr. McClain was the Wyandot County Auditor for more than 26 years (1982-2008). He earned a Bachelor of Business Administration degree (Accounting) from Tiffin University (OH). He is a lifetime Ohioan and a graduate of Upper Sandusky high school.

Commissioner McClain, and his wife, Barb, have three children, two daughters and a son, and eight grandchildren.

March 11, 2019

MEMORANDUM TO: The Honorable Mike DeWine, Governor
The Honorable Jon Husted, Lt. Governor

FROM: Kimberly Murnieks, Director

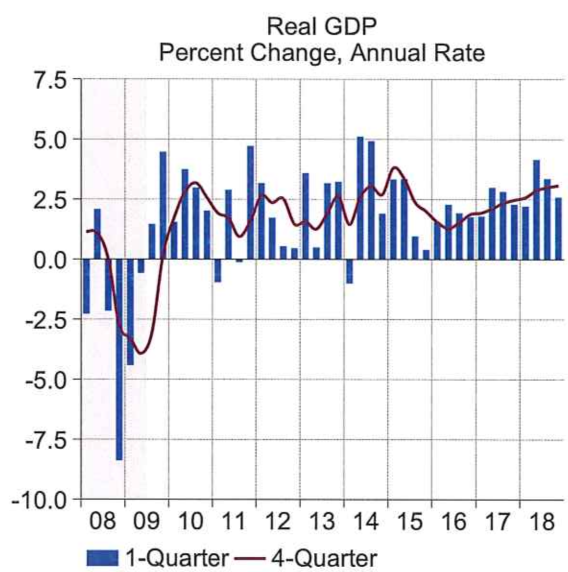
SUBJECT: Monthly Financial Report

Report Overview

- Tax revenues were below estimate by $7.3 million for the month. This was primarily due to a timing related variance in the Foreign Insurance tax, which was $22.7 million below estimate. Sales tax revenues were $11.6 million below estimate, but remain $131.0 million above estimate year-to-date, primarily due to the Non-auto Sales tax.
- Ohio nonfarm payroll employment increased by 20,300 jobs in January, but the December level was adjusted down by 67,500 jobs in the regular annual benchmark revisions. The unemployment rate ticked up to 4.7% in January after holding steady at 4.6% for the last nine months of 2018.
- U.S. employment increased by only 20,000 jobs in February, pulling down the 3-month average to 186,000. However, the unemployment rate decreased 0.2 points to 3.8%, and average hourly earnings rose 0.4% to 3.4% above the year earlier – the best since April 2009.
- The economy expanded at an annual rate of 2.6% in the fourth quarter and was 3.1% larger than a year earlier. Leading economic indicators point to slower but continued growth.

ECONOMIC SUMMARY

Economic Growth



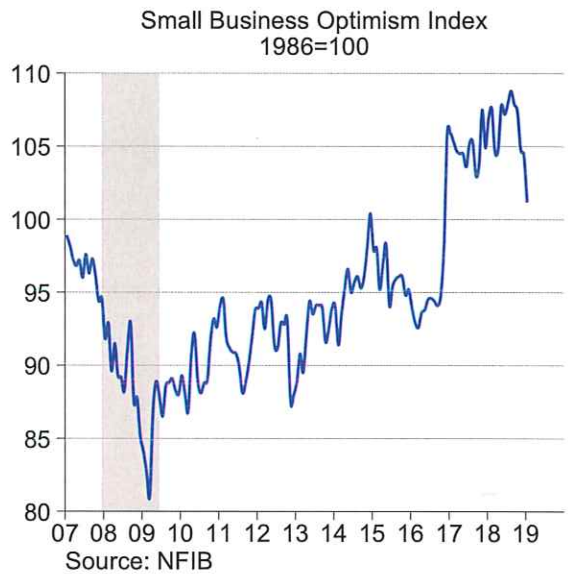
Real GDP expanded at an annual rate of 2.6% in the fourth quarter. Growth exceeded expectations but was well below the 3.8% pace during the two previous quarters. Growth was 3.1% from the fourth quarter of 2017 to the fourth quarter of 2018 – the best calendar year increase during this expansion. Year-over-year growth has been stronger in only three other quarters of the expansion.

Growth during the quarter was driven by consumer spending and business investment. Personal consumption expenditures contributed

1.92 percentage points to the 2.6% GDP growth rate, and nonresidential investment added 0.82 percentage points. Exports added 0.19 percentage points, and the change in inventories added another 0.14 percentage points. Subtracting from growth were imports (-0.41pp), which are included as production in other categories and backed out in a separate line item, and residential fixed investment (-0.14pp).

Compared with a year earlier, consumer spending accounted for about 60% of the fourth-quarter to fourth-quarter growth rate, while investment contributed the remaining 40%. The contribution from investment came entirely from businesses, as investment in residential structures fell slightly. The small positive contribution from government was approximately offset by a similar sized decline in trade.

The mood of small business owners has moved in sync with the slowing economy. The Small Business Optimism Index of the **National Federation of Independent Business (NFIB)** fell for the fifth month in a row in January to its lowest level in more than two years. Seven of the ten components of the index declined, while the other three increased. Aside from an adjustment in inventory investment plans that had been unsustainably high, approximately half of the January decline came from lower expectations for real sales growth and business conditions in the second-half of the year.



Economic activity in and around Ohio reportedly grew at a modest pace from mid-December to mid-February, according to a regular survey by the Federal Reserve Bank of Cleveland. Home sales responded positively to the decline in mortgage rates, although retailers noted a softening in demand following the holiday season. Reports from manufacturers were mixed, with some expressing uncertainty about the global economy. Employment in the area increased modestly, with wages rising moderately across sectors and occupations.

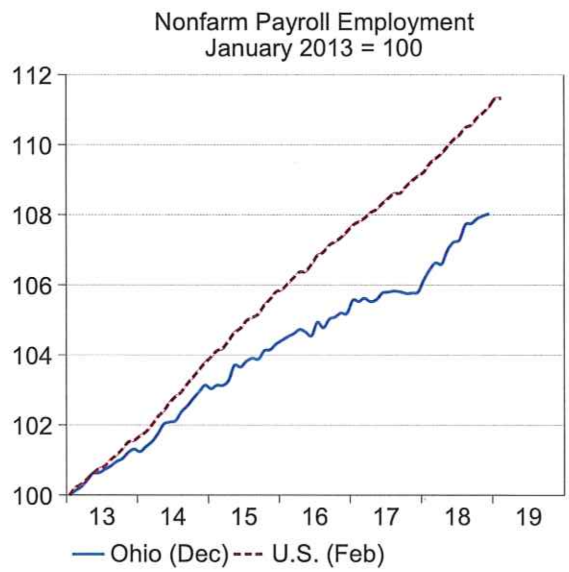
A weakening in leading indicators in recent months points toward a further slowing in growth. The December change in the Conference Board's composite **Leading Economic Index** was revised up from -0.1% to unchanged, but the index declined 0.1% in January. The index remains below its September level and the 12-month rate of change has declined from 6.8% in September to 3.2% in January. The recent pattern is more consistent with a return toward growth near 2% than an outright recession in the near-term.

As shown in the table below, the **consensus among forecasters** is that real GDP growth is slowing further in the first quarter.

Source	Date	2019-Q1 GDP Forecast
Atlanta FRB (GDPNow)	3/6/19	0.5%
New York FRB (Nowcast)	3/1/19	0.9%
Blue Chip	3/6/19	1.9% (1.3%-2.5%)
IHS	3/8/19	1.2%

Employment

Nonfarm payrolls across the country increased by just 20,000 jobs in February and the 3-month average increase declined to 186,000 from 241,000 last month (before revisions). The changes to employment in each of the previous two months were revised up by a total of 12,000 jobs. Nonfarm payroll employment increased by 2.51 million jobs during the most recent twelve months, a tenth more than the gain of 2.26 million jobs during the previous 12-month period. The initial reaction of analysts was that the February Employment Situation Report was distorted by the government shutdown and weather patterns and warrants a cautious approach.



Employment changes were weak in all major categories with the exception of professional and business services (+42,000) where professional and technical services (+22,000) and administrative and support services (+14,600) posted sizable gains. The only other pocket of net hiring was health care (+20,800), which was not strong enough to compensate for weakness in educational services (-18,700) and education and health services (+4,000).

Elsewhere, construction employment dropped 31,000 jobs, mostly in heavy and civil engineering construction (-13,200) and specialty trade contractors (-13,500). Leisure and hospitality, which is another weather-sensitive sector, posted no change to employment. Manufacturing employment increased by just 4,000 jobs, while trade, transportation and utilities increased by just 2,000 jobs, held back by retail (-6,000) and transportation and warehousing (-3,000).

A positive development, especially from a business cycle perspective, was that the **unemployment rate** decreased by 0.2 points to 3.8% from an expansion-high of 4.0% in January. The decline puts the rate just 0.1 point above the low during the previous twelve months, strongly suggesting that the economy will continue to expand in coming months. Increases in the unemployment rate by 0.4 points or more from the previous 12-month low historically have marked the onset of recession.

Another positive development was that **average hourly earnings** of all employees on private nonfarm payrolls increased 0.4% in February to 3.4% year-over-year – the best since April 2009. The rate of increase in earnings is roughly consistent with economic fundamentals and not necessarily a sign of higher future inflation, considering that productivity growth has picked up in recent quarters.

Ohio nonfarm payroll employment increased by 20,300 jobs in January, but the December 2018 level was adjusted downward by 67,500 jobs in the regular annual benchmark revision. Nonfarm payroll employment in Ohio increased by 44,700 jobs from December 2017 to December 2018, much lower than had been reported for the December 2017 to November 2018 period.

Changes across sectors were mixed in January, with employment higher in education and health services (+7,300), trade, transportation and utilities (+6,500), and leisure and hospitality (+4,200). During the twelve months ending in January 2019, Ohio employment increased 19,300 jobs in education and health services, 11,000 jobs in manufacturing, and 10,600 jobs in leisure and hospitality. Nonfarm payroll employment in Ohio increased by 55,500 jobs from January 2018 to January 2019.

Among the **contiguous states**, employment increased on a year-over-year basis in West Virginia (+2.7%), Kentucky (+1.2%), Indiana (+1.1%), Michigan (+1.1%), Ohio (+1.0%), and Pennsylvania (+0.8%). Manufacturing employment increased year-over-year in West Virginia (2.1%). Ohio (1.6%), Michigan (1.5%), Indiana (1.0%), Kentucky (0.9%), Pennsylvania (0.7%).

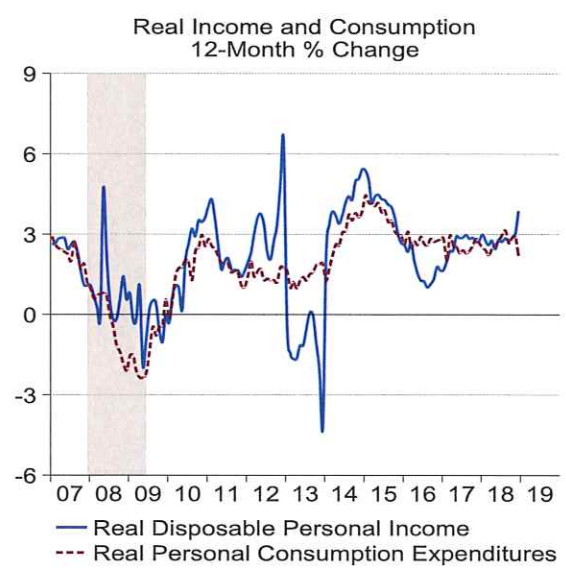
The **Ohio unemployment rate** was 4.7% in January, which was 0.2 points higher than the January 2018 level. The 0.2 percentage point increase in the unemployment rate during the year resulted from an increase of 10,290 workers, a 21,910 increase in the labor force, and a 11,620 person increase in the number of unemployed.

