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

Tax Committee

May 16, 2017

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2017 Tax Committee Calendar

Meetings will begin at 10:00 a.m.

Tuesday, May 16
Wednesday, October 11

OMA Tax Committee Meeting Sponsor:

RSM

OMA Tax Policy Committee

May 16, 2017

AGENDA

Welcome & Self-Introductions:	Shay Music, Chairman The J.M. Smucker Company
Member Presentation	Edgar Lopezlena, RSM US LLP
Guest Speakers	Matt Chafin, Chief Legal Counsel, Ohio Department of Taxation
	Laura Stanley, Legal Counsel, Ohio Department of Taxation
OMA Public Policy Report	Rob Brundrett, OMA Staff
OMA Counsel's Report	Mark Engel, Bricker & Eckler LLP

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:

RSM

Edgar Lopezlena

Mexico Country Desk Leader
Mexican Tax Practice Leader
RSM US LLP
Schaumburg, IL
edgar.lopezlena@rsmus.com
Tel. + 1847 413 6378

Summary of Experience

Edgar Lopezlena is based out of our Schaumburg, IL, office. He leads our Mexican Tax Practice, which specializes in assisting clients in addressing the tax implications of doing business or working in Mexico and other Latin American countries, as well as our Mexico Country Desk, which focuses on providing a seamless service experience for our U.S. Clients with any level of presence in Mexico.

Before joining our firm in December 2005, Edgar, who is a Mexican national, practiced in Mexico City and Monterrey, Mexico, with two other international consulting firms. He has more than 20 years of experience providing tax structuring and planning services for companies (mainly from the U.S. and the European Union) that have any type of economic activity in Mexico. Edgar's native language is Spanish. However, he possesses a full command of the English language and is equipped to identify the potential tax risks and tax-saving opportunities that doing business in Mexico imply. Edgar assists clients in such areas as: initial set-up and structure, implementation of structures that allow for "check-the-box" election for U.S. tax purposes (when applicable), application of maquiladora (IMMEX) and other import/export programs, transfer pricing compliance and maquiladora taxation, minimization of Mexico's mandatory Employee's Profit Sharing, expatriate and impatriate taxation, profit repatriation, corporate reorganizations, and U.S. tax compliance with respect to Mexican operations, advise on FATCA reporting and compliance with respect to Latin America, among others. Over the past five years, Edgar has led the Mexican tax due diligence, structuring and planning aspects of approximately forty transactions involving Mexico.

Professional affiliations

- Mexico's Institute of Certified Public Accountants (Mexico City Chapter)
- Formerly, member of the Institute's International Tax Commission and Tax Research Commission
- RSM US –Mexico Cross Border Committee
- RSM Mexico's Tax Steering Committee
- RSM Latin America's Tax Center of Excellence
- RSM Mexico's Tax Steering Committee
- RSM US FATCA / CRS Services Group (Latin America)
- ALPFA (one of the Nation's leading organizations for Hispanic Financial and Accounting Professionals)

Education

Edgar is a Licensed Public Accountant in Mexico. He attended Universidad Iberoamericana, A.C. (one of the most prestigious private universities in Latin America). Edgar has a Masters in Science of Taxation from DePaul University (Chicago, IL).

Instructor Activity

Edgar taught the course “International Taxation” at another private university in Mexico City. Throughout his career, he has participated as a presenter in multiple Mexican taxation and FATCA events sponsored by universities, professional firms and organizations, and different chambers of commerce. Edgar has presented before audiences in the U.S., Mexico and through Latin America.

Edgar has also authored and co-authored several papers and articles regarding Mexican taxation.

Matthew H. Chafin, Esq. – Chief Legal Counsel

Matt is responsible for the tax legal affairs of the department and management of four legal groups providing legislatively authorized services: Tax Appeals, Appeals Management, Bankruptcy, and Legal Counsels.

Prior to his appointment, Matt was an attorney examiner for the Ohio Board of Tax Appeals for eleven years. Previously, Matt served as an assistant prosecuting attorney for the Franklin County Prosecutor's Attorney, handling various civil matters, representation of elected officials, and representing the Franklin County Board of Revision. Matt has litigated cases before a variety of Courts of Appeals, County Common Pleas Courts, Federal District Court, Ohio Supreme Court, and the Board of Tax Appeals. While in law school Matt was a mediator in the Columbus City Attorney's Office, Night Prosecutor's program. Prior to becoming a member of the Ohio Bar, Matt served as a deputy county auditor and deputy county recorder. Matt graduated from Ohio University with a degree in Communications and earned his J.D. from Capital University Law School.

Laura M. Stanley, Esq.

Legal Counsel – Sales & Use Taxes
Business Tax, Excise & Energy Tax Divisions
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Currently, Laura Stanley is Legal Counsel for sales and use taxes for the Ohio Department of Taxation, within the Business Tax Division. In this position, Laura is responsible for drafting final determinations, legal ruling requests, administrative rules, information releases, and reviewing proposed legislation, as well as advising the Administrators of the Business Tax Division and Commissioner's Office on legal matters. Previously, Laura served as Legal Counsel for various taxes, including the commercial activity and petroleum activity taxes within the Business Tax Division and the excise taxes within the Excise & Energy Tax Division. Prior to becoming Legal Counsel, Laura worked as a Management Analyst Supervisor in the Commercial Activity Tax Division and was instrumental in several projects, including the Voluntary Disclosure Program. Additionally, Laura assisted her predecessor in her capacity as Legal Counsel for the Commercial Activity, Motor Fuel, and Excise Tax Divisions. Laura enjoys the presentation circuit and looks forward to building relationships through interaction with the public. Laura graduated from The University of Akron in Akron, Ohio with a Bachelors of Science in Political Science & Criminal Justice and an Associate of Applied Science in Criminal Justice Technology. Additionally, Laura earned her J.D. from Capital University School of Law in Columbus, Ohio.

OBM

May 10, 2017

MEMORANDUM TO: The Honorable John R. Kasich, Governor
The Honorable Mary Taylor, Lt. Governor

FROM: Timothy S. Keen, Director TK

SUBJECT: Monthly Financial Report

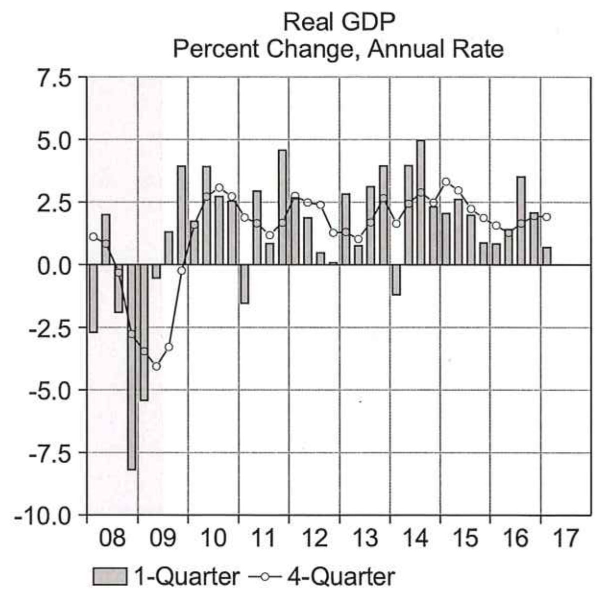
ECONOMIC SUMMARY

Economic Performance Overview

- Economic growth slowed to 0.7% in the first quarter, compared with 2.1% in the fourth quarter and 1.6% for all of 2016. Forecasters project much stronger growth in the second quarter and a trend rate of 2% to 2.5% thereafter.
- U.S. employment increased by 211,000 jobs in April for a year-to-date average of 185,000 jobs per month. The unemployment rate decreased to 4.4%.
- Ohio nonfarm payroll employment decreased by 4,100 jobs in March after a total gain of 19,100 jobs in January and February. The unemployment rate was 5.1%.
- Despite the weak first quarter, leading indicators point toward continued growth at a modest pace, fueled by a healthy household sector, possibly with continued revival in investment.

Economic Growth

Real GDP expanded by 0.7% in the first quarter – the slowest pace for a quarter in three years. Growth was 2.1% in the fourth quarter and 1.6% for all of 2016, which matched the slowest annual growth rate of the current expansion. Compared with a year earlier, real GDP was up by 1.9% in the first quarter. Despite the weak opening quarter performance, the economy is expected by many analysts to expand by more than 3% in the second quarter and then to remain on the 2% growth path of recent years.



Economic growth has averaged 2.1% at an annual rate during the 31 quarters since the beginning of the current expansion. In contrast, growth averaged 3.8% or more during the other three expansions that lasted this long or longer. Slower growth rates in both the labor force and in productivity have contributed to the slower advance in output in this expansion.

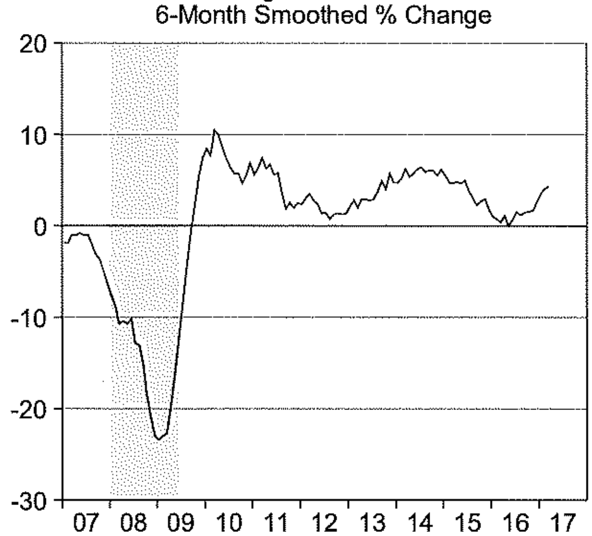
Four factors were responsible for the weakness in the first quarter: consumer spending on motor vehicles decreased after a stretch of strong quarters; consumer spending on services was weak, in part due to the effect of the mild winter on heating bills; defense spending decreased; and businesses pared back inventories.

On the positive side, business investment in structures and equipment increased significantly after a period of weakness. Investment in housing posted double-digit percentage growth for the first time in five quarters and exports rebounded after decreasing in the previous quarter. In addition, final sales to domestic purchasers – a core measure of demand – increased 2.2%. Finally, prices remained under control as the year-over-year change in the core personal consumption deflator was 1.7% for the third straight quarter.

Economic activity grew moderately in and around Ohio during March and early April, according to a survey of businesses by the Federal Reserve Bank of Cleveland. Labor markets continued to strengthen, consumer spending was reported as stable, the outlook of manufacturers improved, freight volume expanded, and commercial builders experienced stronger than usual inquiries and growing backlogs.

Leading economic indicators still point to uninterrupted expansion at least into the fall. The composite **Leading Economic Index,** compiled by the Conference Board, increased by 0.4% in March, following gains of 0.6% in January and 0.5% in February. The smoothed 6-month rate of change in the index increased to 4.3%, up from a recent low of zero in May 2016. Eight of the ten components made positive contributions during March, led by new orders and the interest rate spread.

Leading Economic Index
6-Month Smoothed % Change



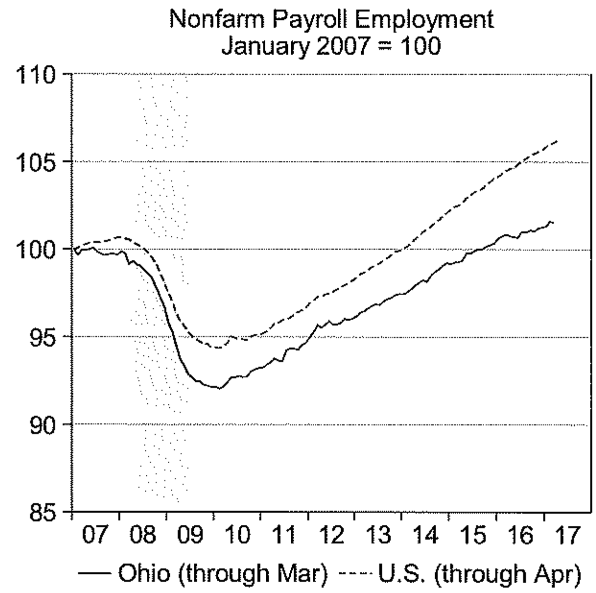
Source: The Conference Board

Initial high-frequency projections of second-quarter real GDP growth were stronger than actual growth in the first quarter. The Federal Reserve Bank of New York projects second-quarter growth of 2.3%, while the Federal Reserve Bank of Atlanta projects growth of 4.2%. The more-stable Blue Chip consensus, which is an average of forecasts from a group of professional forecasters, is 2.7%, with a range of 2.1% to 3.2% from the average of the lowest ten to the highest ten.

Employment

Nonfarm payrolls across the country increased by 211,000 jobs in April, compared with expectations for about a 190,000 increase. The weak March gain was revised lower by 19,000 jobs to 79,000 jobs, and the February gain was revised up by 6,000 jobs. Weather patterns likely suppressed employment in March, and a return to more normal conditions likely boosted the April increase. The average employment increase during the past two months of 145,000 jobs is toward the lower end of the recent range of monthly job gains, but the 4-month average of 185,000 jobs is close to normal. By most accounts, labor markets are back on track.

In the goods producing sectors, U.S. employment was up 10,000 in mining, 5,000 in construction, and 6,000 in manufacturing. Within the service sector, job gains were led by leisure and hospitality (+55,000), where accommodations and food services accounted for most of the gain, and professional and business services (+39,000). Other gains included health care (+37,000), financial activities (+19,000), driven mostly by insurance and related activities, and local government (+17,000), mostly in non-education related areas.



The U.S. **unemployment rate** declined by 0.1 percentage point to 4.4%, reflecting a 156,000 increase in total employment and a 146,000 decline in the number of unemployed. The unemployment rate is the lowest since May 2007. The broadest measure of unemployment, the U-6 unemployment rate, decreased 0.3 percentage points to 8.6% – its lowest level since November 2007. The U-6 unemployment rate includes those who want to work but have stopped looking because they believe they cannot find a job, as well as those working part-time who would prefer full-time work.

Average hourly earnings of all employees on private nonfarm payrolls increased 0.3% to 2.5% above the year earlier level – down from 2.8% in February. Still, the acceleration in wages during the past year indicates that a long-awaited tightening in labor market conditions is unfolding, and is sure to hold the attention of monetary policymakers.

Ohio nonfarm payroll employment decreased by 4,100 jobs in March after rising by 3,100 jobs in January and an upwardly revised 16,000 jobs in February. The only large employment gain in March occurred in education and health services (+6,300). The largest job losses occurred in trade, transportation, and utilities (-6,000), professional and business services (-3,800), and Leisure and hospitality (-2,800).

During the twelve months ending in March, Ohio employment increased by 36,500 jobs. The largest employment gains occurred in education and health services (+19,400), construction (+7,900), manufacturing (+6,500), and financial activities (+5,200). Year-over-year declines occurred in government (-7,700) and professional and business services (-2,000).

In general, over the first three months of 2017, Ohio employment growth in private goods-producing industries has been strong, as 20,000 jobs have been added, however, service-sector employment has declined by 5,000 jobs. This is a trend that bears watching in the coming months.

Ohio Payrolls continued to expand in March and early April, according to the Cleveland survey. Increases were noted in financial services, construction, and manufacturing. The only industry reporting a decline in employment was brick-and-mortar retail, prompted by store downsizing and closing. In general, expectations are for an increase in the pace of hiring this year, as openings for permanent jobs are created. In the meantime, the number of entry-level jobs is rising, and finding qualified candidates is difficult.

Among the **contiguous states**, year-over-year employment growth was strongest in Michigan (+1.9%), followed by Indiana and Kentucky (+1.5%), Pennsylvania (+1.0%), and Ohio (+0.7%). Employment declined in West Virginia (-0.8%). Manufacturing employment increased in Kentucky (3.1%), Indiana (1.7%), Ohio (0.9%), and Michigan (0.6%). It declined in Pennsylvania (-1.2%) and West Virginia (-3.0%).

The **Ohio unemployment rate** was 5.1% in February and March, up from 5.0% in January and the four months prior to that. The rate is up 0.4 points from the cyclical low of 4.7% reached in September 2015. The increase during that period resulted from a larger increase in the Ohio labor force (+91,000) than in total employment (+63,000). The unemployment rate has moved in a narrow range since the end of 2014.

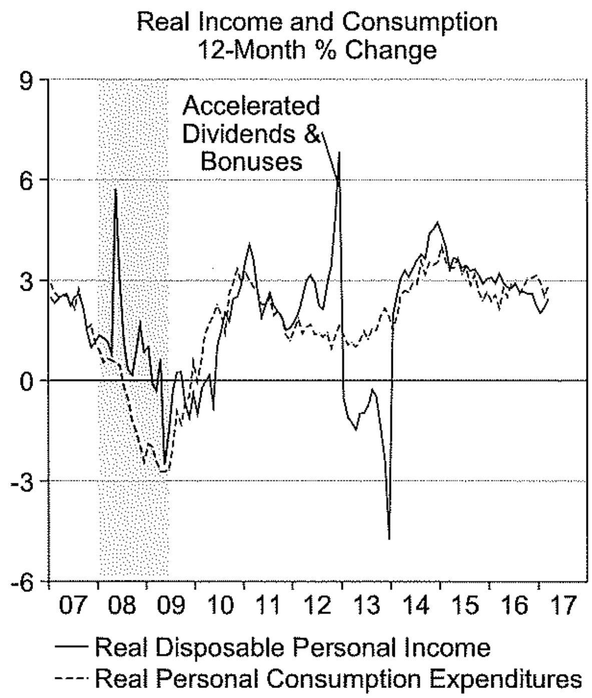
Across the country in March, the unemployment rate decreased by a statistically significant amount in seventeen states, with Illinois (-0.5) experiencing the largest decline. March unemployment rates in other states and the District of Columbia were not statistically different from the month before. When compared to a year earlier, the unemployment rate was lower by a statistically significant margin in eighteen states, with West Virginia, Illinois, and Nevada registering the largest declines.

<u>Consumer Income and Consumption</u>

Personal income growth slowed again in March and personal consumption expenditures were unchanged for the second month in a row. **Personal income** grew 0.2% in March, down from 0.3% in February and 0.4% in January. The wage and salary disbursements component, which makes up more than half of total personal income, slowed to 0.1% growth in March from 0.5% in February and 0.4% in January. Compared with a year earlier, personal income was up 4.5% and wage and salary disbursements were up 5.5%.

The **Consumer Price Index** (CPI) fell by 0.3% in March, mostly due to a 3.2% decrease in energy prices. Excluding prices of food and energy, the CPI was lower by 0.1%. Compared with a year earlier, the CPI was higher by 2.4% and excluding food and energy, the CPI was up 2.0%. The Median CPI from the Federal Reserve Bank of Cleveland, which is an alternative measure of the trend in inflation, continued to track higher at 2.5% year-over-year. The measure of inflation that is most closely watched by the Federal Reserve (personal consumption spending minus food and energy) was 1.8% year-over-year – up from its low, but still below the 2% threshold targeted by the Fed.

Monthly **personal consumption expenditures** were unchanged in March after a downwardly revised no-change in February and a gain of 0.2% in January. Spending on durable goods fell 1.4%, as unit sales of light motor vehicles fell 5.3%, from an annual rate of 17.4 million to 16.5 million. Spending on autos was little changed in April, up 1.8%. Spending on nondurable goods fell 0.3% and spending on services increased 0.4%.



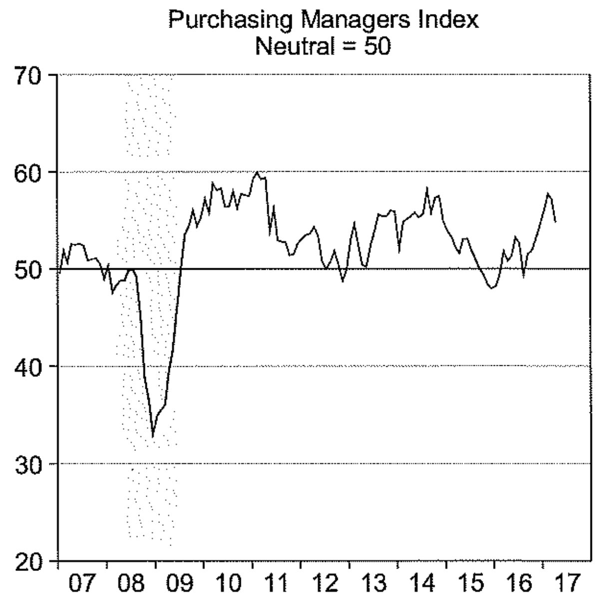
For the quarter, consumer spending increased at an annual rate of 2.7%, but after adjusting for inflation increased only 0.3% after a 3.5% increase in the fourth quarter. The reasons behind the drop-off in growth during the first quarter appear to be temporary – unusually warm weather, a jump in consumer prices, delays in receipt of tax refunds, and timing issues related to strong holiday and auto sales in the fourth quarter. Projections are for an increase in growth to above 3% in the second quarter, reflecting continued income growth, rising net worth, and high levels of consumer confidence.

According to the Cleveland Fed survey, consumer spending has remained stable in and around Ohio, however, retail transactions have continued to migrate from brick-and-mortar stores to the internet. Mall traffic was reportedly down, with impulse buying also on the decline. Pricing power remains limited, prompting cutbacks in inventories and capital investment.

Consumer attitudes remained bright in April following a strong run-up in recent months. The Conference Board measure of **consumer confidence** retreated somewhat, due to retracement of assessments of both current and future conditions. The University of Michigan/Reuters index essentially held its ground in April, sustaining the substantial gains from last October to March.

Manufacturing

Industrial production in manufacturing decreased 0.4% in March, but the abrupt decline likely does not mark the end of the recent revival in activity in the sector. About one-half of the decline reflected a cutback in production of motor vehicles and parts, which was down by 3.0%, to address rising inventories. The other half of the decline also occurred among durable goods, but is anticipated to recover as soon as May. Production of non-durable goods increased by 0.1%. Compared with a year earlier, manufacturing production was up by 0.8%.



Production across some industries of special importance to Ohio decreased in March after promising gains in February. Production in primary metals, fabricated metal products, machinery, and motor vehicles and parts fell by 1.3%, 0.5%, 0.5%, and 3.0%, respectively. Production in all four industries was higher when compared with a year earlier.

Reports of improving conditions from **purchasing managers** in manufacturing were broad-based in April, but not as much as in March. The PMI® declined 2.4 points to 54.8, but importantly remained well above the neutral level of 50 for the eighth straight month. The primary source of weakness was the 7.0-point decline in the New Orders index to a still-high 57.5. The Production index marginally increased by 1.0 point to 58.6. The Employment index declined by 6.9 points, but at 52.0 remained above neutral for the seventh straight month.

Of the eighteen industries tracked by the Manufacturing ISM® *Report on Business*, sixteen reported growth in the latest month. Among the industries with a disproportionate effect on Ohio manufacturing employment, all of them – primary metals, machinery, fabricated metal products, and transportation equipment – reported expansion again in April. One respondent in the transportation equipment industry noted strength in military and government spending, with commercial business flat to slightly down. A survey participant in the fabricated metal products industry reported that "Business is definitely improving. Profit margins are increasing."

According to the Cleveland Fed survey, the sentiment among manufacturers in and around Ohio has improved in recent months, although, there remains an undercurrent of caution. Fueling the positive assessments have been slow improvement in economic conditions abroad, the partial recovery in commodity prices, and anticipation of regulatory and tax relief. Still, the strong dollar was reported as restraining growth, along with uncertainty regarding trade policy. Even so, manufacturers in the area appear more confident as indicated by expanding capital budgets, especially for long-delayed maintenance and purchases of new equipment.

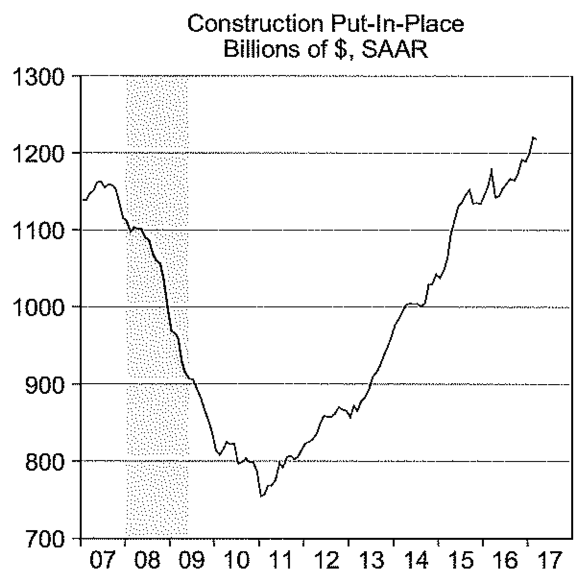
Construction

Construction put-in-place decreased 0.2% in March, although February was revised up from 0.8% to 1.8% and January was revised up from -0.1% to 0.8%. All of the March decline occurred in the public sector, as activity in the private sector was flat. Compared with a year earlier, total construction was up 3.6%, reflecting a 7.0% year-over-year increase in private construction and a 6.5% decrease in public construction.

The weakness in **private** construction in March resulted from a 1.2% rise in residential construction that was essentially offset by a 1.3% decline in nonresidential construction. The sixth monthly gain in a row in single-family construction (+0.3%), and the third in a row in multi-family construction (+2.0%), combined with an increase in improvements (+2.2%) to increase overall residential construction.

Public construction put-in-place fell 0.9%, the fourth decline in the last five months. Residential has followed the same pattern, falling 1.3% in March. Nonresidential decreased 0.9%, reflecting decreases in education, transportation, and sewage and waste disposal.

Weakness in private nonresidential construction was concentrated in commercial, office, and education, with only modest gains in health care and manufacturing. Nonresidential contractors in and around Ohio reported rising optimism, according to the Cleveland Fed survey. Inquiries have been unseasonably strong and backlogs have been strengthening. Demand has been the strongest for public infrastructure projects, commercial buildings, and warehousing and distribution facilities. Demand for retail-related projects was reported to have dimished significantly.



Housing starts decreased 1.6% in March on a 3-month moving average basis, as a 5.4% drop in multi-family more than offset a 0.5% increase in single-family. Total starts fell by 11.4% across the Midwest, following a 4.5% decline in February that reflected a 5.4% decline in single-family and a 25.5% decline in multi-family. Compared with a year earlier, starts were 8.8% higher across the country and 3.2% higher in the Midwest on a 3-month moving average basis.

Changes in **home sales** were generally positive in March. Existing home sales increased 1.2% across the country and were flat in the Midwest on a 3-month moving average basis. New home sales were stronger, rising 4.1% nationally and 8.5% across the Midwest. According to the Cleveland Fed survey, homebuilders in and around Ohio noted that rising interest rates and list prices have been motivating potential buyers to "move off the fence." The strongest demand has been evident in the first-time and move-up segments, with sales of high-end homes remaining slow.