Consumer Income and Consumption

Consumer income and spending weakened at the turn of the year. Personal income fell 0.1% in January for a 4.3% year-over-year increase. The decline on the month largely reflected a large one-off corporate dividend payment and one-time Agricultural Department subsidies to farmers in December. Wage and salary disbursements, which were not affected by the one-time events, increased 0.3% in January after a 0.5% increase in December for a 4.2% year-over-year increase.

Data on consumer spending for January are not yet available because of delays caused by the government shutdown. We do know that spending contracted in December, as retail sales fell 1.2% in a broad-based decline and personal consumption expenditures pulled back by 0.5%. In the case of personal consumption, durable goods and nondurable goods posted declines while services managed a slight 0.1% increase.

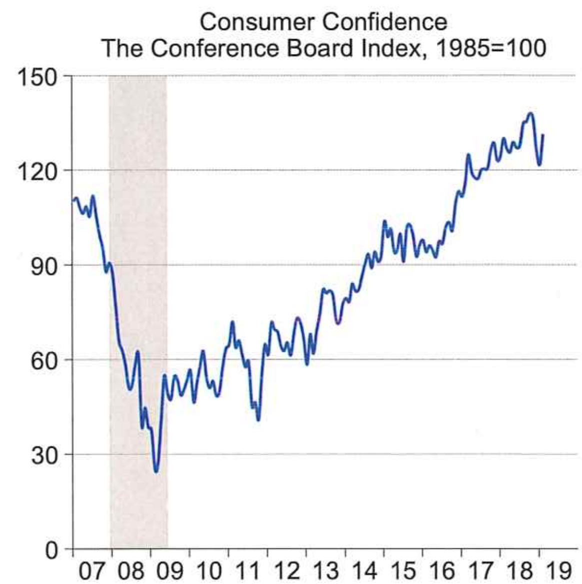
At the very least, the weakness continued into January in the motor vehicles sector where unit sales of light motor vehicles fell 4.7% from December to a seasonally adjusted annual rate of 16.7 million units. Early reports suggest that unit sales fell modestly further to a 16.5-million-unit annual rate in February.



Consumer credit remained widely available through the end of the year, according the to the Federal Reserve Board's Senior Loan Officer Opinion Survey on Bank Lending Practices, although banks stopped loosening standards for mortgage loans and modestly tightened standards for credit card, auto, and other loans. At the same time, banks reported an abrupt weakening in demand for credit card, auto, and other loans.

Strength in labor markets is likely to support a revival in income and spending growth in coming months. Hourly earnings recently have been growing at about the best pace in years while the length of the workweek has remained relatively stable. While the debt service burden for both mortgage loans and consumer debt remain low-to-moderate, consumers' moods picked up in February after a several-month period of weakness.

The Conference Board Index of **Consumer Confidence** increased substantially in February, primarily reflecting brighter expectations, although assessments for current conditions also improved. The University of Michigan Index of Consumer Sentiment rose by a smaller amount during the month, fueled by a slightly more positive outlook. In both surveys, improvements occurred among households with higher incomes.



The end of the government shutdown and the slim prospect of another likely bolstered confidence, along with the firm recovery in the stock market. Stability in gas prices through mid-month likely helped as well, although they rose in the second half. Plans to buy major appliances, homes, and autos were mixed across the two surveys, with intentions receding according to the Conference Board survey and plans rising according to the University of Michigan survey.

Industrial Activity

Industrial production decreased 0.6% in January, in contrast to expectations for a small increase. Manufacturing production decreased 0.9%, while mining and utility output were up modestly. In combination with revisions to previous months, the January report was consistent with a notable slowdown in industrial production in the first quarter and a reason that forecasters lowered projections for first-quarter GDP growth.

The decline in manufacturing production essentially reversed a 0.8% increase in December that was revised down from a 1.0% rise. Among industries that are key employers in Ohio, production fell 0.2% in primary metal, 0.5% in machinery, and a much larger-than-expected 8.8% in motor vehicles and parts. Production in the fabricated metal industry was up 0.4% for the sixth straight monthly gain.

Purchasing managers in manufacturing reported somewhat less widespread gains in activity during February. The Purchasing Managers Index (PMI) declined by 2.4 points to 54.2, which is still comfortably above the neutral level of 50 but below the average during the last two years. Respondents to the monthly survey reported an increased order backlogs, which points to better activity, and some strength in both export and import orders, but all other measures softened. In particular, the New Orders index fell 2.7 points to 55.5 and the Production index declined 4.7 points to 54.8.

Of the eighteen industries tracked by the Manufacturing ISM® *Report on Business*, sixteen reported growth in the latest month, up from fourteen the month before. Industries with a major effect on Ohio manufacturing employment: fabricated metal products, primary metals, transportation equipment, and machinery, all reported increases.

Anecdotes from across industries turned positive from a previously cautionary tone. A source in the transportation equipment industry said that business is, "still fairly steady with production and services." A contact in the fabricated metals industry reported, "Business so far this year is meeting, but not exceeding, our forecast. We are concerned about indicators showing a slight recession for the second half of the calendar year." Finally, a contact in the machinery industry reported that, "Orders remain strong. Supplier delivery continues to be challenged on some commodities."

Construction

Construction put-in-place decreased 0.6% in December after a 0.8% rise the month before. Compared with a year ago, total construction put-in-place was higher by 1.6%, but that was down from 6.0% as recently as August. Private sector construction decreased 0.6% to only 0.8% above the year ago level. Public construction was off 0.6% to 4.2% above the year earlier level. Total, private, and public were all down in the second-half of the year.

Within the private sector, residential fell 1.4%, as the 3.2% decrease in the much larger single-family category outweighed the 3.1% increase in the multi-family category. It is of concern that the level of single-family construction put-in-place in December was 7.2% below its June 2018 pace. Private nonresidential construction put-in-place increased 0.4% in December, but that was not enough to recoup the 1.1% loss the month before.

Public sector construction fell 0.6% in December, reflecting weakness in both residential and nonresidential. Public residential is a small category, but dropped 5.1% in December to nearly 20% below its May level. Nonresidential decreased 0.6% with weakness concentrated in highway, health care, and transportation that far outweighed increases in office and commercial.

The **Housing Market Index** (HMI) from the National Association of Homebuilders (NAHB) recovered further in February after a steep fall in November and December that had left it at the lowest level since May 2015. The index is based on assessments of current sales, expected sales in six months, and traffic of prospective buyers of new homes. The HMI recovered in the Midwest in February after a steep 3-month decline through January. The downward trend in the national index during the past year has been sufficiently pronounced to warrant concern.

Source: National Association of Home Builders

Housing starts improved in January on a 3-month moving average basis after a large decline in December. Total starts moved up by 0.6%, reflecting a 2.6% rise in single-family starts that just outweighed the 4.0% decline in the smaller multi-family category. In contrast, the downswing intensified in the Midwest, where starts fell 15.5% due to declines of 3.7% in single-family and 45.3% in multi-family starts, all on a 3-month moving average basis.

The more forward-looking **housing permits** were more positive, with the national total rising 2.0% for the third consecutive monthly increase, as multi-family gained enough to offset a decrease in single-family. Permits also rose across the Midwest by 1.4% with a strong multi-family increase more than offsetting a decline in single-family.

Existing home sales fell 1.8% nationally and 2.7% in the Midwest on a 3-month moving average basis in January. Year-over-year comparisons were both negative, with national sales down 9.2% and Midwest sales down 8.5%, again on the 3-month moving average basis. The more forward-looking Pending Home Sales index stabilized in January, rising slightly both across the country and in the Midwest. **New home sales** rose 3.4% in January on a 3-month moving average basis across the country and 1.8% in the Midwest.

The weakening trend in housing has been widely attributed to increases in mortgage rates and home prices earlier in the year and less favorable tax treatment for property taxes and mortgage interest. Mortgage rates have retreated somewhat, and price gains have slowed, but the tax effects might still be affecting demand. Beyond the near-term, underlying demographics are expected to provide some support to the market.

Home prices posted their 82nd straight monthly increase in December to 4.7% above the year earlier level, 51.3% above the cyclical low reached in February 2012, and 11.9% above the previous peak in February 2007, according to the Case-Shiller index. As reported by Freddie Mac, home prices increased 0.8% in the fourth quarter on a seasonally adjusted basis to 5.2% year-over-year, down from 7.1% in 2017. In comparison, prices across Ohio increased 1.3% in the quarter and 5.7% from a year ago, a little bit slower than the 6.2% rise in 2017. In major metro areas in Ohio, prices increased 1.9% in the quarter and 6.9% from a year ago in Cincinnati, which was slightly faster than the 6.6% increase in 2017; 1.5% in the quarter and 5.8% from a year ago in Cleveland, which was up from 5.6% in 2017; and 1.4% in the quarter and 6.6% from a year ago in Columbus, compared with 7.4% in 2017.

REVENUES

NOTE: *Effective January 1, 2019, Ohio employer withholding tax rates were reduced by 3.3% in order to be fully consistent with the income tax rate reductions enacted in 2015 (House Bill 64). The revised employer withholding tax rates were announced and issued by the Tax Commissioner in late calendar year 2018. This change will result in a one-time reduction in personal income tax revenue, to occur during the January-June 2019 period. The net General Revenue Fund impact of this change is estimated to be $148.5 million. There will be a loss in FY 2019 because the offsetting revenue gain caused by reduced calendar year 2019 income tax refunds will not occur until tax returns are filed in FY 2020. Effective with the February 2019 Monthly Financial Report, the FY 2019 tax revenue estimates are updated to reflect the anticipated revenue reduction caused by this change.*