Home prices across the country posted their 61st consecutive monthly increase in February to a new all-time high, according to the Case-Shiller index. The National index increased 0.4% to 5.7% above the year earlier level. After falling by 26.0% from February 2007 to January 2012, home prices through February had increased 38.0% to 2.1% above the prior peak.

REVENUES

NOTE: The revenue tables in this report contain OBM's July 2016 revised estimates of fiscal year 2017 tax revenues, non-tax revenues, and transfers. These revisions incorporate both changes to the baseline and law changes enacted since January 2016. The revenue tables do not reflect the revised fiscal year 2017 estimates contained in the Executive Budget for fiscal years 2018-2019. Please see the February 2017 issue of this report for additional information.

April **GRF receipts totaled $2.682.0 million** and were $182.6 million (6.4%) below the estimate. Monthly tax receipts totaled $1,881.6 million and were $159.1 million (7.8%) below the estimate, while non-tax receipts totaled $796.3 million and were $17.7 million (2.2%) below the estimate. Actual transfers to the GRF were $4.0 million in April, or $5.8 million below the estimate.

The overall shortfall in GRF tax receipts was essentially due, once again, to shortfalls in the income tax and the non-auto sales tax. The largest negative was the income tax, which finished $106.7 million (12.0%) below estimate. Refunds were again the major culprit, finishing $82.0 million (20.4%) above the estimate. This was the fourth month in a row – every month of the filing season so far – that refunds were at least $73 million above estimate. Annual payments, including annual withholding, were below estimate, contributing to the income tax shortfall. Second, the sales tax was $47.6 million (4.9%) below estimate, with $44.5 million of the shortfall coming in the non-auto portion of the tax.

As is generally the case, the variance in non-tax receipts was due to federal grants. Federal grants were $21.6 million (2.7%) below estimate, while all other non-tax receipts were $3.9 million above estimate. The federal grant variance was larger than expected given that Medicaid spending was only $1.1 million below estimate in April. This may be attributable to the timing of payments and the coding of expenditures, as explained in more detail below.

For the fiscal year, GRF receipts were $1,412.4 million (4.8%) below estimate. More than half of the overall variance is from tax receipts, which were $773.7 million (4.2%) below estimate. A little less than three-fourths of the tax shortfall is from the income tax. Federal grants are now $708.6 million (6.7%) below estimate, due primarily to Medicaid spending being $872.6 million (5.7%) below estimate. Finally, transfers were above estimate by $55.3 million, mostly due to the January overage discussed in the February issue of this report.

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	($773.7 million)	-4.2%
Non-tax receipts	Federal grants, earnings on investments, licenses & fees, other income, intrastate transfers	($693.9 million)	-6.5%
Transfers	Budget stabilization, liquor transfers, capital reserve, other	$55.3 million	132.8%
TOTAL REVENUE VARIANCE:		**($1.412.4 million)**	**-4.8%**
Non-federal revenue variance		**($703.8 million)**	**-3.8%**
Federal grants variance		**($708.6 million)**	**-6.7%**

On a year-over-year basis, monthly receipts were $146.0 million (5.2%) below April from last year. Tax revenues increased by $67.3 million (3.7%), but federal grants fell by $220.4 million (22.0%) – GRF Medicaid spending fell by 23.0%. Although it may seem incongruous, the income tax was responsible for the increase in tax collections from last April. Income tax collections increased by $64.6 million (9.0%) from a year ago, but they fell far short of the estimate because the monthly estimates assumed that refunds would fall sharply from a year ago, for reasons described at further length in the Personal Income Tax section.

For the fiscal year, tax revenues have fallen by $65.3 million (0.4%) from a year ago. As has been the case throughout the first ten months of the fiscal year, the income tax is responsible for far more than that entire decline, dropping by $183.8 million (2.9%). The decline in income tax revenues was partly anticipated. Quarterly estimated payments alone have declined by $206.3 million (25.5%), but they were actually over estimate as the anticipated decline was even larger. However, by this point in the year, the fiscal year 2017 income tax forecasts, made back in July, anticipated that the drop in estimated payments would be offset by a decline in refunds in the second-half of the fiscal year. Through April, however, that decline in refunds had not been seen. Refunds in the January-April period were $38 million larger than last year. It now seems unlikely that income tax collections will finish fiscal year 2017 above fiscal year 2016's level. Even if income tax collections equal the estimates in May and June, collections for all of fiscal year 2017 will fall 1.2% below fiscal year 2016 collections.

On the non-tax side, federal grants have fallen for the year by $508.4 million (4.9%). This decline is somewhat larger than expected given that GRF Medicaid spending has declined by $600.1 million (4.0%) from last year.

GRF Revenue Sources Relative to Monthly Estimates – April 2017
($ in millions)

Individual Revenue Sources Above Estimate		Individual Revenue Sources Below Estimate	
Commercial Activity Tax	$6.1	Personal Income Tax	($106.7)
Investment Earnings	$4.6	Non-Auto Sales and Use Tax	($44.5)
Domestic Insurance Tax	$1.0	Federal Grants	($21.6)
Other Sources Above Estimate	$0.8	Financial Institutions Tax	($6.3)
		Transfers In	($5.8)
		Other Sources Below Estimate	($10.2)
Total above	**$12.5**	**Total below**	**($195.1)**

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

Non-Auto Sales and Use Tax

April non-auto sales and use tax collections totaled $791.7 million and were $44.5 million (5.3%) below estimate. Although retail price deflation is finally easing, low retail sales experienced nationwide are affecting collections. Brick and mortar stores are particularly underperforming, and a number of store closings of national chains have been announced this year.

OBM's revised executive budget estimates for fiscal year 2017 assume that by year's end the shortfall with respect to the July estimates will grow to about $199 million, or 2.1%. After a second straight month of significant underperformance, year-to-date collections were $202 million (2.6%) under estimate. Furthermore, April's weak collections growth of 0.3%, following March's decline of 0.5%, have pulled year-over-year growth down to 1.9%. At the end of February, growth had stood at 2.3%.

Auto Sales Tax

Auto sales tax collections totaled $121.6 million in April and were $3.1 million (2.5%) below estimate. Despite a second consecutive month of underperformance, collections were still $12.4 million over estimate for the first four months of the calendar year. Auto sales tax collections tend to align with national trends in the auto industry. Following a period of record sales, light vehicle sales were either plateauing or experiencing a mild decline despite automakers offering higher incentives. New light vehicle sales were finally falling after a particularly strong run. The most up-to-date estimate for April shows a seasonally adjusted annualized sales rate of 16.9 million units. This data indicates that collections in May could fall slightly below estimate.

OBM's revised executive budget estimates for fiscal year 2017 assume that by year's end the shortfall will grow to about $60 million, or 4.3%. Since the year-to-date shortfall with only two months remaining is only $6.0 million (0.5%), it now looks likely that collections will outperform the revised estimate.

Year-to-date growth in the auto sales tax is $27.3 million (2.5%). Even with some slippage in the last two months, it seems likely that fiscal year 2017 collections will end the year above last year's level.

Personal Income Tax

April GRF personal income tax receipts totaled $781.9 million and were $106.7 million (12.0%) below the estimate. As expected given how the fiscal year has gone, refunds drove the April shortfall. Annual payments, including annual withholding – which is not withholding in the usual sense – also contributed to the shortfall. Ordinary withholding was actually above the estimate.

Refunds were once again far above estimate in April, the fourth consecutive large overage. Refunds were $82.0 million above estimate in April, following overages of $72.9 million in January, $78.1 million in February, and $76.6 million in March. Refunds posted a small decline from last year in April ($12.4 million), just as they had in February and March, but just as was the case in those months, the decline was not nearly as large as the estimate had anticipated.

The monthly estimates assumed much lower refunds in fiscal year 2017 than in the same months of fiscal year 2016 for the following reasons.

(1) the new reduced withholding rates that accompanied the H.B. 64 tax rate cuts were in place for all of tax year 2016, whereas they were in place for only the last five months of tax year 2015;
(2) Tax year 2016 income tax rates were equal to those from tax year 2015, so that estimated payments should have been made on the correct rate basis all year in tax year 2016, unlike tax year 2015;
(3) Declines in estimated payments throughout the year suggested that taxpayers had begun to take the small business deduction into account while making those payments, rather than overpaying on their estimated payments and then claiming large refunds afterward, as seemed to have been the case starting with tax year 2013, the year the deduction was first enacted.

Even though the fiscal year 2017 estimates reduced refunds relative to fiscal year 2016 for these reasons, fiscal year 2017 estimated refunds were still somewhat higher as a percentage of withholding than in an average year due to the fact that the small business deduction increased to 100% in tax year 2016. In reality, refunds as a percentage of withholding are running far ahead of what they would be in an average year.

Ordinary withholding was $9.4 million (1.4%) above estimate in March. Ordinary withholding is now $183.1 million (2.6%) below estimate for the year. This represents slight improvement from the first nine months, where the underperformance was consistently between 3.0% and 3.6% for seven of those nine months.

Annual return payments were $28.3 million (5.7%) below estimate in April. The only surprise is that the shortfall was relatively small compared to the overage in refunds. Annual withholding, which is really a form of annual payment from the non-resident owners of Ohio businesses, was also $16.2 million below estimate in April.

For the year, GRF income tax collections were $554.4 million (8.1%) below estimate. The year-to-date variance is due to a combination of withholding and refunds. Withholding, including annual withholding, is $199.0 million (2.8%) below estimate, and refunds were $353.5 million (24.3%) above estimate. All other payments were a combined $13.9 million above estimate, and distributions to the Local Government Fund were $12.0 million below estimate (which adds to the net GRF amount).

FY2017 PERSONAL INCOME TAX RECEIPTS BY COMPONENT ($ in millions)						
	Estimate April	Actual April	$ Var April	Actual April 2017	Actual April 2016	$ Var Y-0ver-Y
Withholding	$712.7	$705.9	($6.8)	$705.9	$700.1	$5.8
Quarterly Est.	$78.9	$83.9	$5.0	$83.9	$85.3	($1.4)
Trust Payments	$21.1	$24.1	$3.0	$24.1	$7.8	$16.3
Annual Returns & 40 P	$493.4	$465.1	($28.3)	$465.1	$430.4	$34.7
Other	$13.3	$11.9	($1.4)	$11.9	$16.2	($4.3)
Less: Refunds	($402.4)	($484.4)	($82.0)	($484.4)	($496.8)	$12.4
Local Distr.	($28.4)	($24.6)	$3.8	($24.6)	($25.8)	$1.2
Net to GRF	$888.6	$781.9	($106.7)	$781.9	$717.2	$64.7

OBM's January executive budget estimates for fiscal year 2017 assumed that collections would end the year about $334 million below the original estimate. Given that collections at the end of April were already $554 million below the original estimate, it is clear that the shortfall will far exceed the executive budget estimate.

On a year-over-year basis, April personal income tax receipts were $64.6 million (9.0%) above April 2016 collections. For the year-to-date, income tax collections were still $183.8 million (2.9%) below fiscal year 2016 collections. The main culprits in the year-to-date decline were the large, but anticipated, decline in quarterly estimated payments and the unanticipated increase in refunds. In addition, although withholding (non-annual) is not one of the categories of payment that have declined from last year, the fact that collections have grown by only $109.1 million (1.6%) has contributed to the decline in overall income tax revenues.

Financial Institutions Tax

Financial institutions tax collections were $6.3 million (19.1%) below estimate in April. The April shortfall brought year-to-date collections down to $32.5 million (19.7%) below the estimate. Net collections have now declined by $27.4 million (17.1%) from last year, whereas they were expected to have grown slightly.

Part of both the shortfall and the year-to-year decline were due to an unanticipated increase in tax credits. Through the first three quarters of fiscal year 2017, tax credits claimed against the FIT have increased by $15.7 million from the prior year. The growth in credits is responsible for over half the decline in net collections.

GRF Non-Tax Receipts

GRF non-tax receipts totaled $796.4 million in April and were $17.7 million (2.2%) below the estimate. License and fee income was close to the estimate. Investment earnings were $4.6 million above the estimate, and are now $11.4 million above estimate for the year. As usual, almost all the monthly variance was due to federal grants, which were $21.6 million (2.7%) below the estimate.

For the year, federal grants were $708.6 million (6.7%) below the estimate. All other non-tax revenues were $14.6 million above estimate. For the year, the federal grants variance is about a percentage point higher than GRF Medicaid underspending (6.7% vs. 5.7%). It is now expected that by year's end, federal grant revenues will be somewhat below the estimated federal share of Medicaid underspending, with the gap being roughly in the $50 million range, but not as large as the current 1% gap relative to the spending variance. One of the reasons for the expected year-end variance is that prior year federal grants were found, after the fact, to have been slightly larger than they should have been, and the federal government has recaptured those overpayments in fiscal year 2017.

Transfers in for the year were $55.3 million above estimate, due largely to the timing of transfers from three funds to the GRF in January. These transfers were initially expected to occur in June.

DISBURSEMENTS

April GRF disbursements, across all uses, totaled $2,518.6 million and were $289.7 million (10.3%) below estimate. This was primarily attributable to lower than estimated disbursements in the Property Tax Reimbursements, Debt Service, and Health and Human services categories. On a year-over-year basis, April total uses were $797.0 million (24.0%) lower than those of the same month in the previous fiscal year, with the Medicaid, Property Tax Reimbursements, and Primary and Secondary Education categories largely responsible for the decrease. Year-to-date variances from estimate by category are provided in the table below.

Category	Description	YTD Variance	% Variance
Expenditures and transfers between agencies (ISTVs)	State agency operations, subsidies, tax relief, debt service payments, and pending payroll (if applicable)	($1,169.7 million)	-3.8%
Transfers	Temporary or permanent transfers out of the GRF that are not agency expenditures	($32.1 million)	-10.1%
TOTAL DISBURSEMENTS VARIANCE:		**($1,201.8 million)**	**-3.9%**

GRF disbursements are reported according to functional categories. This section contains information describing GRF spending and variances within each of these categories.