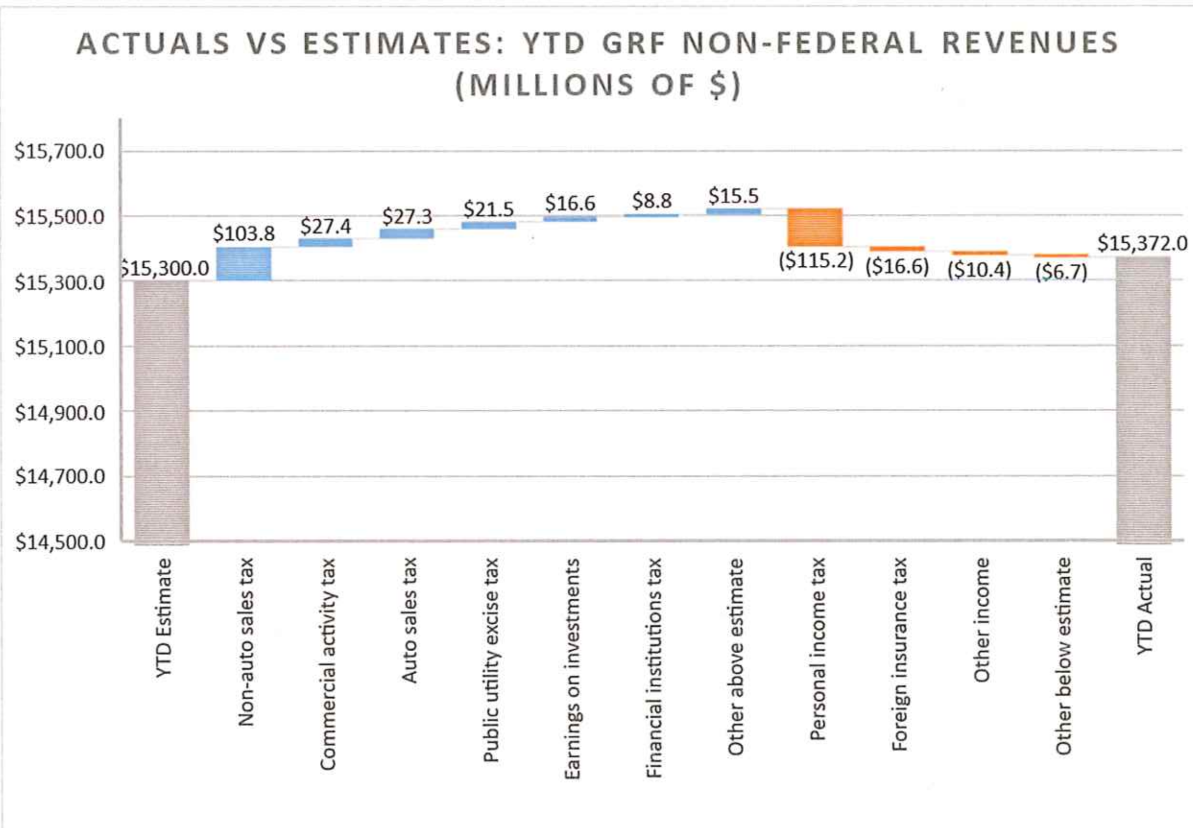
February **GRF receipts totaled $2,263.4 million** and were $86.1 million (3.7%) below the estimate. For the month, tax revenues were $7.3 million (0.5%) below estimate. The variance was primarily attributable a timing-driven variance in the foreign insurance tax, which was $22.7 million (18.1%) below estimate. However, early March revenues show that the variance was due only to the unpredictable split between February and March revenues, which was a result of the tax being due March 1. Non-federal revenues were below estimate $8.4 million (0.5%). Over ninety percent of the total February revenue underage was due to federal grants, which were $77.8 million (10.3%) below estimate, due to GRF Medicaid spending being $96.4 million below estimate.

For the year, the GRF revenues are $352.1 million (1.6%) below estimate. Tax revenues are $70.9 million (0.5%) above estimate, and non-federal revenues are $72.0 million (0.5%) above estimate. Federal grants are $424.1 million (6.1%) below estimate, but this was not a net negative for the GRF, since it was driven by Medicaid GRF underspending of $555.5 million (5.2%).

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	$70.9	0.5%
Non-tax receipts	Federal grants, earnings on investments, licenses & fees, other income, intrastate transfers	($417.3)	-5.9%
Transfers	Budget stabilization, liquor transfers, capital reserve, other	($5.7)	-6.5%
TOTAL REVENUE VARIANCE:		**($352.1)**	**-1.6%**
Non-federal revenue variance		**$72.0**	**0.5%**
Federal grants variance		**($424.1)**	**-6.1%**

Both the non-auto and auto sales tax categories were below estimate in February. However, both remain well above estimate for the year; the non-auto sales tax was $103.8 million (1.7%) above estimate for the year, and the auto sales tax was $27.3 million (2.9%) above estimate for the year. While the non-auto sales tax continues to be the largest year-to-date over performance, the auto sales tax, was narrowly overtaken in February by the CAT for the position of second-largest year-to-date overage. Strong February CAT revenue, resulting in a monthly overage of $18.9 million, pushed the year-to-date CAT overage to $27.4 million (2.4%). The public utility excise has the fourth highest overage, exceeding estimate by $21.5 million (26.0%). The laggard among revenue sources (other than federal grants) remains the personal income tax. Income tax revenues exceeded the estimate by $6.3 million in February on strong withholding performance but remain $115.2 million (2.0%) below estimate for the year, as a result of the underperformance of estimated payments in December and January that has been discussed extensively in prior issues of this report.

The following chart displays the relative contributions of various revenue sources to the overall variation between actual and estimated revenues through February.



On a year-over-year basis, monthly receipts were $0.2 million higher than in February of the previous fiscal year. Federal grants decreased by $17.6 million (2.5%), but tax revenues increased by $20.1 million (1.3%), led by the CAT, which increased $30.1 million (9.4%). Other notable growth occurred in the non-auto sales tax, which increased $19.4 million (3.2%) and the income tax, which grew by $8.1 million (3.8%). The foreign insurance tax declined by $26.8 million, but as mentioned earlier, that appears to be a timing issue. Total non-federal revenues increased by $17.8 million (1.1%) from the prior February.

For the year, non-federal revenues are up $294.9 million (2.0%). Tax revenues have grown by $503.4 million (3.4%) and after adjusting fiscal year 2018 revenues for the one month of sales tax revenues from Medicaid Health Insuring Corporations (MHICs) that was received in July before collections ceased, tax revenue growth has been $575.5 million (3.9%). On the non-tax side, federal grants, despite being well below estimate, have grown by $98.9 million (1.5%). Offsetting part of the growth coming from these categories and holding overall GRF revenue growth to $393.8 million (1.8%), was a $180.7 million decline in the "other income" category. This was due to a one-time payment to the GRF of $200 million from unclaimed funds in January 2018.

As the table below shows and federal grants aside, February revenues were fairly evenly balanced between underperformers (six, totaling $44.1 million) and overperformers (five, totaling $35.7 million. The tally would have been even closer if not for the underage in foreign insurance, which as noted earlier, was a timing matter rather than one related to underlying economic factors.

GRF Revenue Sources Relative to Monthly Estimates – February 2019
($ in millions)

Individual Revenue Sources Above Estimate		Individual Revenue Sources Below Estimate	
Commercial Activity Tax	$18.9	Federal Grants	($77.8)
Personal Income Tax	$6.3	Foreign Insurance Tax	($22.7)
Public Utility Excise Tax	$5.3	Auto Sales Tax	($8.1)
Natural Gas Distribution Tax	$3.6	Financial Institutions Tax	($4.5)
Other Source Above Estimate	$1.6	Non-auto Sales Tax	($3.5)
		Kilowatt Hour Tax	($3.4)
		Other Sources Below Estimate	($1.9)
Total above	**$35.7**	**Total below**	**($121.9)**

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

Non-Auto Sales Tax

February non-auto sales and use tax collections to the GRF totaled $621.1 million and were $3.5 million (0.6%) below the estimate. This was the second consecutive monthly underperformance, and the third underage of the fiscal year, however, each of these underperformances has been less than one percent away from the estimate, indicating that there is likely no structural shift pointing towards weakening non-auto sales tax revenues. In fact, the general trend for this revenue source has been strong overall in fiscal year 2019 with year-to-date non-auto sales tax revenue exceeding the estimate by $103.8 million (1.7%).

Concerns about these consecutive small underages are mitigated by the fact that there are factors supporting non-auto sales tax revenue growth rates in the near term. Retail demand is a key factor that influences the non-auto sales tax and as reported by the Cleveland Federal Reserve in their most recent *Beige Book*, retail demand was strong for most of 2018. Wage and salary income is another important driver of non-auto sales tax revenue, and national growth in this income continues (state-level income growth data are available only through 2018q3; fourth quarter numbers will not be released until late March). Wage and salary income growth has decelerated slightly in the past three months but remains above 4 percent.

Another factor that may be supporting non-auto sales tax growth was continued growth in sales tax collections from out-of-state sellers, which may have been given a boost from the U.S. Supreme Court decision in South Dakota v. Wayfair, Inc., released in late June 2018. Although Ohio has not made law changes to conform to the "economic nexus" standard for requiring sales tax collection from out-of-sate sellers, it has nonetheless seen what was already strong growth in sales tax revenues from out-of-state sellers accelerate in fiscal year 2019, reaching well into double-digit territory.

However, there are factors that suggest that although growth will continue, it may slow somewhat. Non-auto sales tax growth for the year had been running above 5.0%, but in February it slowed to 3.2% for the GRF (3.0% all funds; see table below). After adjusting for the impact of the repealed sales tax on Medicaid Health Insuring Corporations (MHICs), growth was 5.6% year-over-year. As stated in previous reports this fiscal year, monthly comparisons no longer require adjustment, but year-to-date comparisons will continue to be adjusted since MHIC revenues were collected in July of fiscal year 2018, skewing that annual data.

Monthly and year-to-date revenues (adjusted for MHIC collections) are shown in the table below. All funds collections are highlighted as well as GRF revenues.

Non-Auto Sales Tax Revenue Growth Without MHIC– FY19 through February
($ in millions)

	Feb-18	Feb-19	FY 18 YTD	FY 19 YTD
Non-Auto sales tax GRF	$601.8	$621.1	$5,800.3	$6,047.6
Non-Auto sales tax PLF (Library Fund)	$19.6	$19.2	$128.9	$137.1
Non-Auto sales tax, all funds	$621.4	$640.3	$5,929.2	$6,184.7
MHIC revenues (state)	$0.00	$0.0	$71.7*	$0.00
GRF and PLF revenues without MHIC	$621.4	$640.3	$5,857.5	$6,184.7
Change from prior year in non-MHIC collections		$18.9		$255.4
Pct. change from prior year in non-MHIC collections		3.0%		5.6%

*July 2017 (FY18) was final MHIC sales tax payment received by Ohio.

The overall improvement in non-auto sales tax revenue growth during the last half of fiscal year 2018 and the first half of fiscal year 2019 generally coincided with the reduction in federal income tax withholding rates due to the passage of the federal Tax Cuts and Jobs Act (TCJA). While it is too early to infer that the improvement in growth resulted primarily from reduced federal withholding and thus additional disposable income for consumers, it is a reasonable hypothesis. Since federal withholding cuts began to take effect in February 2018, growth may slow in the second-half of fiscal year 2019 as income comparisons twelve months apart incorporate higher disposable income in both months.

Auto Sales Tax

February auto sales tax revenues were $88.9 million, which was $8.0 million (8.3%) below estimate. February was only the second underperformance for the fiscal year in the auto sales tax; prior to February underage, September's revenues were $2.2 million below estimate. February is typically one of the worst performing months of the year for the auto sales tax. It is a short month, and winter weather keeps people from shopping for cars. The February estimate was the only estimate of fiscal year 2019 that was below $100 million. As February sales are generally low and somewhat weather dependent, February's underage on its own may not be a sign of any general slowing in auto sales tax revenues. Additionally, despite the February underage, year-to-date auto sales tax revenues are still $27.3 million (2.9%) over the estimate.

New U.S. auto sales dipped nationally by 2.9% in February year-over-year, continuing the slowdown that started last month. The 1.27 million units sold brought down the seasonally adjusted annual rate (SAAR) to 16.6 million total cars sold, compared to 17.33 million total cars and light trucks sold as of December. Despite the recent downward trend in auto sales, it is noteworthy that overall auto sales are still very high historically.