Primary and Secondary Education

This category contains GRF spending by the Ohio Department of Education. April disbursements for this category totaled $663.0 million and were $9.7 million (1.5%) above estimate. This variance was primarily attributable to above estimate spending in the student assessment, report cards, and foundation funding line items. Disbursements in the student assessment line item were above estimate due to test vendor payments occurring in April instead of May. Disbursements in the accountability and report cards line item were above estimate due to payments to the report card vendor being disbursed in April instead of later months. Disbursements were also above estimate in the foundation funding line item due to higher than expected Edchoice payments. This variance was partially offset by below estimate disbursements in the pupil transportation line item due to formula obligations for transportation being under appropriation limits. Expenditures for the school foundation program totaled $609.3 million and were $2.2 million (0.4%) above estimate.

Year-to-date disbursements for the Primary and Secondary education category were $6,956.5 million, which was $9.6 million (0.1%) above estimate. On a year-over-year basis, disbursements in this category were $219.7 million (24.9%) lower than for the same month in the previous fiscal year while year-to-date expenditures were $290.0 million (4.4%) higher than the same point in fiscal year 2016. This year-over-year variance is primarily attributable to increased payments to school districts under the foundation funding formula.

Higher Education

April disbursements for the Higher Education category, which includes non-debt service GRF spending by the Department of Higher Education, totaled $185.8 million and were $1.4 million (0.8%) above estimate. This variance was primarily attributable to disbursements for the Ohio College Opportunity Grant (OCOG), which were above the monthly estimate by $1.3 million due to higher than expected requests for reimbursement from higher education institutions.

Year-to-date disbursements were $1,919.0 million, which was $9.8 million (0.5%) below estimate. On a year-over-year basis, disbursements in this category were $6.3 million (3.5%) higher than for the same month in the previous fiscal year while year-to-date expenditures were $62.9 million (3.4%) higher than at the same point in fiscal year 2016.

Other Education

This category includes non-debt service GRF expenditures made by the Broadcast Education Media Commission, the Ohio Facilities Construction Commission, the Ohio State School for the Blind, the Ohio School for the Deaf, as well as disbursements made to libraries, cultural, and arts organizations.

April disbursements in this category totaled $3.7 million and were $3.3 million (46.7%) below estimate. This variance was primarily attributable to the timing of $3.3 million in subsidy payments to the Ohio History Connection, which occurred in March instead of April as estimated. Year-to-date disbursements were $65.9 million, which was $2.3 million (3.3%) below estimate. On a year-over-year basis, disbursements in this category were $0.5 million (16.0%) higher than for the same month in the previous fiscal year while year-to-date expenditures were $3.8 million (6.2%) higher than at the same point in fiscal year 2016.

Medicaid

This category includes all Medicaid spending on services and program support by the following six agencies: the Department of Medicaid, the Department of Mental Health and Addiction Services, the Department of Developmental Disabilities, the Department of Health, the Department of Job and Family Services, and the Department of Aging.

<u>Expenditures</u>
April GRF disbursements for the Medicaid Program totaled $1,106.3 million and were $1.1 million (0.1%) below estimate, and $329.8 million (23.0%) below disbursements for the same month in the previous fiscal year. This variance from the same month in the previous fiscal year is due to the timing of the use of non-GRF funds for paying program expenses, which in the fourth quarter of fiscal year 2016 did not occur until June. Year-to-date GRF disbursements totaled $14,503.4 million and were $872.6 million (5.7%) below estimate, and $600.1 million (4.0%) below disbursements for the same point in the previous fiscal year.

April all funds disbursements for the Medicaid Program totaled $2,093.0 million and were $55.3 million (2.6%) below estimate, and $186.3 million (9.8%) above disbursements for the same month in the previous fiscal year. Year-to-date all funds disbursements totaled $21,193.2 million and were $1,283.1 million (5.7%) below estimate, and $1,075.6 million (5.3%) above disbursements for the same point in the previous fiscal year.

The April all funds variance is primarily attributable to lower than budgeted monthly capitation rates in the managed care program. Fee-for-service program costs were also below estimate in April due to enrollment in this program being 3.9% below estimate for the month. Underspending also took place in program administration. These savings are partially offset by greater than anticipated spending in the premium assistance program, due to higher rates for the Medicare Buy-In and Medicare Part D components.

The year-to-date all funds variance included underspending in the managed care program due to lower than budgeted monthly capitation rates. Fee-for-service program costs were also below estimate due to enrollment being below estimate by an average of 3.2% per month for the fiscal year to date. Below estimate fee-for-service enrollment also caused hospital and hospital-based physician upper payment limit (UPL) expenses to be below estimate the inpatient hospital component to which these expenses are closely linked. The UPL program provides additional payments to hospitals and hospital-based physicians for allowable costs that are not fully covered by Medicaid payments; the combination of Medicaid payments and UPL payments may not exceed the amount that the Medicare program would have paid for such services (i.e. the upper payment limit). Finally, lower program administration costs are the result of lower costs for information technology projects, volume-based service contracts, and reimbursement requests from county departments of job and family services. This underspending was partially offset by higher rates paid by the premium assistance program described above.

The chart below shows the current month's disbursement variance by funding source.

(in millions, totals may not add due to rounding)

	April Actual	April Projection	Variance	Variance %
GRF	$ 1,106.3	$ 1,107.4	$ (1.1)	-0.1%
Non-GRF	$ 986.8	$ 1,040.9	$ (54.2)	-5.2%
All Funds	$ 2,093.0	$ 2,148.3	$ (55.3)	-2.6%

Enrollment

Total April enrollment across all categories was 3.10 million. The most significant components are the Covered Families and Children/Modified Adjusted Gross Income (CFC/MAGI) category, which decreased by 7,263 persons to an April total of 2.51 million persons, and the Aged, Blind and Disabled (ABD) category, which increased by 6,204 persons to an April total of 437,838 covered lives.

Total enrollment across all categories for the same period last year was 3.04 million covered persons, including 2.51 million persons in the CFC/MAGI category and 372,225 people in the ABD category.

Please note that these data are subject to revision.

Health and Human Services

This category includes non-debt service GRF expenditures by the following state agencies: Job and Family Services, Health, Aging, Developmental Disabilities, Mental Health and Addiction Services, and others. Examples of expenditures in this category include: child care, TANF, administration of the state's psychiatric hospitals, operating subsidies to county boards of developmental disabilities, various immunization programs, and Ohio's long term care ombudsman program. To the extent that these agencies spend GRF to support Medicaid services, that spending is reflected in the Medicaid category.

April disbursements in this category totaled $124.2 million and were $15.9 million (11.3%) below estimate. Year-to-date disbursements were $1,165.5 million, which was $68.6 million (5.6%) below estimate. On a year-over-year basis, disbursements in this category were $12.4 million (11.1%) higher than for the same month in the previous fiscal year while year-to-date expenditures were $28.8 million (2.5%) higher than at the same point in fiscal year 2016.

Department of Job and Family Services

April disbursements for the Department of Job and Family Services totaled $69.3 million and were $3.4 million (5.3%) above estimate. This variance was primarily attributable to higher than estimated disbursements for Unemployment Insurance Administration, which were $1.8 million above estimate due to a delay in receipt of federal funds, and disbursements for the Children and Families Subsidy, which were $1.6 million above estimate due to higher than estimated disbursements for the State Child Protective Allocation (SPCA).

Department of Mental Health and Addiction Services

April disbursements for the Department of Mental Health and Addiction Services totaled $27.0 million and were $18.9 million (41.2%) below estimate. This variance was partially attributable to Hospital Services disbursements being $2.2 million (12.6%) below estimate as a drug purchase originally planned for April will be made in later months instead. Additionally, Continuum of Care disbursements were $17.6 million (99.4%) below estimate and Criminal Justice Services disbursements were $2.8 million (96.3%) below estimate as subsidy payments originally scheduled for April will be made in May instead. These variances were partially offset by higher than estimated disbursements for the Addiction Services Partnership with Corrections, which were $3.8 million (76.7%) above estimate as payments originally planned for earlier months were made in April.

Department of Developmental Disabilities

April disbursements for the Department of Developmental Disabilities totaled $17.9 million and were $0.3 million (1.6%) below estimate. This variance was attributable to Employment First Initiative disbursements being $1.0 million (260.1%) above estimate as a change in an interagency agreement with Opportunities for Ohioans with Disabilities Agency led to higher than estimated payments in April.

Department of Health
April disbursements for the Department of Health totaled $5.5 million and were $1.1 million (16.3%) below estimate. This variance is attributable to below estimate spending in several line items, notably the Help Me Grow home visiting program, which was $0.8 million (45.1%) below estimate due to the timing of monthly payments, and the local health departments line item, which was $0.8 million (100%) below estimate due to the timing of a one-time subsidy payment that was scheduled to occur in April but will instead occur in May. These and other negative variances were partially offset by higher than estimated spending in the FQHC Primary Care Workforce Initiative program, which was $1.2 million (100%) above estimate, as some payments originally scheduled for February and May were disbursed in April instead.

Justice and Public Protection

This category includes non-debt service GRF expenditures by the Department of Rehabilitation & Correction, the Department of Youth Services, the Attorney General, judicial agencies, and other justice-related entities.

April disbursements in this category totaled $189.2 million and were $8.6 million (4.3%) below estimate. Year-to-date disbursements were $1,766.6 million, which was $31.9 million (1.8%) below estimate. On a year-over-year basis, disbursements in this category were $20.1 million (11.9%) higher than for the same month in the previous fiscal year while year-to-date expenditures were $57.2 million (3.3%) higher than at the same point in fiscal year 2016.

Department of Rehabilitation and Correction
April disbursements for the Department of Rehabilitation and Correction totaled $151.3 million and were $12.2 million (7.5%) below estimate. This variance was primarily attributable to lower than estimated disbursements for Institutional Operations and Halfway Houses due to the timing of payments.

Department of Youth Services
April disbursements for the Department of Youth Services totaled $12.9 million and were $2.2 million (14.4%) below estimate. This variance was primarily attributable to the timing of Community Correctional Facility payments, some of which occurred in March instead of April as estimated.

General Government

This category includes non-debt service GRF expenditures by the Department of Natural Resources, Development Services Agency, Department of Agriculture, Department of Taxation, Office of Budget and Management, non-judicial statewide elected officials, legislative agencies, and others.

April disbursements in this category totaled $31.8 million and were $2.2 million (6.5%) below estimate. Year-to-date disbursements were $317.7 million, which was $18.2 million (5.4%) below estimate. On a year-over-year basis, disbursements in this category were $2.6 million (7.7%) lower than for the same month in the previous fiscal year while year-to-date expenditures were $13.4 million (4.4%) higher than at the same point in fiscal year 2016.

Property Tax Reimbursements

Payments from the property tax reimbursement category are made to local governments and school districts to reimburse these entities for revenues foregone as a result of the 10.0 percent and 2.5 percent rollback, as well as the homestead exemption. April property tax reimbursements totaled $156.9 million and were $234.8 million (59.9%) below estimate. Year-to-date disbursements totaled $1,292.4 million and were $143.9 million (10.0%) below estimate. The monthly and year-to-date variances are due to reimbursement requests being received from counties later than anticipated. Aggregate disbursements for the second-half of the fiscal year are expected to be modestly below estimate, driven primarily by declines in the homestead exemption program.

Debt Service

April payments for debt service totaled $57.7 million and were $16.1 million (21.8%) below estimate. Year-to-date debt service payments were $1,276.1 million and were $32.0 million (2.4%) below estimate. The monthly and year-to-date variances are primarily attributable to the use of unspent bond proceeds in the site development program to offset debt service and lower than estimated interest rates on recent bond issuances.

Transfers Out

April transfers out totaled $0.04 million and were $18.8 million (99.8%) below estimate. Year-to-date transfers out were $285.8 million and were $32.1 million (10.1%) below estimate. The monthly and year-to-date variances are primarily attributable to the timing of transfers out to the Medicaid Managed Care Performance Payments Fund.

THE POWER OF BEING UNDERSTOOD

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U.S. TAX REFORM – FOCUS ON MEXICO

May 2017

U.S. Tax Reform – Focus on Mexico

Agenda

Item
Brief introduction
Repatriation Tax
Border Adjustment Tax
Effects in Mexico
Q&A

U.S. Tax Reform – Focus on Mexico

Introduction

- During his Campaign, Donald Trump and the GOP announced significant changes in tax legislation
- Two Proposals have been made public:
  - President Trump's Proposal
  - "Better Way Tax Proposal" (BWP)
- Both present similarities, but also differences
- To date, no package has been formally submitted to Congress, and both Proposals need more clarity and definition

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U.S. Tax Reform – Focus on Mexico

Introduction

- The Proposals share similar objectives:
  - Reduce tax burden for U.S. taxpayers
  - Promote the repatriation of earnings stationed outside the U.S.
  - Promote the creation of U.S. manufacturing jobs

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U.S. Tax Reform – Focus on Mexico

Introduction

- Proposed individual rates (Relevant for pass-through entities)

LI (US$)	LS (US$)	CF (US$)	% S/ LI
0	75,000	???	12%
75,000	225,000	???	25%
225,000	……..	???	33%

- Proposed Corporations rates
  - Trump → Flat rate of 15%
  - BWP → Flat rate of 20%

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U.S. Tax Reform – Focus on Mexico

Repatriation Tax

- Eliminate deferral of U.S. taxation on foreign earnings
- In a corporate tax environment, revenue in the U.S. is generally recognized until there is a distribution of foreign earnings, thus deferring the U.S. tax
  - Current “Supart-F Income” eliminates deferral, to a certain extent
- Repatriation tax seeks to effectively eliminate deferral of U.S. tax on foreign earnings – One time tax
  - Trump and BWT Proposals differ on their approach

U.S. Tax Reform – Focus on Mexico

Repatriation Tax

- Tax on foreign earnings
  - Trump →
    - Flat tax of 10% on net foreign earnings
    - Payable in the year when net foreign earnings are obtained
  - BWP →
    - Flat tax of 8.5% on net foreign earnings supported by cash and other liquid assets (???)
    - Flat tax of 3.5% on net foreign earnings supported by other assets (???)
    - Payable in eight consecutive years (interest ???)