As in January, auto industry analysts point to cold temperatures and lingering effects of the federal government shutdown as two likely reasons for the February slump in auto sales. Financial incentives for consumers are also beginning to shrink as the Federal Reserve slowly increases interest rates, contributing to a slowing of demand.

An additional factor that may have impacted auto sales in February is the reduction in many Americans' income tax refunds. Usually starting in February and gaining momentum in March into April, many consumers use tax refund money to contribute toward a down payment on a vehicle. This year, however, there is an abundance of anecdotal and some statistical evidence that taxpayers failed to properly adjust their income tax withholding in accordance with changes in federal income tax rates. As a result, they so far have received smaller refunds, i.e., less income to purchase vehicles. This factor will be monitored in the next few months as a possible contributor should auto sales revenues weaken.

Despite the recent slight decline in unit sales, year-to-date auto sales tax revenues are strong, up 5.1% on a year-over-year basis. Continuing the trend observed over the last several months, the composition of auto sales has contributed to auto sales tax growth. Light trucks have comprised the bulk of auto sales for some time, and they carry a nearly 50% higher average retail price than cars contributing to an overall high and increasing average transaction price.

Auto sales tax revenues have also been supported by high used vehicle prices. Edmunds.com reported that the average used vehicle price hit a record high of $20,084 in the third quarter of 2018. This price was nearly 20% higher than the average price only five years ago, and also likely reflects a preference for light trucks among consumers, even for used vehicles.

Personal Income Tax

February GRF personal income tax receipts totaled $222.5 million and were $6.3 million (2.9%) above the estimate. This outcome was consistent with the overages demonstrated during the first five months of this fiscal year, and interrupts the shortfalls experienced in December and January. During February, the crucial tax categories are employer withholding and refunds, and the results reflect sufficiently robust employer withholding performance to overcome somewhat larger than expected refunds.

Once again, February was a better than anticipated month for employer withholding, exceeding estimate by $14.7 million (2.0%). Relative to last February, withholding grew $20.0 million (2.8%). If not for the reduction in employer withholding tax rates that took effect in January 2019, year-over-year growth in February would have been approximately $45.0 million (6.3%). Withholding is now $75.3 million (1.3%) above estimate for the year. It has grown 5.4% above the prior year, compared to 4.1% in anticipated growth (after adjusting for the January rate cut).

Although the tax year 2018 annual return filing season began last month, February was the first month to reflect a full month's worth of refund activity. Following January's notable refund overage of $25.2 million, February also demonstrated an overage but by a smaller $11.9 million (2.5%). For the combined months of January and February, refunds have exceeded estimate by $37.1 million (6.5%). Although the total number of refunds paid has declined relative to last year, average refund amounts have increased enough to more than offset the decline in the count. January and February account for just over one-third of total anticipated refunds for the January-June period, so it is still too early to draw strong inferences from the refund data collected so far.

February was not a significant month for all other types of income tax payments. All other payment categories exceeded estimate by a total of $2.7 million (12.0%) in February. These categories will pick up in March as "tax due" annual returns begin to be filed in earnest, reaching their peak in April.

On a year-over-year basis, February GRF income tax collections were $8.1 million (3.8%) above February 2018 collections, and collections for the year have grown by $128.8 million, or 2.4%. Adjusting for the $47 million in lost withholding collections in January and February due to the rate cut, collections growth would be 3.2%.

FY2019 PERSONAL INCOME TAX RECEIPTS BY COMPONENT ($ in millions)						
	Actual February	Estimate February	$ Var	Actual Feb-2019	Actual Feb-2018	$ Var Y-0ver-Y
Withholding	$733.2	$718.5	$14.7	$733.2	$713.1	$20.0
Quarterly Est.	$6.7	$4.1	$2.6	$6.7	$4.1	$2.6
Annual Returns & 40 P	$9.2	$7.8	$1.4	$9.2	$7.8	$1.4
Trust Payments	$0.9	$0.9	$0.0	$0.9	$0.9	$0.0
Other	$8.4	$9.6	($1.2)	$8.4	$9.6	($1.3)
Less: Refunds	($497.8)	($485.9)	($11.9)	($497.8)	($482.3)	($15.5)
Local Distr.	($37.9)	($38.8)	$0.9	($37.9)	($38.8)	$0.9
Net to GRF	$222.7	$216.2	$6.3	$222.7	$214.4	$8.1

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

Commercial Activity Tax (CAT)

February revenue from the CAT was $348.8 million, which was $18.9 million (5.7%) above estimate. This more than makes up for the modest $3.2 million shortfall in January. Although the third quarter of fiscal year 2019 has not yet ended, the March estimate is quite modest so OBM can probably conclude that the CAT will have performed strongly for the second-consecutive quarter (in contrast to the first quarter of fiscal year 2019, which fell below estimate). On a year-over-year basis, CAT revenues grew $30.1 million (9.4%) in February. For the year, this revenue source was $27.4 million (2.4%) above estimate and $63.7 million (5.7%) above fiscal year 2018.

Information on taxable gross receipts subject to the CAT is received with a considerable lag, therefore at this point OBM cannot say exactly what drove the strong February performance. However, the data available on tax credits suggest that credits have continued to grow significantly in fiscal year 2019, which would suggest that taxable receipts are growing strongly enough to drive revenue overages despite higher tax credit amounts.

Financial Institutions Tax (FIT)

Although January reflects the first of three estimated payments required for the 2019 FIT tax year, month-specific predictions are susceptible to considerable error, depending on exactly when tax payments are received, and the revenues are processed. As discussed in last month's report, some of the large January overage was indeed absorbed by a shortfall in February, with this month's FIT collections being $4.5 million (10.1%) below estimate. Combined January and February payments are $21.0 million (22.0%) above estimate. Although this constitutes a strong first payment, the FIT has a pattern of successively smaller revenues during the last two estimated payment dates and some of the overage could dissipate if such reduced payments end up even smaller than anticipated.

Public Utility Tax

Public utility excise tax revenue exceeded estimate by $5.3 million (20.6%) in February. Revenue received in February reflected estimated payments based on one-third of the prior year's assessed tax liability. Most of the tax is paid by natural gas distribution companies. This source has consistently overperformed relative to estimates for the important payment months of the fiscal year, with revenue exceeding estimate by $21.4 million (26.0%) for the year.

Foreign Insurance Premium Tax

Foreign insurance tax revenue was $22.7 million (18.1%) below estimate during February. Even though these results mean that year-to-date foreign insurance tax revenue was $16.6 million (6.1%) below estimate through February, early March revenues suggest that the February and year-to-date shortfall are a timing matter and revenues will be over estimate in March.

Natural Gas Distribution Tax

February revenue from the natural gas distribution tax was $3.6 million (25.4%) above estimate. This follows a pattern of overages demonstrated during preceding significant payment months during fiscal year 2019. The strong performance reflects higher-than-expected consumption of natural gas during this year.

GRF Non-Tax Receipts

GRF non-tax revenues in February totaled $688.6 million and were $78.9 million (10.3%) below estimate. This variance was primarily attributable to Federal grants, which were below estimate by $77.8 million (10.3%) due to underspending in the GRF Medicaid category.

Revenues in the Other Income category were $1.1 million (72.4%) below estimate due to lower than anticipated revenues from various refunds, reimbursements, and fines.

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MEMORANDUM

TO: Ohio Manufacturers' Association

FROM: Justin D. Cook, Esq.
Bricker & Eckler LLP

DATE: June 21, 2018

RE: Supreme Court Decision – Remote Sellers and Use Tax

The United States Supreme Court issued its decision today in *State of South Dakota v. Wayfair, Inc*. In doing so, the Court reshaped many notions of state and local taxation by abolishing the physical presence standard for sales and use tax collection.

In 1967, the Supreme Court held in *National Bellas Hess, Inc. v. Department of Revenue of the State of Illinois*, 386 U.S. 753 (1967) that states were prohibited from requiring sellers to collect and remit use tax on the sale of goods in states where the seller has no physical presence. This "physical presence" standard was affirmed in *Quill Corp. v. North Dakota*, 504 U.S. 298 (1992).

The Court's opinion today in *Wayfair* noted that "[e]ach year, the physical presence rule becomes further removed from economic reality and results in significant revenue loss to the States." The Court further concluded that the physical presence standard "creates rather than resolves market distortions." Based on this reasoning, the Court held that *National Bellas Hess* and *Quill Corp*. "should be, and now are, overruled."

Today's decision, by abolishing the physical presence standard, will allow states to enact laws which require remote sellers to collect and remit sales and use tax.

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Ohio Manufacturers' Association

Tax Counsel Report
April 9, 2019
By Justin D. Cook
Bricker & Eckler LLP

Administrative Actions:

In January of 2019, newly-elected Governor Mike DeWine appointed Jeff McClain as the 19th Tax Commissioner of Ohio. The following individuals will fill leadership positions within the Department of Taxation under Tax Commissioner McClain:

- Matt Chafin, Audit and Criminal Investigations;
- Steve Gray, Chief Administrative Officer;
- Brenda McDonald, Tax Operations;
- Sarah O'Leary, Chief Legal Counsel; and
- Gregory Siegfried, Analysis & Fiscal Services.

New Legislation:

The biennial transportation budget, H.B. 62, was adopted by the legislature on April 2, 2019 and was subsequently signed into law by Governor DeWine. The transportation budget increases tax on gasoline and diesel by 10.5 and 19 cents per gallon, respectively. Consequently, gasoline will be taxed at 38 cents per gallon, and diesel will be taxed at 47 cents per gallon. The new rates for gasoline tax and diesel fuel tax apply as of July 1, 2019.

Over a five year period, the transportation bill also phases in a tax on each gallon equivalent of compressed natural gas beginning on July 1, 2019 at 10 cents per gallon equivalent. By July 1, 2023, tax will apply at 47 cents per gallon equivalent.

Proposed Legislation:

S.B. 8 was passed by the Ohio Senate on April 3rd, and it is now under consideration by the House. The bill would authorize a nonrefundable tax credit equal to 1% of a taxpayer's investment of at least $250,000 in an Ohio Opportunity Zone fund. Also, the bill would authorize an additional, nonrefundable credit equal to 2% of the taxpayer's investment if, after five years, the Ohio Opportunity Zone project funded by the investment generated more new state and local tax revenue than the amount of credits originally granted with respect to the project. The credit could be claimed against income tax, financial institutions tax, or insurance premiums tax, or transferred to another taxpayer. The credits are non-refundable, but may be carried forward up to five years.

The State's budget bill for fiscal years 2020-2021, H.B. 166, was introduced in the House on March 25th and referred to the Finance Committee on March 26th. The budget does not include substantive tax law changes. It proposes only a small tax credit for abating lead paint in residential structures and an adjustment in the way revenues from the municipal net profit tax are transferred between the State and municipalities under the centralized filing regime.

Judicial Actions:

Ohio Supreme Court

On December 12, 2018, the Ohio Supreme Court issued a much-anticipated decision in the case of *Seaton Corp. v. Testa*, 2018-Ohio-4911, 2018 WL 6628481, which interprets the definition of "employment services" for purposes of Ohio sales and use taxation. A taxable "employment service" is defined as "providing or supplying personnel, on a temporary or long-term basis, to perform work or labor ***under the supervision or control of another***, when the personnel so provided or supplied receive their wages, salary, or other compensation from the provider or supplier of the employment service." R.C. 5739.01(JJ). In Seaton's case, it contracted with Kal Kan to "furnish, manage, and supervise" supplemental staffing in Kal Kan's production of pet food. The Tax Commissioner assessed sales tax against Seaton and use tax against Kal Kan for the purchase and use of employment services. The BTA sided with the taxpayers, concluding the arrangement between Seaton and Kal Kan was not a sale of taxable employment services within the meaning of R.C. Chapter 5739.