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U.S. Tax Reform – Focus in Mexico

Effects in Mexico

- Repatriation Tax
  - Relatively low repatriation tax rates (10% / 8%)
  - Comparatively, Mexico has a higher corporate income tax rate (flat 30%)
  - Mexico now imposes a 10% withholding on distributions under certain conditions
    - Qualifying taxpayers may reduce the rate to 10% under Treaty provisions
  - Unclear whether a foreign tax credit will be allowed against the proposed Repatriation Tax

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U.S. Tax Reform – Focus on Mexico

Repatriation Tax – Effects in Mexico

	Trump	BWP
Basis	1,000,000	1,000,000
Mexican CIT (30% flat rate)	30%	30%
Mexican CIT	300,000	300,000
Mexican additional 10% withholding tax on profit distributions	100,000	100,000
Total Mexican tax	400,000	400,000
U.S. Repatriation Tax	10%	8%
	40,000	32,000
Global tax on Mexican earnings	400,000	400,000

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U.S. Tax Reform – Focus in Mexico

Repatriation Tax - Effects in Mexico

- Possible courses of action:
  - Repatriate profits from Mexico in 2017
  - Secure, if possible, 0% withholding tax under Treaty provisions

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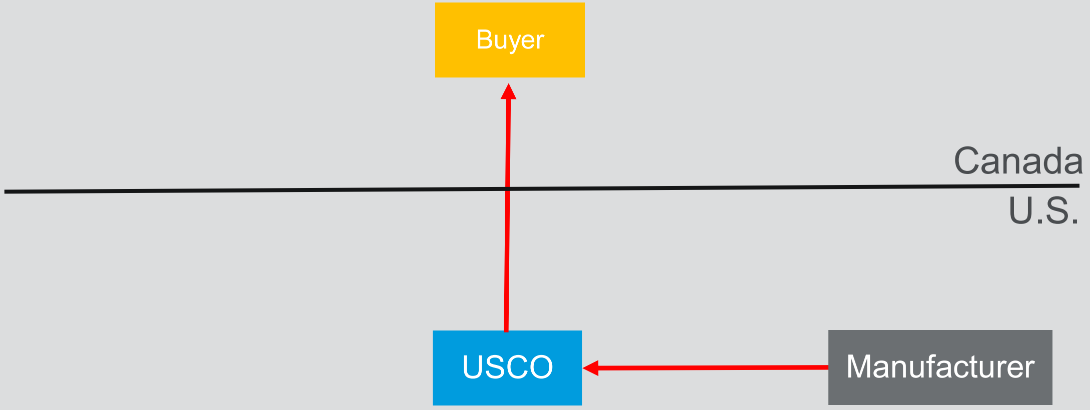
U.S. Tax Reform – Focus in Mexico

Border Adjustment Tax

- Included in the BWP
- Basic premise:
  - Income on sales of goods and services are taxed based on the country in which they are used or consumed, regardless of where they are produced or sold
- Subject to the reduced BWP tax rates (20% flat rate)

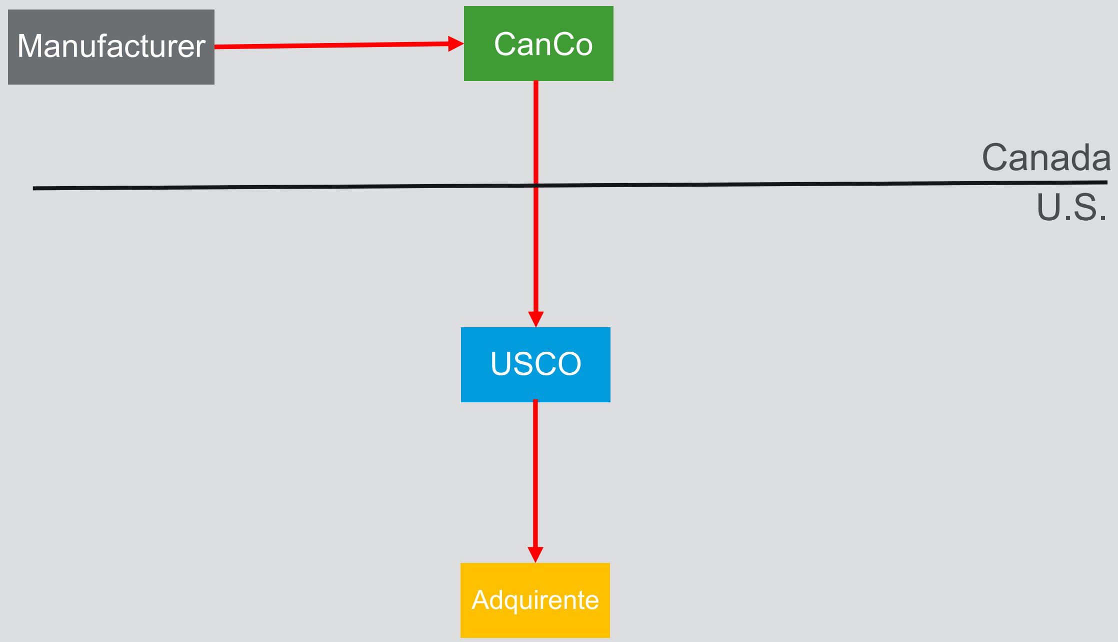
U.S. Tax Reform – Focus on Mexico



Border Adjustment Tax

- Export sales of U.S.-manufactured goods and services
  - Revenue exempt from tax
  - Deductible Cost of Goods Sold (COGS)

U.S. Tax Reform – Focus on Mexico



Border Adjustment Tax

- U.S. sales of imported products
  - Revenue subject to tax
  - Permanent, non-deductible COGS

U.S. Tax Reform – Focus in Mexico

Effects in Mexico

- Border Adjustment Tax
  - Pending additional clarification – considerable consequences for U.S. Companies manufacturing products in Mexico
  - Especially Maquiladoras (contract manufacturers)

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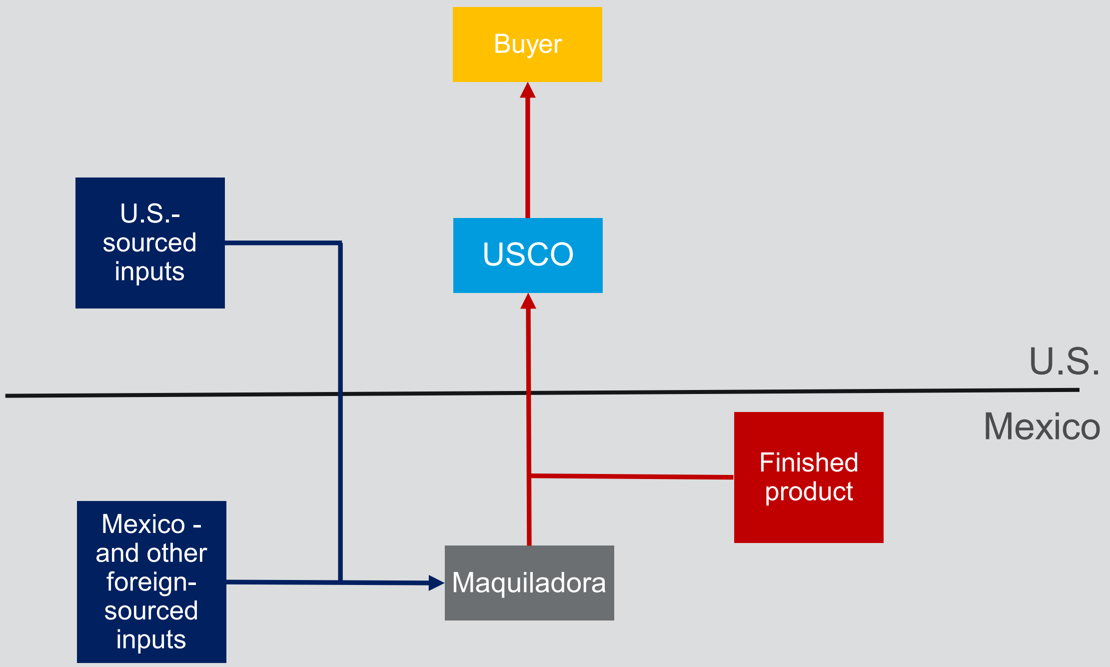
U.S. Tax Reform – Focus on Mexico



Border Adjustment Tax

- U.S. sales of products manufactured by a Maquiladora
  - *BWP offers no guidelines*

U.S. Tax Reform – Focus on Mexico

Border Adjustment Tax – Effects in Mexico

- Reasonable approach
  - Only the COGS of Mexican Maquiladoras should be non-deductible (U.S. portion should be deductible) under an apportionment approach:

$$\frac{\text{COGS Maquiladora}}{\text{Total COGS}}$$

- BWP offers no guidance
- An example follows

U.S. Tax Reform – Focus on Mexico

Border Adjustment Tax – Effects in Mexico

	BWP	Apportioned
Total COGS	8,000,000	8,000,000
COGS Maquiladora	3,000,000	3,000,000
COGS Maquiladora (%)	37.50%	37.50%
COGS U.S. (%)	62.50%	62.50%
Total gross receipts	10,000,000	10,000,000
Deductible COGS	-	(5,000,000)
Gross income	10,000,000	5,000,000
SG&A	(500,000)	(500,000)
	9,500,000	4,500,000
Tax rate	20%	20%
U.S. income tax	1,900,000	900,000

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U.S. Tax Reform – Focus on Mexico

Border Adjustment Tax – Effects in Mexico

- Even with an apportionment approach, U.S. Companies with high-cost Maquiladora operations may have a considerable impact
- Examples of high-cost Maquiladora operations
  - Sensitive componentry
  - Electronics
  - Microprocessors

U.S. Tax Reform – Focus on Mexico

Border Adjustment Tax – Effects in Mexico

- According to a recently-published study by Boston Consulting Group, a BAT could have the following results:
  - Additional costs of US$ 34 billion for the automotive market, but only US$ 12 billion in tax benefits
  - Add between US$ 1,000 and US$ 1,800 to the average production cost of a vehicle (could be somewhat offset by reduced tax rates on individuals)
  - Put between 20,000 and 40,000 U.S. manufacturing jobs at risk (motor vehicle manufacturers would have to reduce costs to maintain competitive prices

Questions?

Thank you for your time!!

Tax Commissioner Reviews and Proposes to Amend Manufacturing Rule

Mark A. Engel, Bricker & Eckler LLP

Every administrative rule goes through at least a 5 year rule review with JCARR (the Joint Committee on Agency Rule Review). JCARR is made up of House and Senate members. All new rules / proposed rules go through a rigorous public hearing process with the agency itself and then once that specific process is done (usually 3 to 5 months on the front end) the to JCARR. All rules also go through the Kasich administration's Common Sense Initiative. Existing rules without change that are going through JCARR also go through CSI if they haven't gone through already. Any rule that is proposed for change goes through CSI, all with an eye toward determining any adverse business impact, both regulatory and fiscal in nature.

Process:

In April, the Department sought public comment with respect to the manufacturing sales tax rule, O.A.C. 5703-9-21. The Department proposed some changes to the rule. Some of the proposed changes do not appear to be material. For example, there is a minor wording change made in the second paragraph of division (A). The wording in the definition of a "manufacturer" found in division (B)(4) of the rule incorporates language relating to the exemption for qualified research and development equipment. Similarly, division (D)(8) of the rule is revised to exclude qualified research and development equipment from the provision that research and development equipment generally does not qualify for exemption and wording in Example 9 is revised slightly.

Other changes, although few in number, may be significant. The following suggested changes are substantive in nature:

1. Proposed changes in the fourth paragraph of division (B)(1), relating to the beginning of the manufacturing process and the commitment of materials to that process;

2. Proposed new division (C)(12) relating to equipment used to clean towels, linens, and other similar items provided as part of a laundry cleaning service;

3. Proposed new division (C)(13) relating to equipment used to clean processing equipment in manufacturing related to dairy products produced for human consumption;

4. Revision to Example 2 that add the words "measured and" to the example;

5. Example 54 is revised to address the exemption of qualified research and development equipment;

6. The addition of a statements of exemption in Examples 63 and 64 relating to cleaning dairy processing equipment; and

7. New examples 65 and 66 relating to the beginning point of manufacturing and safety equipment.

To the extent these changes are substantive in nature, they may have a profound impact on the industry and its needs to consider the changes and weigh in on them. That will be extremely difficult to do under the short time frame provided by Taxation for input.

More importantly, this represents the first time in almost 30 years that revisions to the rule have been proposed. The rule was crafted in a very deliberative and collaborative manner, and it has enjoyed relative success in achieving its goals of relative certainty and reduced litigation. In light of this history, it seems that taking a similar approach to any amendment to the rule would be advisable. The approach taken by Taxation is contrary to this history. It can only damage the good will and common understanding that were generated in the original process. The damage that may result from this unilateral and speedy action is foolish.