Agreeing with taxpayers' position, the Ohio Supreme Court upheld the BTA's decision in *Seaton*. The Court found that Seaton retained control and supervision over personnel provided to Kal Kan by managing the schedule of workers, determining the need for each shift, assigning jobs, monitoring work production, and managing performance of the workers. Importantly, the Court noted that to be a taxable employment service, a manufacturer acquiring labor must exercise control "specific to the work or labor performed by the provided personnel—not [with respect] to an overall production process." Thus, the Court concluded that "the BTA correctly determined that Kal Kan's control over the manufacturing process and the production lines did not equate to control over the Seaton workers themselves." Consequently, Seaton did not provide Kal Kan with a taxable employment service.

Pi In The Sky, L.L.C. v Testa, 2018-Ohio-4812, 2018 WL 6521474, addressed the "engaging in business" requirement of the sale-for-resale exemption to sales and use tax. R.C. 5739.01(E) exempts transactions from sales and use tax where the "purpose of the consumer is to resell the thing transferred or benefit of the service provided, ***by a person engaging in business***, in the form in which the same is, or is to be, received by the person." In *Pi In The Sky*, taxpayer LLC purchased an aircraft (without paying sales or use tax) and leased it to its sole member, asserting that the act of leasing the aircraft for consideration constituted a resale for tax purposes of the exemption under R.C. 5739.01(E). The Supreme Court of Ohio upheld the tax assessment, concluding that taxpayer LLC was not a person "engaging in business" by leasing an aircraft to its sole member. The Court noted that the transaction did not appear to be at arms-length, the lease could not have resulted in a profit for taxpayer LLC, the taxpayer's sole leaesee was its sole member, and there was a lack of marketing of the aircraft to obtain a more favorable lease. Taxpayer, therefore, was not engaged in business and its purchase of the aircraft was not exempt under the sale-for-resale exemption.

Ohio Court of Appeals

R.L. Best Co. v. Testa, 7th Dist. Mahoning No. 18 MA 0001, 2018-Ohio-5400, 2018 WL 6930501, involved the application of R.C. 5739.02(B)(32), which exempts "the sale, lease, repair, and maintenance of, parts for, or items attached to or incorporated in, motor vehicles that are primarily used for transporting tangible personal property belonging to others by a person engaged in highway transportation for hire." Taxpayer in this case manufactured and serviced extrusion presses and handling systems. Its trucks were used to transport the presses and handling systems to and from customer facilities. The BTA previously concluded that whether the trucks were exempt depended on their "primary use." Applying this standard, the BTA rejected taxpayer's claim for exemption, noting that to claim the "transportation for hire" exemption, taxpayer should have separately itemized a charge for transportation services on its customer invoices. Thus, taxpayer failed to show it actually received consideration for its transportation services, a critical element in claiming the exemption. The Seventh District Court of Appeals upheld the BTA's decision.

Greenscapes Home and Garden Products, Inc. v. Testa, 10th Dist. Franklin No. 17AP-593, 2019-Ohio-384, 2019 WL 480201, involved the issue of situsing the total gross receipts of an out-of-state corporation for commercial activity tax ("CAT") purposes. Greenscapes is a Georgia corporation that provides products for many big-box retailers that have distribution centers located in Ohio. When an order is placed, Greenscapes prepares a bill of lading but is not responsible for shipping. When the products are picked up for delivery, they become the property of the retailer. The Ohio Department of Taxation sent Greenscapes a nexus letter attempting to collect CAT for these transactions. The Tenth District Court of Appeals upheld the BTA's decision allowing taxing of the transactions, finding that Ohio law and the Commerce and Dormant Commerce Clauses of the U.S. Constitution allow situsing of gross receipts in the state where the goods are delivered instead of the state where title passes. The case is now on appeal to the Ohio Supreme Court.

City of Athens v. Testa, 10th Dist. Franklin No. 18AP-144, 18AP-189, 2019-Ohio-277, 2019 WL 367034, addresses the constitutionality of a portion of House Bill 49 which allowed business taxpayers to elect for the state to collect a uniform municipal net profit tax in lieu of paying municipalities individually. The provisions were enacted to decrease compliance costs for businesses operating in multiple municipalities who each have their own tax collection procedures. The City of Athens challenged H.B. 49 on multiple grounds stating that it violated the Ohio Constitution. The Tenth District Court of Appeals found that the appropriations bill was constitutional in implementing a state-run municipal net profit tax collection system and affirmed the lower court's decision.

Ohio Board of Tax Appeals

Robert J. Tallen v. Testa, BTA No. 2017-1616, 2018 WL 6493035 (Dec. 4, 2018) is an important decision addressing the definition of "price" and the requirements to obtain a refund of sales tax in a transaction that is subsequently reversed or rescinded. Taxpayer at issue purchased a vehicle and paid a $250 document fee to the dealer to complete the sale. Taxpayer eventually returned the vehicle to the dealer and was refunded the portion of the purchase "price" attributable to the vehicle, but not the document fee. Taxpayer sought a refund of the Ohio sales tax he paid on the total purchase. The Tax Commissioner denied his request, finding that in order to receive a sales tax refund, the vendor must return the **full purchase price**, including any fees necessary to complete the sale (*e.g.*, such as the title fee the dealer charged). The BTA upheld the Tax Commissioner's decision to deny the sales tax refund.

TO: OMA Tax and Finance Committee
FROM: Rob Brundrett
SUBJECT: Tax Public Policy Report
DATE: April 9, 2019

Overview

At the beginning of the year, new Governor Mike DeWine appointed former legislator Jeff McClain as the newest Commissioner for the Ohio Department of Taxation. The OMA has a long history of working with Commissioner McClain both as a legislator and in the private sector. Transformational tax proposals were the budget norm under the Kasich administration. However the DeWine administration has stayed away from major tax proposals in his recently introduced budget. The Transportation Budget just wrapped up in the General Assembly – the state's taxes on motor fuels will be increasing. Finally the OMA Tax Committee has been working with the Senate Finance Chairman on ways to keep Ohio manufacturing competitive and to increase the opportunities for manufacturers to participate in the Job Retention Tax Credit.

Tax Legislation

Senate Bill 8 – Ohio Opportunity Zone Tax Credits

The bill would authorize tax credits for investments in an Ohio Opportunity Zone. Federal law allows states to designate economically distressed areas. Once the zone is certified by the Secretary of the Treasury, certain investments made to benefit the zone are eligible for preferential federal tax treatment that meets certain criteria as "opportunity zones." The bill would allow state tax incentives to compliment the federal tax treatment. The CAT is not an included tax credit. The bill shot through the Senate and was passed by the full body earlier this month.

Senate Bill 37 – Motion Picture Tax Credit

The bill makes a variety of changes to the current motion picture tax credit and expands it to allow for more types of entertainment productions. There is no new money tied with this bill, however its sponsor, Senator Schuring has indicated he would like to see the credit more than double to $100 million. The Senate has had five hearings on the bill.

House Bill 19 – Pink Tax Exemption

The bill would exempt from sales tax the sale of tampons and other feminine hygiene products associated with menstruation. The bill has had three hearings in the House Ways and Means Committee.

House Bill 60 – Diaper Sales Tax Exemption

The bill exempts from sales and use tax the sale of child and adult diapers. It has had three hearings in the House Ways and Means Committee.

House Bill 62 – Transportation Budget

The transportation budget bill makes appropriations for programs related to transportation and public safety for the biennium beginning July 1, 2019, and ending June 30, 2021.

The Governor, based on the recommendations from a diverse group of experts including OMA members, introduced a budget that would increase the motor vehicle fuel tax by 18 cents and would index the tax beginning in 2020.

The House gutted the Governor's proposal and instead passed a bifurcated tax rate. The House placed a 20 cent increase on diesel and a 10.7 cent increase on gasoline. The House included a new $200 registration fee for electric vehicles and a $100 fee for hybrid vehicles.

In better news the House removed the 150-mile radius restriction for travel under the special regional heavy hauling permit, thus allowing vehicles under the permit to travel further distances that exceed standard size and weight restrictions.

The Senate was adamant that the motor fuel tax should be lower. The Senate passed version included a 6 cent increase on the current motor vehicle fuel tax. Senators also lowered the registration fees by $25 for electric and hybrid vehicles to $175 and $75 respectively.

This set up a showdown in conference committee on who would prevail and where the tax increase would be set. After much delay, including missing the statutory deadline, the House and Senate came to an agreement. The final bill version reinserted the bifurcated approach. Diesel fuel will be increased by 19 cents and gasoline by 10.5 cents. Electric vehicles will have a registration fee of $200 and hybrids $100.

The heavy haul permit survived, which will make overweight truck hauling less cumbersome in Ohio.

The OMA testified (see attached) in support of the Governor's original proposals and a reasonable fee on electric vehicles. The OMA was adamantly opposed to any bifurcation of the fuel rates since truck companies simply pass on any fuel tax to business customers. OMA notified the conference committee of these problems along with working with other business groups to amplify the problems of a bifurcated rate.

<u>House Bill 92 – County Sales Tax Voting</u>
The bill would require voter approval of any increase in the rate of a county sales tax. The bill has had one hearing.

<u>Senate Bill 95 – State and Local Tax Inducements</u>
The bill will enhance state and local tax inducements for businesses making substantial fixed asset and employment investments and their suppliers. The bill has not had a hearing in the Senate.

<u>Senate Bill 109 – Workforce Scholarship Program</u>
SB 109 establishes the Workforce Scholarship Program. The bill would terminate the provisions of the Scholarship Program on December 31, 2023 and authorize tax credits for graduates of the Scholarship Program and their employers.

<u>House Bill 134 – March Sales Tax Holiday</u>
The bill provides a three-day sales tax "holiday" each March during which sales of qualifying Energy Star products are exempt from sales and use taxes.

House Bill 162 – Motion Picture Tax Credit
The bill increases the overall cap on the motion picture tax credit from $40 million per fiscal year to $100 million per fiscal biennium. The OMA has successfully fought a lonely battle recently against increasing this tax credit. It appears once again the General Assembly will try hard to increase this credit.

House Bill 166 – State Operating Budget
On March 15th Governor DeWine unveiled his first operating budget. Unlike most recent budgets, this version did not include major tax reforms. Instead the Governor focused on investing in the following:

- Ohio's Workforce and Innovation
- Ohio's Local Communities
- Recovery
- Ohio's Children and Families
- Ohio's Natural Wonders

House Bill 175 – Tax Exemption on Goods Movement
The bill provides an exemption from sales and use tax for things used primarily to move completed manufactured products or general merchandise. The bill has been referred to the House Ways and Means Committee.

OMA – Capital Investment Tax Credit
The OMA is working closely with the Senate Finance Chairman on opportunities to allow the manufacturers to benefit from the currently under-utilized Job Retention Tax Credit. The budget will provide an excellent opportunity for Ohio to make changes to the credit to favor capital investment industries such as manufacturing.