Substantive Issues:

There are two types of substantive issues that arise under the rule. The first relates to activities that clearly are beyond the scope of the statute, and therefore beyond the scope of the rule. Those include cleaning, repair and maintenance, and safety equipment. We may disagree with whether those items are exempt, or taxable, but the statute clearly provides that they are taxable and outside the scope of the exemption. Those items can only be addressed by a statutory change.

However, there are some issues that emanate from the language of the rule itself. In my experience, those typically involve either the point at which materials are committed to the manufacturing process, or when the product is complete. Those two points in the process are important because they bookend the activities and equipment that qualify for the exemption.

Existing language in the bill, as well as application of the rule by Taxation, add to the confusion. Some examples include:

- Division (B)(1) of the rule addresses when manufacturing begins. In the fourth paragraph, the second sentence indicates the materials are committed to the process when they are removed from initial storage. The second sentence after that sentence, however, states that commitment occurs when material handling from the point of initial storage ceases. This difference can be significant.

- Commencement is the earlier of the end of transportation from initial storage, or mixing, measuring, blending, heating, cleaning, or otherwise prepared for the manufacturing process. Yet, proposed new language provides that heating or mixing that is necessary to preserve materials is neither commitment, nor the beginning of the manufacturing process. See also Example 65.

- The division does not contemplate a situation where materials are cleaned, sorted, or mixed prior to initial storage, or if there is no initial storage.

- Question whether the rule, either by wording or by application, confuses the concept of commitment to the process with the actual first point where materials undergo a change in state or form.

- The rule states commitment need not be irrevocable, yet Taxation routinely disallows exemption for items prior to the first point where a change in state or form occurs.

MEMORANDUM

TO: Robert A. Brundrett, OMA

FROM: Mark A. Engel, Bricker & Eckler LLP

DATE: April 20, 2017

RE: Proposed Changes to Manufacturing Rule

The Ohio Department of Taxation has proposed some changes to O.A.C. 5703-9-21, the sales tax manufacturing rule. Taxation has asked for comments about its proposed changes. At your request, we've reviewed the proposed changes, and offer a few comments for your consideration in respond

Ohio, like many states, provides an exemption from the sales tax for purchases of tangible personal property used in the process by which tangible personal property is produced for sale by manufacturing. For many years, this exemption was the subject of a good deal of litigation as to its application and scope. In an effort to provide more certainty and to reduce the amount of litigation, in 1989 the legislature enacted a sweeping revision to the manufacturing exemption.[1] At the same time, Taxation promulgated a rule providing guidance, including examples, relating to the application of this new rule.[2] Both of these provisions were the result of a lengthy process in which representatives of industry and Taxation met to hammer out provisions that would be acceptable to both parties. Although the result did not eliminate areas of contention entirely, the amount of litigation was significantly reduced.

As part of the required review of its rules, Taxation has proposed some revisions to the rule, and has asked for comments by April 28, 2017. This represents the first time since the rule was first promulgated in 1989 that changes have been proposed.

Some of the proposed changes are not material. For example, there is a minor wording change made in the second paragraph of division (A). The wording in the definition of a "manufacturer" found in division (B)(4) of the rule incorporates language relating to the exemption for qualified research and development equipment. Similarly, division (D)(8) of the rule is revised to exclude qualified research and development equipment from the provision that research and development equipment generally does not qualify for exemption and wording in Example 9 is revised slightly.

Other changes, although few in number, may be significant. The following suggested changes are substantive in nature:

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[1] R.C. 5739.011.
[2] O.A.C. 5703-9-21.

1. Proposed changes in the fourth paragraph of division (B)(1), relating to the beginning of the manufacturing process and the commitment of materials to that process;

2. Proposed new division (C)(12) relating to equipment used to clean towels, linens, and other similar items provided as part of a laundry cleaning service;

3. Proposed new division (C)(13) relating to equipment used to clean processing equipment in manufacturing related to dairy products produced for human consumption;

4. Revision to Example 2 that add the words "measured and" to the example;

5. Example 54 is revised to address the exemption of qualified research and development equipment;

6. The addition of a statements of exemption in Examples 63 and 64 relating to cleaning dairy processing equipment; and

7. New examples 65 and 66 relating to the beginning point of manufacturing and safety equipment.

To the extent these changes are substantive in nature, they may have a profound impact on the industry and its needs to consider the changes and weigh in on them. That will be extremely difficult to do under the short time frame provided by Taxation for input.

More importantly, this represents the first time in almost 30 years that revisions to the rule have been proposed. The rule was crafted in a very deliberative and collaborative manner, and it has enjoyed relative success in achieving its goals of relative certainty and reduced litigation. In light of this history, it seems that taking a similar approach to any amendment to the rule would be advisable. The approach taken by Taxation is contrary to this history. It can only damage the good will and common understanding that were generated in the original process. The damage that may result from this unilateral and speedy action is foolish.

We'd suggest that representatives of Taxation and the manufacturing sector meet to discuss the issues that have led to these proposed changes and attempt to work out language to address those concerns. Sufficient time needs to be provided for such a process to work. Collaboration should be encouraged. This rule provided a good example of the success that collaboration can generate. That process should be continued, and not undone.

5703-9-21 Sales and use tax; manufacturing.

(A) For purposes of this rule, all purchases of tangible personal property are taxable, except those in which the purpose of the consumer is to incorporate the thing transferred as a material or a part into tangible personal property to be produced for sale by manufacturing, assembling, processing, or refining or to use the thing transferred, as described in section 5739.011 of the Revised Code and this rule, primarily in a manufacturing operation to produce tangible personal property for sale.

This means that a person who buys tangible personal property and will make it a part or constituent of something that ~~he~~ is being ~~manufacturing~~manufactured for sale, or buys something that is used in a manufacturing operation, does not have to pay sales or use tax on the thing purchased.

Tangible personal property purchased by a manufacturer as a component or constituent of a product to be manufactured for sale is excepted from sales and use tax. The purchase of all such tangible personal property is not taxable, even though a portion will be lost or removed as waste or for testing. The manufacturer must pay use tax on the price, as defined in division (G) of section 5741.01 of the Revised Code, of any completed product not sold and stored or used by the manufacturer in a taxable manner, except such product that is consumed in testing or is disposed of because it is defective or otherwise unsalable.

(B)

(1) "Manufacturing operation" means a process in which materials are changed, converted, or transformed into a different state or form from which they previously existed and includes refining materials, assembling parts, and preparing raw materials and parts by mixing, measuring, blending or otherwise committing such materials or parts to the manufacturing process. "Manufacturing operation" does not include packaging.

Tangible personal property purchased by a manufacturer for use in packaging is taxable unless exempted pursuant to division (B)(15) of section 5739.02 of the Revised Code.

Any business whose sole activity is a process that does not include conversion or alteration of tangible personal property into a different state or form is not a manufacturer and is not covered by this rule.

The manufacturing operation begins when the raw materials or parts are committed to the manufacturing process. If the raw materials or parts are stored after being received at the manufacturing facility, the raw materials or parts are not committed until after they are removed from such initial storage. Initial storage applies to multiple locations that serve a similar purpose. The point of commitment is where the materials handling from such ~~initial~~ storage has ceased or the point where the materials or parts have been mixed, measured, blended, heated, cleaned, or otherwise treated or prepared for the manufacturing process, whichever first occurs. However, the agitating or heating of raw materials to maintain these materials in the same state or form as received or measuring raw materials to verify quantities received, does not constitute commitment. If the raw materials or parts are not stored, they are committed at the point where materials handling from the place of receipt ceases or where they are mixed, measured, blended, heated, cleaned, or otherwise treated or prepared for the manufacturing process, whichever first occurs. The commitment of the materials or parts need not be irrevocable, but they must have reached the point, after materials handling from initial storage has ceased, where they normally will be utilized within a short period of time. The point of commitment frequently will be different for particular materials and parts, since they are introduced at different times in the manufacturing operation.

Things used in any activity, including movement or storage of the materials or parts before they are committed are taxable.

See examples 1, 2, 3, 4, 6, 9, 40, 61, 63, ~~and~~ 64, and 65.

(2) "Refining" means removing or separating a desirable product from raw or contaminated materials by distillation or physical, mechanical, or chemical processes.

This definition of "refining" describes a type of manufacturing process and is not limited to the petroleum industry. A business whose sole activity is sorting material by size or other physical characteristic, or washing dirt or other contaminates from the surface of parts or other materials is not engaged in refining.

See examples 4, 5, and 63.

(3) "Assembly" and "assembling" mean attaching or fitting together parts to form a product, but do not include packaging a product.

Assembly generally refers to the process whereby previously manufactured parts or components are brought together and attached to create a complete, or more complete, item.

See example 15.

(4) "Manufacturer" means a person who is engaged in manufacturing, processing, assembling, or refining a product for sale and, solely for the purposes of division (B)(12) of section 5739.011, a person who meets all the qualifications of that division.

(5) "Manufacturing facility" means a single location where a manufacturing operation is conducted, including locations consisting of one or more buildings or structures in a contiguous area owned or controlled by the manufacturer.

The manufacturer does not have to own or lease the property, but must have the legal right to use it. If the property under the control of the manufacturer is not contiguous, it is not a single manufacturing facility.

See examples 21, 23, and 57.

(6) "Materials handling" means the movement of the product being or to be manufactured, during which movement the product is not undergoing any substantial change or alteration in its state or form.

(7) "Testing" means a process or procedure to identify the properties or assure the quality of a material or part.

(8) "Completed product" means a manufactured item that is in the form and condition as it will be sold by the manufacturer. An item is completed when all processes that change or alter its state or form or enhance its value are finished, even though the item subsequently will be tested to ensure its quality or be packaged for storage or shipment.

A product may be completed, as far as a particular manufacturer is concerned, even though it is not in the form in which it will be sold to the ultimate consumer because it will be further manufactured by another manufacturer. If the product will be further manufactured by the same manufacturer at a different manufacturing facility, the product is still in-process and is not completed.

See examples 8, 13, and 64.

(9) "Continuous manufacturing operation" means the process in which raw materials or components are moved through the steps whereby manufacturing occurs. Materials handling of raw materials or parts from the point of receipt or pre-production storage or of a completed product, to or from storage, to or from packaging, or to the place from which the completed product will be shipped, is not a part of a continuous manufacturing operation.

The continuous manufacturing operation begins at the point where the raw materials or parts are committed and ends at the point where the product is completed.

There may be several continuous manufacturing operations at the same manufacturing facility, each producing a different product.

The things used in the continuous manufacturing operation include all production machinery, the materials handling equipment that moves the product between the production machines, and any equipment, such as tanks, shelves, or racks, that temporarily store or hold the product in between production machines. Even though testing equipment used to test in-process product is not taxable under this rule, no testing procedure is part of the continuous manufacturing operation unless it is physically and functionally integrated between steps on the production line.

See examples 1, 6, 8, 11, 19, and 63.

(C) Things transferred for use in a manufacturing operation include, but are not limited to, any of the following:

(1) Production machinery and equipment that act upon the product or machinery and equipment that treat the materials or parts in preparation for the manufacturing operation.

Production machinery is the equipment that actually changes the state or form of the product, that is, the tangible personal property being manufactured for sale. Also included is the equipment that treats the product by blending, mixing, measuring, washing, agitating, filtering, heating, cooling, or similar processes after the material or parts have been committed to the manufacturing operation and before the product is completed.

See examples 1, 4, 7, 8, 18, 24, 27, 32, 35, 56, 60, 61 and 63.

(2) Materials handling equipment that moves the product through a continuous manufacturing operation; equipment that temporarily stores the product during the manufacturing operation; or, excluding motor vehicles licensed to operate on public highways, equipment used in intraplant or interplant transfers of work in process where the plant or plants between which transfers occur are manufacturing facilities operated by the same person.

Any equipment, except motor vehicles registered for highway operation, used to move or transport the in-process product between manufacturing facilities of the same manufacturer, is considered to be used in the manufacturing operation.

See examples 1, 8, 9, 10, 11, 57, 59, 60, 63, and 64.

(3) Catalysts, solvents, water, acids, oil, and similar consumables that interact with the product and that are an integral part of the manufacturing operation.

This describes those substances that do not appreciably become a component part of the product, but which usually come in contact with the product during the manufacturing process.

See examples 1, 13, 14, 28, 35, and 62.

(4) Machinery, equipment, and other tangible personal property used during the manufacturing operation that control, physically support, produce power for, lubricate, or are otherwise necessary for the functioning of production machinery and equipment and the continuation of the manufacturing operation.

Materials which are used to make foundations, supports, and other things which are incorporated into a building or structure and become accessions to the real estate may not be purchased without payment of tax under this rule. Foundations, structural steel, and similar items which provide physical support and which retain their status as personal property must be treated for purposes of taxation separately from the equipment which they support.

Foundations and supports for production machinery, materials handling equipment, and other equipment used in a continuous manufacturing operation are not taxable. Similarly, foundations and supports for tangible personal property used to manufacture tangible personal property used in the manufacturing operation, as described in paragraph (C)(5) of this rule; for testing equipment, as described in paragraph (C)(6) of this rule; and for equipment used to handle or store scrap for recycling at the same facility, as described in paragraph (C)(7) of this rule, are deemed necessary for the continuation of the manufacturing operation and are not taxable.

Tangible personal property that monitors in-process product or that lubricates, cools, monitors, or controls production machinery, materials handling equipment, and other equipment used in a continuous manufacturing operation is not taxable. Similarly, tangible personal property that lubricates, cools, monitors, or controls equipment used to manufacture tangible personal property used in the manufacturing operation, as described in paragraph (C)(5) of this rule; testing equipment, as described in paragraph (C)(6) of this rule; and equipment used to handle or store scrap for recycling at the same facility, as described in paragraph (C)(7) of this rule, is deemed necessary for the continuation of the manufacturing operation and is not taxable. However, all equipment that makes or stores records of monitoring is taxable.