Manufacturing Sales and Use Tax Exemption – Regulation Update
In March the updated manufacturing sales and use tax rules went into effect. OMA worked closely with the Ohio Department of Taxation to ensure the rule provided the proper updates while at the same time not allowing the Department become more aggressive in the their audits. Thank you to the members who participated in the working group.

Tax News
Former State Rep. McClain Appointed Ohio Tax Commissioner
Just after the new year, Governor-elect Mike DeWine appointed former State Representative Jeff McClain as the next Ohio Department of Taxation Commissioner.

Most recently, McClain had been serving as director of tax and economic policy for the Ohio Chamber of Commerce. He served in the state legislature for nearly eight years and was the long-serving Wyandot County auditor for 26 years.

While in the legislature McClain chaired the powerful House Ways and Means Committee which oversaw tax policy and legislation in that chamber.

The OMA has worked closely with McClain both as a state representative and in his most current role. We are excited to continue our working relationship as he takes over the Department of Taxation. Congratulations to Jeff and best of luck

Court Upholds Constitutionality of Streamlined Muni Income Tax Collections
Earlier this year the 10th District Court of Appeals ruled 2-1 that the municipal tax reform provisions of House Bill 49 and House Bill 5 are constitutional. The provisions had been challenged by more than 100 municipalities.

The legislation streamlined municipal income tax reporting and collections for businesses across the state. The OMA participated in a coalition that supported the changes.

It has yet to be determined if the municipalities will appeal the ruling to the Supreme Court of Ohio

Interested Party Testimony
Ross McGregor on behalf of The Ohio Manufacturers' Association
Before the Senate Transportation, Commerce and Workforce Committee
The Honorable Robert McColley, Chair
March 13, 2019

Chairman McColley, members of the Senate Transportation, Commerce and Workforce Committee, I am pleased to present interested party testimony for the transportation budget, House Bill 62, on behalf of The Ohio Manufacturers' Association (OMA).

My name is Ross McGregor and I own a manufacturing business in Springfield. My business, Pentaflex, produces heavy, stamped-metal components that go into cars, trucks, off-road vehicles, agriculture equipment, medical equipment and energy applications. Our family-owned company is part of Ohio's important manufacturing sector that contributes 17% to the state's GDP, which is greater than the economic contribution of any other industry segment.

As some of you are aware, I was a member of the Ohio House of Representatives for nearly ten years, having served as chair of the Finance Subcommittee on Transportation. I bring all of these perspectives forward as I appear before you today as a longtime member of the OMA.

The OMA recognizes the important work this body does in adopting balanced budget legislation. The budget is as much a tax plan as it is a spending plan. The OMA believes good tax policy generates the revenues necessary to support the essential functions of government. While there are many important facets to House Bill 62, my testimony is focused on the gas tax components.

Modern infrastructure is critical for today's advanced manufacturing economy. To remain competitive and maximize the economic benefits of Ohio's manufacturing strength, the state must invest in updating and expanding Ohio's multi-modal transportation infrastructure, including roads, bridges, rails and ports. Continued investment in these resources is critical to providing Ohio manufacturers with flexible, efficient, cost-effective shipping options.

Ohio's transportation infrastructure fund is declining at a time when traffic is increasing, construction and maintenance costs are escalating, and fuel efficiency is climbing. Coupled with a fixed, per-gallon fuel tax that has not been adjusted since 2003, we support Governor DeWine's proposal to adjust the motor fuel tax rate and we encourage your support to restore the Administration's recommendation that is based on both ODOT data and the recommendations of the Advisory Committee on Transportation Infrastructure.

It should not come as a surprise that Ohio is running a structural deficit. Eight years ago in sponsoring the transportation budget that privatized the turnpike and used those funds as a bridge for ODOT spending, I said in my floor speech that the use of one-time turnpike dollars was not a solution. Today, you have an opportunity to address that need more permanently.

For the first time in Ohio history, the House bifurcated the gas tax rate on different motor fuels. The OMA would respectfully suggest you revisit this concept in the name of two principles of good tax policy: equity and simplicity.

Like most states, Ohio has one simple motor fuel tax rate that applies equally to all vehicles that consume motor fuel. The bill pending before you confounds the established simple tax and will result in diesel fuel being taxed at a rate of 25% greater than gasoline. Why?

It's easy to say: "*Tax only the trucks that are tearing up the highways; they should pay more,*" but that kind of thinking can produce a dampening effect on key segments of our economy. Moreover, trucks *do* pay more based on the *amount* of fuel they consume.

It's important to note that trucking operations don't absorb the cost of the gas tax – they pass it on to their customers. It's a common practice in shipping contracts for the carrier to pass along the total fuel costs to the shipper (that is, for example, a manufacturer). So, in effect, when you raise taxes on diesel fuel, you are increasing costs on economic drivers of our state's prosperity.

Please don't misunderstand -- manufacturers recognize the importance of maintaining roads and bridges and are supportive of a fuel tax increase that goes directly to the maintenance, repair and construction of roads and bridges. However, a policy that treats types of consumers disparately is problematic. The case has not been made to bifurcate fuel rates, and it directly and negatively impacts the competitiveness of multiple Ohio businesses and industries.

With regard to the amount of increase, the Administration reasonably concluded that an 18 cent across-the-board increase was necessary to generate the bare minimum $1.2 billion in additional revenue needed to preserve Ohio's transportation infrastructure. The Advisory Committee generally accepted that proposal, as well. Moreover, the total 46 cents per gallon tax is comparable to the tax levels in Indiana and Michigan, comparable states with which Ohio competes. Unless there are better financial analyses, we support restoring the rate to the executive proposal.

Related to roadway vehicles that are not powered by motor-fuel, we support a reasonable user fee as these vehicles are utilizing state roads and bridges and should be contributing to their maintenance and improvement. We've reviewed some data and a fee of $150 per electric vehicle appears reasonable under the Governor’s 18 cent proposed increase.

Most gas-electric hybrid vehicles are gasoline fueled. As such, these super-efficient vehicles are already paying gas tax, albeit less than more inefficient motor vehicles. But, why tax efficient vehicles twice? The attributes of energy efficiency are laudable. We oppose the imposition of a fee on non-plug-in hybrids.

Mr. Chairman, that concludes my testimony. I appreciate the opportunity to visit with you. I would be pleased to answer any questions you may have of me.

Thank you.

The Ohio Manufacturers' Association

March 26, 2019

The Honorable Scott Oelslager
Chairman, Finance Committee
Ohio House of Representatives
77 S. High Street
Columbus, OH 43215

The Honorable Jay Hottinger
The Ohio Senate
Statehouse
Columbus, OH 43215

RE: Transportation Budget – Motor Fuel Tax

Dear Chairman Oelslager and Senator Hottinger:

I write you in your capacity as House Bill 62 conferees. We commend your chambers for recognizing the need to act in support for Ohio's infrastructure. The OMA was pleased to present testimony before the Senate Transportation Committee in support of the Administration's transportation funding proposal. I write to reiterate our position.

As you know, Ohio's manufacturing sector contributes 17% to the state's GDP, which is greater than the economic contribution of any other industry segment.

Modern infrastructure is critical for today's advanced manufacturing economy. To remain competitive and maximize the economic benefits of Ohio's manufacturing strength, the state must invest in updating and expanding Ohio's multi-modal transportation infrastructure, including roads, bridges, rails and ports. Continued investment in these resources is critical to providing Ohio manufacturers with flexible, efficient, cost-effective shipping options.

Ohio's transportation infrastructure fund is declining at a time when traffic is increasing, construction and maintenance costs are escalating, and fuel efficiency is climbing. Coupled with a fixed, per-gallon fuel tax that has not been adjusted since 2003, we support Governor DeWine's proposal to adjust the motor fuel tax rate and we encourage your support to restore the Administration's recommendation that is based on both ODOT data and the recommendations of the Advisory Committee on Transportation Infrastructure.

Manufacturing industry leaders were tabbed to sit on that advisory committee. The 18 cent increase the Administration concluded to be necessary seems reasonable to preserve Ohio's transportation infrastructure. A new motor fuel tax rate of 46 cents per gallon would still be competitive with other states. Unless there are better financial analyses, we support restoring the rate to the executive proposal.

As your chambers complete work on the Transportation Budget we respectfully urge you to tax all motor fuel at the same rate as has been Ohio's practice and tradition. For the state to tax diesel at a higher rate equates to a new tax on Ohio's manufacturers and other goods producing businesses.

It's important to note that trucking operations don't absorb the cost of the gas tax – they pass it on to their customers. It's a common practice in shipping contracts for the carrier to pass along the total fuel costs to the shipper (that is, for example, a manufacturer). So, in effect, when you raise taxes on diesel fuel, you are increasing costs on economic drivers of our state's prosperity.

On behalf of the Ohio Manufacturers' Association, I appreciate the opportunity to share these perspectives with you.

Sincerely,

Ryan Augsburger
Vice President & Managing Director of Public Policy

cc: Governor Mike DeWine
ODOT Director Dr. Jack Marchbanks
Eric Burkland, OMA President

INTRODUCTION

Chairman Greenspan, Ranking Member Skindell, and members of the House Finance Sub-Committee on Transportation: My name is Jeff McClain, Tax Commissioner for the Ohio Department of Taxation.

Thank you for the opportunity to testify today on the budget request for the Ohio Department of Taxation (ODT) in Governor Mike DeWine's Fiscal Year (FY) 2020-2021 budget.

OVERVIEW OF ODT BUDGET AND OPERATIONS

The ODT budget request for FY 2020-2021 is structured to support innovative ways to make the best use of taxpayer dollars. ODT administers and enforces 30 different state and local taxes and fees, including state and school district individual income taxes, state and local sales taxes, and various business and excise taxes. ODT also oversees the ad valorum (property tax) appraisals in Ohio's 88 counties. Collections of taxes and fees administered by ODT generate approximately $30 billion each year to support many functions of state and local government, including education, health care, transportation, and law enforcement.

ODT's all funds budget request for FY 2020 is approximately $135.5 million, which is comprised of $61.4 million for GRF General Operating Expenses and $74.1 million for Dedicated Purpose Funds (DPF). The total request for FY 2021 is approximately $138.2 million, which is comprised of $62.5 million for GRF Operating and $75.6 million for DPF.

Our mission is to provide quality service to Ohio taxpayers by helping them comply with their responsibilities and by fairly applying the law. This mission statement guides ODT in establishing priorities, allocating resources, and maximizing work efforts.

Our primary objectives as a Department are as follows:

1. Process tax returns, payments, and refund requests filed by individuals and businesses. More than 97% of the revenue collected by ODT comes from voluntary compliance.
2. Conduct audit and compliance programs to educate and ensure the correct amounts have been paid by taxpayers. In FY 2018, these programs generated an additional $712.6 million in cash payments, supplementing the taxes that are paid voluntarily.
3. Provide customer service to help taxpayers fulfill their tax filing responsibilities. ODT handled 769,917 taxpayer telephone calls, responded to 68,936 email inquiries and assisted 11,234 walk-in customers during FY 2018.
4. Improve operations and modernize the legacy computer systems by moving forward with various initiatives.
5. Identify efficiency gains that will enable ODT to operate in the most economical way possible.
6. Improve customer service by leveraging technology.