See examples 1, 15, 16, 17, 18, 25, 29, 52, 55, 57, and 59.

(5) Machinery, equipment, fuel, power, material, parts, and other tangible personal property used to manufacture machinery, equipment, or other tangible personal property used in manufacturing a product for sale.

If a manufacturer makes an item that is used in the manufacturing operation as described in this rule, such as tools, tooling, replacement parts for machinery, or consumable substances, such as acid or solvents, the raw materials and components that go into that item are not taxable.

Certain things used by the manufacturer to make the item that will be used in the manufacturing operation are also not taxable. These things include the machinery which manufactures the item by changing the state or form of the raw materials or components, the materials handling equipment which moves the item between such machinery, and any fuel or power used to operate the machinery or materials handling equipment.

After the item is in the form in which it will be used in the manufacturing operation, any equipment that stores it or moves it to or from the manufacturing operation is taxable.

See example 18.

(6) Machinery, equipment, and other tangible personal property used by a manufacturer to test raw materials, the product being manufactured, or the completed product.

The equipment and supplies that the manufacturer uses to perform testing, and tangible personal property used to physically support, control, lubricate, cool, or monitor such equipment are not taxable. Those things that are merely used in the lab or other area where testing occurs, but play no part in the actual testing procedures, such as furniture, storage equipment, and computers that record or store the test results, are taxable. The testing activity is not part of the continuous manufacturing operation unless it is physically and functionally integrated between steps on the production line. Materials handling equipment used to transport test samples is taxable. Equipment and supplies used to test fuel, consumables, equipment, or anything else that is not a raw material, the product being manufactured, or a completed product are taxable.

See examples 3, 4, 19, and 60.

(7) Machinery and equipment used to handle or temporarily store scrap that is intended to be reused in the manufacturing operation at the same manufacturing facility.

In this context, scrap is any portion or component of the product being manufactured that is removed, intentionally or unintentionally, from the manufacturing process or that is residual after the process is completed. If the manufacturer recycles the scrap back into the manufacturing operation at the same facility, the equipment which moves or stores the scrap is not taxable.

Scrap which is to be sold or to be reused as a raw material by the manufacturer at another facility, is considered to be processed in a manufacturing operation if the state or form of the scrap is changed or altered. In such a case, the scrap, as it is removed from the manufacturing operation, is a raw material and the equipment which transports or stores it before it is committed to the operation where it undergoes manufacturing is taxable. After such manufacturing is over, the processed scrap is a completed product.

See examples 22 to 24, 47, and 61.

(8) Electricity, coke, gas, water, steam, and similar substances used in the manufacturing operation; machinery and equipment used for, and fuel consumed in, producing or extracting those substances; and machinery, equipment, and other tangible personal property used to treat, filter, pump, alter voltage, or otherwise make the substance suitable for use in the manufacturing operation.

Anything that is a fuel or a source of power for machinery used in the manufacturing operation, or that provides energy for the manufacturing process itself, is not taxable. Similarly, substances which transmit energy, such as steam or cooling water which transmits heat to or from the process or machinery, are not taxable. Any equipment that the manufacturer uses to generate, produce, or extract these substances, as well as fuel used to power such generation or extraction, is not taxable.

Tangible personal property which treats the fuel or power is not taxable. Such things may include coal crushers, electrical transformers, fuel or water filters, and water treatment chemicals.

See examples 22 to 32, 59, and 64.

(9) Machinery, equipment, and other tangible personal property used to transport or transmit electricity, coke, gas, water, steam, or similar substances used in the manufacturing operation from the point of

generation, if produced by the manufacturer, or from the point where the substance enters the manufacturing facility, if purchased by the manufacturer, to the manufacturing operation.

Such equipment includes wires, conduit, pipes, larry cars, and conveyors.

See examples 12, 22 to 32.

(10) Machinery, equipment, and other tangible personal property that treats, filters, cools, refines, or otherwise renders water, steam, acid, oil, solvents, or similar substances used in the manufacturing operation reusable, provided that the substances are intended for reuse and not for disposal, sale, or transportation from the manufacturing facility.

See examples 1, 20, 33, 34, 35, 36, 37, and 64.

(11) Parts, components, and repair and installation services for items used in the manufacturing operation as described in paragraph (C) of this rule.

Replacement parts for nontaxable equipment are not taxable. Any repair service or installation service purchased from an independent contractor for repairing or installing nontaxable equipment is not taxable.

See examples 38, 44, 55, and 56.

(12) Machinery and equipment, detergents, supplies, solvents, and any other tangible personal property located at a manufacturing facility that are used in the process of removing soil, dirt, or other contaminants from, or otherwise preparing in a suitable condition for use, towels, linens, articles of clothing, floor mats, mop heads, or other similar items, to be supplied to a consumer as part of laundry and dry cleaning services as defined in division (BB) of section 5739.01 of the Revised Code, only when the towels, linens, articles of clothing, floor mats, mop heads, or other similar items belong to the provider of the services.

(13) Equipment and supplies used to clean processing equipment that is part of a continuous manufacturing operation to produce milk, ice cream, yogurt, cheese, and similar dairy products for human consumption.

See examples 63 and 64.

(D) Things transferred for use in a manufacturing operation do not include:

(1) Tangible personal property used in administrative, personnel, security, inventory control, record keeping, ordering, billing, or similar functions.

Those things that are used in the "non-manufacturing" aspects of the manufacturer's business are generally taxable. This includes what is broadly known as office equipment, furniture, and supplies.

Anything, including computers and software, used for communication, ordering, billing, inventory control, or record keeping, including testing or production records, is taxable.

Things used in providing security include devices to monitor or observe personnel or detect intruders.

See examples 7, 15, 16, 19, 39, and 55.

(2) Tangible personal property used in storing raw materials or parts prior to the commencement of the manufacturing operation or used to handle or store a completed product, including storage that actively maintains a completed product in a marketable state or form.

(3) Tangible personal property used to handle or store scrap or waste intended for disposal, sale, or other disposition, other than reuse in the manufacturing operation at the same manufacturing facility.

(4) Tangible personal property used to store fuel, water, solvents, acid, oil, or similar items consumed in the manufacturing operation.

All types of storage, be it of raw materials or parts, product (except in-process product), completed product, consumables, fuel, waste, scrap, equipment, tools, supplies, repair parts, etc., is taxable.

Similarly, anything used to handle, move, or transport people or personal property in the manufacturing facility is taxable, except for materials handling during a continuous manufacturing operation or during the manufacture of an item which will be used in the manufacturing operation, as described in paragraph (C)(5) of this rule, or the transmission of fuel, power, and similar substances as described in paragraph (C)(9) of this rule.

See examples 1, 2, 3, 4, 6, 9, 11, 20, 37, 40, 41, 42, 43, 44, 47, 59, 60, 61, and 64.

(5) Tangible personal property that is or is to be incorporated into realty.

Any tangible personal property that will become part of the real estate is taxable under this rule.

See examples 32, 45, and 46.

(6) Machinery, equipment, and other tangible personal property used for ventilation, dust, or gas collection, humidity or temperature regulation, or similar environmental control, except machinery, equipment, and other tangible personal property that totally regulates the environment in a special and limited area of the manufacturing facility where the regulation is essential for production to occur.

All equipment and supplies that monitor, regulate, or improve the environmental conditions in the manufacturing facility are taxable. This includes all lighting, heaters, air conditioning equipment, fans, heat exhaust equipment, air make up equipment, dust control or collection equipment, and gas detection, collection, and exhaust equipment. This should not be read to change the traditional classification of real and personal property.

The only exception to the taxing of these items is equipment which totally regulates the environment in a special and limited area of the facility, such as a clean room or paint booth, where such total regulation is essential for production to occur. Even in such a special area, things that do not provide essential environmental regulation, such as safety or communication equipment, are taxable.

See examples 7, 47, 48, ~~and~~ 49, and 66.

(7) Tangible personal property used for the protection and safety of workers, unless the property is attached to or incorporated into machinery and equipment used in a continuous manufacturing operation.

Protective clothing and devices, such as safety shoes, gloves, earplugs, hard hats, respirators, first aid supplies, etc. are taxable. Similarly, equipment installed to protect workers or shield them from harm is taxable, unless it is made a part of machinery or equipment used in a continuous manufacturing operation.

Equipment and supplies used to detect, extinguish, prevent, cure, or mitigate fire, explosion, flood, or other calamity in the manufacturing facility are taxable.

See examples 9, 43, 50, 51, 52, ~~and~~ 53, and 66.

(8) Machinery, equipment, and other tangible personal property used for research and development, except for qualified research and development equipment exempted in division (B)(42)(i) of section 5739.02 of the Revised Code.

See examples 18 and 54.

(9) Machinery, equipment, and other tangible personal property used to clean, repair, or maintain real or personal property in the manufacturing facility.

Tools, equipment, and supplies made or purchased by the manufacturer for use in maintaining, installing, repairing, or cleaning its property, real or personal, are taxable. This includes any such items used on nontaxable equipment. This does not apply to repair or replacement parts or supplies which are taxable or not, depending on the taxability of the equipment into which they are installed.

See examples 32, 55, 56, and 58.

(10) Motor vehicles registered for operation on the public highways.

See examples 21, 57, and 63.

(E) For purposes of this rule, any tangible personal property used by a manufacturer in both a taxable and a nontaxable manner shall be totally taxable or totally exempt from taxation based upon its quantified primary use. If the tangible personal property consists of fungibles, they shall be taxed upon the proportion of the fungibles used in a taxable manner.

See examples 19, 25, 59 and 64.

(F) Persons whose only activity is printing and whose product produced for sale consists wholly of printed matter are not manufacturers under this rule. The taxability of things used by printers must be determined pursuant to division (E)(8) of section 5739.01 of the Revised Code.

If a portion of a manufacturer's manufacturing process involves printing, the taxability of the tangible personal property primarily devoted to the printing operation shall be determined pursuant to division (E)(8) of section 5739.01 of the Revised Code.

(G) Nothing in this rule restricts or denies any exception or exemption that may be available to a manufacturer under other provisions of the sales tax statutes or rules of the tax commissioner.

EXAMPLES

Example 1

A steel manufacturer galvanizes its flatroll steel to provide its customers with a corrosion resistant product. Through electrolysis and a recirculating zinc solution, zinc is chemically bonded to the steel. Recirculation of the zinc solution involves an intricately-woven system of fibrecast pipes, pumps, dissolution tanks, and electrolytic recirculating tanks, all of which are controlled by computers. As with many other types of manufacturing-related equipment, the size, weight, and configuration of these items require special foundations and supports. The entire system provides the necessary recipe and volume of solution for precise applications of zinc in a high velocity rolling mill.

* The zinc solution is a raw material which becomes a component of the completed product.

* The solution in which the zinc is dissolved is a consumable that interacts with the product and is not taxable.

* The piping system, dissolution tank, pumps, and electrolytic holding tanks are all used in a continuous manufacturing operation and are not taxable.

* The computers are used to control production machinery and in-process materials handling. The foundations and structural supports similarly are used in connection with production machinery. Therefore, these items are all not taxable.

Example 2

A manufacturer of concrete owns a ready-mix batch plant. Cement and aggregate are purchased from and delivered by outside suppliers. Cement is removed from delivery trailers by a vacuum system, which deposits the cement in a storage silo. Aggregate of particular sizes is delivered by dump trucks. The aggregate is stored in piles, segregated by size. As needed, cement is removed from the silo by screw conveyor and batched into a mixing drum. Aggregate is <u>measured and</u> moved from the proper pile(s) by a front loader, which deposits the aggregate on a belt conveyor which lifts the stone up and into the mixing drum. Water is added into the drum and mixing commences. After a short time, concrete is discharged into mixer trucks. The mixing drums on the trucks operate via power take off from the truck engines. The concrete continues to be mixed as the trucks deliver it to the customer. One hundred per cent of this batch plant's output is sold to others by the manufacturer.

* The cement and water are committed to the manufacturing operation at the mixing drum. The cement vacuum system, storage silo, and screw conveyor are taxable.

* The aggregate is committed to the manufacturing operation when materials handling (via the front loader) from initial storage ceases and the aggregate is <u>measured and</u> deposited on the conveyor which deposits it into the mixing drum.

* The aggregate conveyor and mixing drum are not taxable.

* The manufacturing operation continues in the mixer truck and is not completed until the concrete is discharged from the truck's mixer. Because the truck's mixer operates by power take off from the truck engine, the entire vehicle is production machinery and is not taxable.

Example 3

A secondary smelter of aluminum uses a scale as part of an automated process which measures out quantities of purchased aluminum scrap for use in the casting process in the foundry. The aluminum is delivered to the scale by a crane which removes the material from storage and puts it into a hopper which feeds the scale.

* The aluminum scrap is a purchased material, not scrap which is generated at this manufacturing facility; therefore, the equipment for its storage and handling are taxable. This includes whatever storage facility is set up for it and the crane.

* Because the raw material is committed to the manufacturing process at the hopper, neither the hopper nor the scale is taxable.

Example 4

An oil refinery obtains supplies of raw crude from numerous sources. It stores this crude in various tanks, withdrawing samples from each so that, in a laboratory in another part of the plant, it can conduct tests to determine the composition of each lot. Subsequently, various crude is metered and piped to another tank for blending to meet process specifications. Thereafter, the blended crude is desalted to remove impurities such as bottom sediments and water, and then is pumped to a preheat furnace to commence the distillation process.