Operational Objectives: Cutting Costs and Increasing Efficiency

ODT recently developed and implemented the following operational changes:

- **Providing superior customer service** – ODT strives to provide the best customer service to all taxpayers.
- **Fighting Tax Fraud** - ODT continues to improve methods of blocking attempted income tax fraud, while reducing the cost of fighting fraud and minimizing the inconvenience to taxpayers.
- **Audit Selection** – ODT is utilizing data analytics to objectively and efficiently identify taxpayers who may be noncompliant with their tax obligations.
- **Ohio Virtual Tax Academy** - Attendance at OVTA webinars continues to grow as we provide education outreach, which includes continuing education credits to attorneys and CPAs. Since 2014, more than 11,800 people have attended OVTA webinars for free.

Setting Priorities for FY 2020-21

Personal Income Tax (PIT) Replacement - ODT's existing PIT system, which administers both personal and school district income taxes, is written in COBOL and runs on an IBM mainframe. All other business taxes have been migrated to STARS (Oracle-based integrated tax system). This administration is currently evaluating the best approach for a new platform.

Data Capture Upgrade - ODT processed 1.2 million paper returns and 1.68 million check payments in FY 2018. The software used to process this volume is 11 years old. While the number of taxpayers who file paper returns continues to decrease, we must maintain an effective and efficient system to deposit revenue and process returns. This project involves upgrading the software to a new version to take advantage of better processing, additional security, and better data handling/reporting. ODT expects to complete this project in 2020.

Portal to Connect ODT with Local Governments – ODT exchanges data with many local governments including counties, municipalities, and school districts. Historically, the exchange of data has been largely a manual process both to and from ODT. The first phase of the project allowed ODT to develop and implement a secure portal that facilitates the electronic transfer of data to and from municipalities for purposes of the municipal net profit tax. ODT continues to enhance the functions of the portal and will soon roll out a means to collect historical data from municipalities for that tax. ODT plans to include other local government data exchanges in the portal in the future to increase efficiency for both the State and local government.

Municipal Income Tax for Electric Light Companies and Local Exchange Telephone Companies (MELT) System Upgrade – The system used to administer MELT will be almost 20 years old by the end of this biennium. The technology underlying that system has become obsolete, making the system very costly to update and maintain. During this biennium, the goal is to put this system on a more modern and configurable platform.

Chairman Greenspan and members of the House Finance Sub-Committee on Transportation, I am greatly appreciative of your time and would be happy to answer any questions you may have.

DEPARTMENT OF TAXATION

Lead abatement income tax credit

- Authorizes the Director of Health to award nonrefundable income tax credits for up to $10,000 in costs incurred to abate lead in an Ohio residence constructed before 1978.
- Limits the amount of credits that may be awarded to $5 million per biennium.

Municipal income taxes

- Requires a municipal corporation to pay money to the Treasurer of State if the net distribution amount for the municipal corporation's state-administered municipal income tax accounts is less than zero in any month.
- Allows the Tax Commissioner to recover unpaid amounts by reducing a delinquent municipal corporation's various state administered tax distributions.
- Requires the Director of Budget and Management to transfer money from the GRF to the Municipal Income Tax Fund in the event that the balance of the Municipal Income Tax Fund is not sufficient to cover the required monthly distributions from that fund.
- Creates a separate Municipal Net Profit Tax Fund to receive revenue solely from the state-administered municipal tax on business income.

Lead abatement income tax credit

(R.C. 3742.50, 5747.02, 5747.08, 5747.26, and 5747.98; Section 757.10)

The bill authorizes a nonrefundable income tax credit for expenses incurred by a taxpayer to abate lead in an Ohio residence constructed before 1978. Specifically, the credit is based on the sum of the following "lead abatement costs" incurred in a taxable year, up to $10,000 per taxpayer:

- Costs for a licensed specialist to conduct a lead risk assessment, lead abatement project, or clearance examination (a test conducted to verify that the lead hazard has been abated);
- Costs to relocate the dwelling's occupants to protect them during the lead abatement process.

The credit is not available on the basis of any lead abatement cost for which the taxpayer is reimbursed or that the taxpayer deducted or intends to deduct for federal or state income tax purposes.

To obtain a credit, the taxpayer submits an application to the Director of Health listing the taxpayer's lead abatement costs incurred during the taxable year. After verifying those costs and that the dwelling was constructed before 1978 and has passed a clearance examination, the Director issues a certificate authorizing the applicant to claim a nonrefundable income tax credit equal to the lesser of the costs listed on the application, the actual costs verified by the Director, or $10,000.

The Director may not issue credit certificates lead abatement costs incurred in taxable years beginning before 2020, nor may the Director issue more than $5 million in certificates in a fiscal biennium. The Director may adopt rules for the administration of the lead abatement credit program, in consultation with the Tax Commissioner.

The taxpayer may claim, for the taxable year in which the certificate is issued, a nonrefundable income tax credit equal to the amount stated on the certificate. Any unclaimed balance may be carried forward for up to seven years. Upon request, the taxpayer must furnish the Commissioner with documentation verifying the taxpayer's credit eligibility.

State administration of municipal income taxes

Beginning in 2018, continuing law allows businesses (other than sole proprietors) to choose between filing a separate tax return for each municipal corporation in which the business operates and filing a single return with the Department of Taxation that covers the business' total tax liability to all municipalities. Each municipality continues to administer its tax on businesses that choose to file separate returns. The Department assumes all aspects of administering the taxes of businesses that choose to file a single return. The Tax Commissioner is required to distribute municipal income tax revenue on a monthly basis, after deducting 0.5% of such revenue to cover the Department's administrative expense.

Net distribution deficiency

(R.C. 718.83, 321.24, and 5747.05; Sections 812.20 and 815.10)

The bill addresses negative cash-flow issues with the state's Municipal Income Tax Fund that arise when a municipal corporation's net distribution of revenue from tax accounts administered by the Department is less than zero. This might happen if audit adjustments and refunds exceed collections in a given month. In such cases, the bill requires the municipal corporation to remit payment to the Treasurer of State within 30 days of receiving a notice of deficiency from the Department. If a municipal corporation does not reimburse the state in a timely manner, the bill authorizes the Commissioner to recover the deficiency by reducing the municipal corporation's future municipal income tax distributions, electric light and telephone company income tax distributions, and property tax distributions.

If there is not a sufficient amount of revenue in the state's Municipal Income Tax Fund to cover the required monthly distributions of municipal income tax revenue, the bill requires the Director of Budget and Management to transfer money to the fund from the GRF to cover the shortage. In the event of such a transfer, the Commissioner and the Director would be required to develop a plan to reimburse the GRF in a timely manner.

The bill exempts the provision from the referendum, causing the provision to take effect immediately upon becoming law.

Municipal Net Profit Tax Fund

(R.C. 718.83, 718.85, and 718.90; Section 701.20)

The Department of Taxation currently administers two income taxes on behalf of municipal corporations. Beginning in 2018, businesses may file their municipal income taxes centrally with the Department. In addition, the Department administers a separate municipal income tax on electric and telephone companies.

Under current law, revenue from both taxes is deposited into a single Municipal Income Tax Fund. The bill creates a separate fund – the Municipal Net Profit Tax Fund – to receive revenue from the state-administered municipal tax on business income. Revenue from municipal taxes on electric and telephone companies will continue to be credited to the Municipal Income Tax Fund.

Amounts credited to both funds are returned to the municipal corporations that levy the underlying taxes, after an allowance for the Department's administrative costs.

Tax

Tax Commissioner McClain Gives Budget Testimony – Meet Him at OMA Next Week
April 5, 2019

This week Ohio Department of Tax Commissioner **Jeff McClain** provided **budget testimony** on behalf of his department. Unlike the past several state budgets, **House Bill 166** does not include a substantive shift in Ohio's taxing schemes, much to the relief of manufacturers.
Commissioner McClain will be visiting with the OMA Tax Committee next Tuesday, April 9, at the OMA offices. Members will be discussing the budget in detail and also visiting with House Finance Committee Vice Chairman **Gary Scherer** (R-Circleville). **Register today**! *4/4/2019*

Ohio Taxpayers May Be Missing a Big Deduction Opportunity
April 5, 2019

From OMA Connections Partner Clark Schaefer Hackett: "A surprising number of Ohio taxpayers are missing a golden opportunity to reduce their tax liability using a relatively straightforward deduction.

"The Ohio Business Income Deduction allows taxpayers to deduct from their federal adjusted gross income the first $250,000 of business income earned by single taxpayers or married taxpayers who file jointly. For married taxpayers who file separately, the deduction applies to the first $125,000 of business income."

Read **more about this opportunity**. *4/1/2019*

RSM Reports Middle Market Business Index for Q1
April 5, 2019

From OMA Connections Partner: "The RSM US Middle Market Business Index tumbled in the first quarter to 124.1 from 132. The decline in both current conditions and the expected outlook for the economy and capital expenditures should be interpreted by policymakers as a signal that the "uncertainty tax" generated by the direction of U.S. trade policy and recent volatility in financial markets has spilled over into the real economy.

"While we are not suggesting that an end to the current business cycle—which is approaching the longest-running economic expansion in post-World War II U.S. history—is imminent, but the probability of one has increased due to the uncertainty that lingers in the economy.

"Despite the souring economic outlook and modest deterioration in revenues and profits during the current quarter, middle market businesses expect improvement in the next six months with 62 percent expecting revenues to increase and 60 percent anticipating a rise in net earnings."

Read more and **download the report here**. *4/1/2019*

Beware the Ides of March — If You Own a Pass-Through Entity
March 8, 2019

From OMA Connections Partner, GBQ Partners: "Shakespeare's words don't apply just to Julius Caesar; they also apply to calendar-year partnerships, S corporations and limited liability companies (LLCs) treated as partnerships or S corporations for tax purposes. Why? The Ides of March, more commonly known as March 15, is the federal income tax filing deadline for these "pass-through" entities."

Read **more from GBQ**. *3/5/2019*

New Standard Applies to Private Companies in 2019
February 22, 2019

From OMA Connections Partner GBQ: "While we all have been distracted discussing the implementation of the new accounting standards for leases and revenue recognition, there is another Accounting Standards Update (ASU) sneaking in that is effective for fiscal years beginning after December 15, 2018. The update impacts private companies including not-for-profits and employee benefit plans that hold financial assets or owe financial liabilities."

Read **more from GBQ here**. *2/20/2019*

Lease Accounting FAQs
February 15, 2019

From OMA Connections Partner Clark Schaefer Hackett: "In February 2016, the Financial Accounting Standards Board (FASB) issued new lease accounting standards. These standards change the way leased real estate and equipment are reported by both public and private companies.

"It's estimated that the total impact of this change will result in more than $2 trillion of operating lease commitments reflected as a liability on corporate balance sheets."

Learn **more here**. *2/12/2019*

2019: Tax Opportunities and Challenges for Manufacturers
February 8, 2019

Here is a recent one-hour **recorded webinar** from OMA Connections Partner RSM that explains the potential tax challenges and opportunities in 2019, articulates key tax and business issues facing businesses today, and discusses the latest updates to federal, state and local tax. *2/4/2019*

Court Upholds Constitutionality of Streamlined Muni Income Tax Collections
February 1, 2019

This week the 10th District Court of Appeals **ruled 2-1** that the municipal tax reform provisions of House Bill 49 and House Bill 5 are constitutional. The provisions had been challenged by more than 100 municipalities. The legislation streamlined municipal income tax reporting and collections for businesses across the state. The OMA participated in a coalition that supported the changes.

It has yet to be determined if the municipalities will appeal the ruling to the Supreme Court of Ohio.*1/31/2019*

IRS Provides Final QBI Deduction Regs & Guidance
February 1, 2019

From OMA Connections Partner Clark Schaefer Hackett: "When President Trump signed into law the Tax Cuts and Jobs Act (TCJA) in December 2017, much was made of the dramatic cut in corporate tax rates. But the TCJA also includes a generous deduction for smaller businesses that operate as pass-through entities, with income that is "passed-through" to owners and taxed as individual income.

"The IRS issued proposed regulations for the qualified business income (QBI), or Section 199A, deduction in August 2018. Now, it has released final regulations and additional guidance, just before the first tax season in which taxpayers can claim the deduction. Among other things, the guidance provides clarity on who qualifies for the QBI deduction and how to calculate the deduction amount."

Read **more here**. *1/30/2019*

Withholding Taxes on Payments to Foreign Individuals
January 25, 2019

From OMA Connections Partner GBQ: "As many middle market businesses are forced to adapt to the increasing globalization of the marketplace, they are not always properly equipped to deal with the variety of regulatory and compliance-related issues they will face as their business crosses borders. One prevalent issue is the withholding tax requirement imposed by the U.S. on payments to foreign persons. Two common payment types are payments to foreign individuals for personal services, which include:

- Payments to foreign individuals as independent contractors
- Wages paid to nonresident aliens as employees

"The company making these payments is considered the "withholding agent" and is required to withhold taxes on these amounts and remit the tax to the IRS, similar to the way that taxes are withheld on a U.S. employee's W-2 wages."

More **from GBQ here**. *1/22/2019*

Former State Rep. McClain Appointed Ohio Tax Commissioner
January 11, 2019

Just after the new year, Governor-elect Mike DeWine appointed former State Representative Jeff McClain as the next Ohio Department of Taxation Commissioner.

Most recently, McClain had been serving as director of tax and economic policy for the Ohio Chamber of Commerce. He served in the state legislature for nearly eight years and was the long-serving Wyandot County auditor for 26 years.

While in the legislature McClain chaired the powerful House Ways and Means Committee which oversaw tax policy and legislation in that chamber.

The OMA has worked closely with McClain both as a state representative and in his most current role. We are excited to continue our working relationship as he takes over the Department of Taxation. Congratulations to Jeff and best of luck. *1/10/2019*

Tax Cuts and Jobs Act Impacts 2018 Filing Season
January 11, 2019

Even before the federal government shut-down, there was plenty of complexity going into the 2018 tax-filing season. Here's food-for-thought from OMA Connections Partner RSM:

"The one-year anniversary of the signing of sweeping tax law changes under the law commonly referred to as the Tax Cuts and Jobs Act (TCJA) brings a new challenge, the need for taxpayers, practitioners, and the IRS to implement the most significant changes in over 30 years as they prepare their tax filings. While few would suggest filing taxes as one of their favorite activities, unfortunately, based on a report from the Treasury Inspector General for Tax Administration (TIGTA), the 2019 filing season will likely present additional headaches. Based on the report by TIGTA, the IRS has fallen behind on necessary forms, procedures, and guidance for taxpayers to file their 2018 taxes. The delays in IRS readiness and the complexity of the tax law changes will create challenges for taxpayers and their advisors. At a minimum, taxpayers should be prepared to extend and file their returns later in the year, even if they have previously filed by the March or April 15 deadlines. Taxpayers should consult their tax adviser and make a plan to address the appropriate timing and additional steps necessary to file their 2018 returns."

Here's more from RSM. *1/7/2019*

"Live Telephone Assistance is Not Available at This Time"
January 11, 2019

Here's a **short summary** from OMA Connections Partner Clark Schaefer Hackett (CSH) about tax filing concerns given the federal government shutdown.
According to CSH, regardless of how IRS operations proceed, taxpayers still need to comply with the filing deadlines. Individual taxpayers in every state but Maine and Massachusetts must file by April 15, 2019. *1/10/2019*

HB17 **SURVIVING SPOUSES-HOMESTEAD EXEMPTION** (GINTER T) To allow an enhanced homestead exemption for surviving spouses of public safety personnel killed in the line of duty.

Current Status: 2/19/2019 - House Ways and Means, (First Hearing)
State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-17

HB19 **PINK TAX EXEMPTION** (ANTANI N, KELLY B) To exempt from sales tax the sale of tampons and other feminine hygiene products associated with menstruation.

Current Status: 3/19/2019 - House Ways and Means, (Third Hearing)
State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-19

HB46 **STATE GOVT EXPENDITURE DATABASE** (GREENSPAN D) To require the Treasurer of State to establish the Ohio State Government Expenditure Database.

Current Status: 4/10/2019 - House State and Local Government, (Third Hearing)
State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-46

HB47 **TAX COMPLAINTS-LEGAL ASSISTANCE FOUNDATION** (GREENSPAN D) To increase the time within which property tax complaints must be decided and to change the name of the Ohio Legal Assistance Foundation.

Current Status: 4/2/2019 - House Ways and Means, (Third Hearing)
State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-47

HB54 **LGF TAX REVENUE INCREASE** (CERA J, ROGERS J) To increase the proportion of state tax revenue allocated to the Local Government Fund from 1.66% to 3.53% beginning July 1, 2019.

Current Status: 2/12/2019 - Referred to Committee House Ways and Means
State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-54

HB56 **MINE SAFETY EXCISE TAX** (CERA J) To allocate 3.75% of kilowatt-hour excise tax revenue for mine reclamation, mine drainage abatement, and mine safety.

Current Status: 2/26/2019 - House Energy and Natural Resources, (First Hearing)
State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-56

HB57 **HEATING SOURCES TAX EXEMPTION** (PATTERSON J, CERA J) To exempt certain heating sources from sales taxation and to hold local governments and libraries harmless from the revenue effect.

Current Status: 2/12/2019 - Referred to Committee House Ways and Means
State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-57

HB60 **DIAPER SALES TAX EXEMPTION** (ANTANI N, KELLY B) To exempt from sales and use tax the sale of child and adult diapers.

Current Status: 3/19/2019 - House Ways and Means, (Third Hearing)

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-60

HB62 **TRANSPORTATION BUDGET** (OELSLAGER S) To increase the rate of and modify the distribution of revenue from motor fuel excise taxes, to make appropriations for programs related to transportation and public safety for the biennium beginning July 1, 2019, and ending June 30, 2021, and to provide authorization and conditions for the operation of those programs.

Current Status: 4/3/2019 - **SIGNED BY GOVERNOR**; eff. 90 days, Taxes eff. 7/1/19

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-62

HB75 **PROPERTY VALUE CONTESTS** (MERRIN D) To require local governments that contest property values to formally pass an authorizing resolution for each contest and to notify property owners.

Current Status: 4/9/2019 - House Ways and Means, (Fourth Hearing)

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-75

HB92 **VOTE ON COUNTY SALES TAX** (ANTANI N, SMITH J) To require voter approval of any increase in the rate of a county sales tax.

Current Status: 3/13/2019 - House State and Local Government, (First Hearing)

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-92

HB109 **SAP EXTRACTION TAX BREAK** (PATTERSON J, LATOURETTE S) To authorize a property tax exemption for land used for commercial maple sap extraction.

Current Status: 3/5/2019 - Referred to Committee House Ways and Means

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-109

HB112 **TAX REMITTANCE-BAD DEBTS** (SCHAFFER T) To allow vendors to receive a refund of sales tax remitted for certain bad debts charged off as uncollectible by credit account lenders.

Current Status: 4/9/2019 - House Financial Institutions, (First Hearing)

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-112

HB121 **TAX CREDIT-CLASSROOM MATERIALS** (SCHAFFER T) To allow a credit against the personal income tax for amounts spent by teachers for instructional materials.

Current Status: 3/19/2019 - House Primary and Secondary Education, (First Hearing)

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-121

HB134 **MARCH SALES TAX HOLIDAY** (ANTANI N, WEINSTEIN C) To provide a three-day sales tax "holiday" each March during which sales of qualifying Energy Star products are exempt from sales and use taxes.

Current Status: 3/19/2019 - Referred to Committee House Ways and Means

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-134

HB135 **SALES TAX HOLIDAY EXPANSION** (ANTANI N) To expand the class of products exempt from sales tax if bought during a sales tax holiday.

Current Status: 3/19/2019 - Referred to Committee House Ways and Means

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-135

HB162 **MOTION PICTURE TAX CREDIT** (PATTON T) To increase the overall cap on the motion picture tax credit from $40 million per fiscal year to $100 million per fiscal biennium.

Current Status: 3/26/2019 - Referred to Committee House Finance

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-162

HB166 **OPERATING BUDGET** (OELSLAGER S) To make operating appropriations for the biennium beginning July 1, 2019, and ending June 30, 2021, and to provide authorization and conditions for the operation of state programs.

Current Status: 4/11/2019 - House Finance Higher Education Subcommittee, (Ninth Hearing)

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-166

HB175 **TAX EXEMPTION-GOODS MOVEMENT** (ANTANI N) To exempt from sales and use tax things used primarily to move completed manufactured products or general merchandise.

Current Status: 4/2/2019 - Referred to Committee House Ways and Means

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-175

HB183 **TAX CREDIT-BEGINNING FARMERS** (MANCHESTER S, PATTERSON J) To allow income tax credits for beginning farmers who participate in a financial management program and for businesses that sell or rent agricultural land, livestock, facilities, or equipment to beginning farmers.

Current Status: 4/9/2019 - House Agriculture and Rural Development, (First Hearing)

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-183

HB187 **TAX ISSUES-AUGUST** (MERRIN D, WIGGAM S) To prohibit local tax-related proposals from appearing on an August special election ballot.

Current Status: 4/4/2019 - Introduced

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-187

SB8 **TAX CREDITS-OHIO OPPORTUNITY ZONE** (SCHURING K) To authorize tax credits for investments in an Ohio Opportunity Zone.

Current Status: 4/3/2019 - **PASSED BY SENATE**; Vote 31-0

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-8

SB37 **MOTION PICTURE TAX CREDIT** (SCHURING K) To extend eligibility for and make other changes to the motion picture tax credit.

Current Status: 4/9/2019 - Senate Ways and Means, (Sixth Hearing)

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-37

SB39 **MIXED USE DEVELOPMENT PROJECTS-TAX CREDIT** (SCHURING K) To authorize an insurance premiums tax credit for capital contributions to transformational mixed use development projects.

Current Status: 4/2/2019 - Senate Finance, (Second Hearing)

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-39

SB95 **STATE AND LOCAL TAX INDUCEMENTS** (KUNZE S, PETERSON B) To enhance state and local tax inducements for businesses making substantial fixed asset and employment investments and their suppliers.

Current Status: 3/12/2019 - Referred to Committee Senate Ways and Means

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-95

SB109 **WORKFORCE SCHOLARSHIP PROGRAM** (SCHURING K) To establish the Workforce Scholarship Program, to terminate the provisions of the Scholarship Program on December 31, 2023, to authorize tax credits for graduates of the Scholarship Program and their employers, and to make an appropriation.

Current Status: 3/21/2019 - Referred to Committee Senate Finance

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-109

SB125 **TAX DEDUCTION-529 PLANS** (HOTTINGER J, BRENNER A) To expand the income tax deduction allowed for contributions to Ohio's 529 education savings plans to include contributions to 529 plans established by other states.

Current Status: 4/2/2019 - Introduced

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-125