* The storage tanks in which the raw crude is placed upon receipt are taxable. The fact that the tanks store the crude while laboratory tests are being conducted upon the samples makes no difference to the status of these tanks.

* The meters and piping used to transport the raw crude to the blending tank are not taxable from the point of metering. The crude is committed to the manufacturing process when it is metered after initial storage.

* The equipment used to blend the crude is not taxable as the crude has been committed to the manufacturing process.

* The storage and handling equipment used after the blending tank is not taxable.

* The desalting equipment and preheat furnace treat the crude in preparation for the manufacturing operation after ~~is~~it has been committed to the process and are thus not taxable.

* The equipment used to test the raw crude is not taxable.

Example 5

A cement manufacturer purchases limestone which is stored in piles at its facility. Prior to committing the limestone to the process, the manufacturer periodically hoses down the limestone to keep down the dust.

* This activity does not constitute refining. Consequently, the hose and other equipment used to hose down the pile would be taxable.

Example 6

A manufacturer makes roofing shingles. It first makes a paper felt. This is passed through a saturator tank which contains asphalt that has been heated with steam to a very high temperature. This saturates the felt with the asphalt. The saturated felt is coated with granite dust; colored granules are then applied to one side and talc to the other. The material is then cooled and either cut to size or rolled up for shipment.

The colored granules are placed in storage when they are purchased. When they are to be used, they are transported to the blending box, where different colors are mixed together and applied to the roofing material. The purchased talc is also placed in a storage tank and then is transported to the manufacturing line by a series of pneumatic handling devices, which deposit it into a hopper over the production line. It then falls onto the shingle material passing underneath the hopper.

* The storage facilities for the granules and talc are taxable as they are storing raw materials which will be incorporated into the product.

* The handling devices for both the granules and talc are also taxable as they are handling raw materials from their initial storage and before they are committed to the manufacturing process.

* The blending box is the point at which the processing involving the colored granules begins, as the granules are mixed and applied to the roofing material at that point. It is therefore not taxable.

* The talc hopper is also not taxable as it is the point where handling from initial storage has ceased and the material is committed to the manufacturing process.

Example 7

A paper manufacturer makes special paper for use in full color photocopying. The process to apply the paper coating must be done in a dust and pollution free environment. Rolls of paper are passed through a machine where the coating is applied and dried. This process occurs in a clean room, which is separated from the rest of the plant by airtight partitions and ceiling coated with an easily cleaned plastic. Three of the walls and the ceiling are free standing and not part of the walls and ceiling of the building itself; the fourth wall, however, is a section of a wall of the larger structure. Employees can only enter the clean room through two airlocks, which prevent dirty air from entering. All air is filtered and regulated as to temperature and humidity by heat pumps, electric heaters, dehumidifiers, and exhaust fans that serve only the clean room and maintain a positive air pressure in the room. This equipment is automatically controlled by a small computer using data from air monitoring sensors in the room. Employees must wear disposable paper coveralls, overshoes, and caps. The room has an intercom to minimize personnel traffic in and out of the room. Lighting in the room is by normal fluorescent fixtures attached to the ceiling.

* The paper coater is production machinery and is not taxable.

* The clean room, including the heaters, heat pumps, light fixtures, etc., remains tangible personal property, since its special use primarily serves the business rather than the real estate.

* Since the clean room provides environmental regulation in a special and limited area, and such regulation is essential for the manufacturing to occur, it is not taxable. This includes the partitions and ceiling, airlocks, heat pumps, heaters, dehumidifiers, exhaust fans, ductwork, air monitors, lights, regulating computer, and the special clothing used by the workers to prevent product contamination within the room.

* The intercom is taxable.

Example 8

In manufacturing glassware, molten glass is dropped into molds in a forming machine, where it is spun into the desired form. The formed glassware is released from the molds onto a conveyor where it gradually cools. The conveyor enters and annealing lehr which tempers the glass. From annealing, the glassware moves on a long conveyor which again allows it to cool. The glassware is then sprayed with silicone which makes it scratch resistant.

* The manufacturing operation ends with the silicon sprayer.

Example 9

A manufacturer purchases castings which will be a component part of the manufacturer's product. The castings are received on trucks in metal boxes on pallets. The pallets are unloaded by forklift and placed in racks in the receiving area of the warehouse. As they are needed, a pallet is removed from storage by a different forklift and moved to a cleaning process. A worker removes the castings from the box by hand, placing them in a wire basket that is attached to a counterweighted arm which allows the worker to lower the basket into a tank containing chemicals which remove dirt, grease, and similar contaminants. After dipping, the worker, who wears rubber gloves ~~to protect her hands~~for hand protection from the strong chemicals, places the castings on a conveyor which moves them to a grinding operation.

* The holding of the castings after receipt is initial storage. Both forklifts and the storage racks are taxable.

* The castings have been committed to the manufacturing operation when deposited by the second forklift at the washing operation. The chemicals, dip tank, basket, and arm are not taxable, since they treat a component part after materials handling from initial storage has ended.

* The conveyor that moves the castings to the first production machine (the grinder) is not taxable because the continuous manufacturing operation began at the dip tank.

* The rubber gloves used to protect the worker are taxable.

Example 10

A manufacturer of clay pipe uses forklift tractors to transport the pipe from the machine in which it is formed to the kiln.

* The forklift tractors are used to handle an in-process product and are are not taxable.

Example 11

A petroleum refinery produces an intermediate feed, such as naphtha, which is temporarily stored. It eventually will be further processed into a completed product which will be sold.

* The equipment used to transport the feed to and from the storage tank, as well as the storage tank, are used to handle an in-process material and are not taxable.

Example 12

Water purchased from a public utility is used by a refiner to quench (cool) a gaseous product stream flowing from a distillation tower so as to lower its temperature or convert it to a liquid for further processing. Since the water does not touch the product directly, it does not need any treatment to make it suitable for use in the manufacturing operation.

* The water is used in the manufacturing operation. Any equipment used to handle it from the point where it enters the manufacturing facility is not taxable. Any piping from the utility supply line is therefore not taxable.

Example 13

A steel fabricator purchases coil steel. After the steel is committed to the manufacturing operation, it is dipped in solvent to remove dirt, oil, and grease. It is then further cleaned by dipping in an acid bath. After fabrication is completed, the steel is sprayed with oil to prevent formation of rust on the surface of the product. After the oil spray, the steel is transported to the truck dock for loading and shipping.

* The solvent and acid are consumables used to prepare the product during the manufacturing operation and are not taxable.

* The spraying of the protective oil on the completed product constitutes the end of the manufacturing operation.

* The oil is a consumable which interacts with the product and is therefore not taxable.

Example 14

A catalyst is used by a chemical manufacturer to facilitate or cause a reaction between other chemicals during the processing operation.

* The catalyst interacts with the product, is an integral part of the manufacturing operation, and is therefore not taxable.

Example 15

At a motor vehicle assembly plant, the manufacturer uses a bar code system to track the flow of components. As components are received from other manufacturing facilities or outside suppliers, a bar code label is attached and then scanned with a wand to record it in the plant mainframe computer, along with pertinent data keyed in by the employee to identify the part. This computer is also used for various administrative functions. It does not control the assembly line. Particular components are assigned to particular vehicles, in order to assemble vehicles conforming to those ordered by dealers, etc. After the vehicle is fully assembled, an employee scans all labels. A printout is made that permits a comparison between what components were supposed to be included in each vehicle and which components actually were assembled. The label on the emissions equipment is also scanned prior to emissions testing, in order to record the component in the emissions test data base. Purchases include labels, label printers, scanners, printers, computer terminals, and equipment to interface with the plant mainframe.

* This bar code system is primarily used to monitor the progress of the product in the continuous manufacturing operation. The labels and scanning wands are not taxable, except for first scanner and the scanner used prior to emissions testing. The first scanner is used to record a part in inventory and is therefore taxable. The scanner prior to emissions testing is taxable because the vehicle is completed before it is used. The scanner is not testing equipment.

* Since the bar code labels are used in the manufacturing operation, the label printers are not taxable.

* The computer terminals allow employees to monitor the progress of the scanned parts and are not taxable.

* The equipment that interfaces with the mainframe computer is taxable. The computer printers, similarly, produce records of the information and are taxable.

Example 16

The functioning of the melt furnace in a glass manufacturing facility is monitored and controlled from an operator's booth, which is on a raised platform about fifty feet from the furnace. Heat sensors in the furnace are wired to the control booth, where the temperature data is drawn on a continuous graph. The operator watches the graph and can adjust the furnace by altering the flow of fuel (natural gas) or oxygen, batch material proportions, or by adjusting the flue in the furnace stack.

* The sensors in the furnace monitor production and are not taxable.

* The control booth and the equipment and controls in it are not taxable.

* The temperature graphing device which records the temperature data is taxable since it functions as a recordkeeping device.

* The platform that supports the control booth is not taxable, since it supports the operator of production machinery.

* The furnace stack and flue assembly within the stack are not taxable, since they provide regulation of the furnace temperature.

Example 17

A manufacturer of high technology electronic equipment provides its workers with microscopes which enable them to manipulate the components as they are assembled into the product.

* The microscopes are not taxable because they are necessary for the continuation of the manufacturing operation.

Example 18

A castings manufacturer upgrades its foundry by installing a new computer controlled mold maker and an automatic caster. Because of their size and weight, both machines require special concrete foundations. Casting sand is blended to proper consistency with water and certain chemicals in a muller. An auger moves the sand to a feed bin attached to the mold maker. Molds are made automatically in accordance with computer instructions. The instructions for each job are developed in the engineering shop using a microcomputer and software which was purchased from the manufacturer of the mold making equipment. The instructions are placed on a computer disk which an employee carries to the computer that controls the mold maker. The completed molds leave the molder on a conveyor which moves them to the caster.

* The mold maker and its foundation are not taxable, since the molds are used in manufacturing the product for sale. The nontaxable equipment includes everything from the sand muller to the exit of the molds from the mold maker.

* The computer that controls the molder is not taxable.

* The purchased software and the computer in the engineering shop are taxable, since they do not actually control the machinery.

* The conveyor that moves the molds from the mold making process is taxable, since the molds do not enter the manufacturing operation until they reach the caster.

* The caster is production machinery. The caster and its foundation are not taxable.

Example 19

A paint manufacturer makes paint pursuant to customer specifications. After a batch is finished, a sample is ladled into a quart jar and taken to the lab for testing to assure adherence to the customer's specs. In the lab, twenty cubic centimeters are placed in a beaker which is then placed in a centrifuge. After centrifuging, the separated components of the paint are examined under a microscope for content. The test results are manually entered into a computer. The computer generates a printed report and a label, both listing the test results and other information about the particular paint batch, e.g., name of customer and date of manufacture. The label is attached to the quart jar which contains the remainder of the paint sample. The jar is placed in a storage cabinet where it is retained for five years.

* The testing procedure assures the quality of the completed product and the equipment which is used in conducting the testing is not taxable. This includes the centrifuge, beaker, and microscope.

* The ladle, quart jar, and the storage cabinet are not used in testing nor in any other aspect of the manufacturing operation and are taxable. In addition, the quart jar and storage cabinet are used primarily in a function related to storage, record-keeping, and therefore are taxable.

* The computer, computer printer, and jar label are used only to record the test results and are taxable.

Example 20

A manufacturer operates a job shop foundry where it melts ingots of raw pot metal in an electric furnace. The molten metal is poured into jacketed molds, through which water is circulated to speed up the cooling and solidification of the metal. The water is pumped from a tank, chemically treated, and conveyed by pipes to the molds. The heated water is filtered and pumped from the molds to an outside cooling tower and then returned to the same tank. Make-up water is pumped from a well on premises into the tank. The treatment chemicals are stored in liquid form in a tank, from which they are pumped and metered.

* The furnace and molds are part of the continuous manufacturing operation and are not taxable.

* The water is an energy transmitting substance since it removes heat from the manufacturing operation. The water treatment chemicals, water pumps, pipes, well and cooling tower are not taxable. Since the water tank is part of the recirculation system, it also is not taxable.

* The chemical storage tank, meter, and pump are taxable, since they are merely storing or handling consumables prior to their initial use in the manufacturing operation.

* Since the trucks are registered for highway use, they are taxable.

Example 21

A large manufacturing facility is located on three hundred fifty acres of land on the outskirts of a large metropolitan area. The production machinery and equipment is spread over several miles. The plant property is divided at various points by a river, a railroad, and a public highway. Work in process is moved from one production phase to another by large licensed trailer trucks. A private bridge was constructed to cross the river, a tunnel was constructed under the railroad, and the trucks cross the public highway.

* This property is contiguous since the separations are only public or private rights of way and not land used for other public or private interests.

* Since the trucks are registered for highway operation, they are taxable.

Example 22

A plastics manufacturer uses injection molds to form the product. Excess plastic trim is knocked off the molds and collected on a conveyor. The conveyor moves the trim to a grinder where it is reduced in size. Another conveyor moves the plastic to a regrind bin where it is stored until needed. The reground trim is manually removed from the storage bin in hoppers and added, in certain proportions, to the purchased plastic pellets in the feed bins for the mold injection presses.

* Since the trim is recycled back into the manufacturing operation, the entire process of collecting, transporting, regrinding, and reintroducing the trim is part of the manufacturing operation and not taxable. The regrind storage bin is holding in-process product between stages of production and is not taxable.

Example 23

A steel manufacturer operates two plants. Plant A produces basic steel in a BOF furnace and has bar and hot rolled strip steel producing lines. Plant B, located several miles away, produces cold rolled strip coils. All production lines produce steel scrap in the form of trimmings or defective product. At plant A, scrap from both lines is chopped to size and taken to a storage area. When needed it is added back to the furnace to be again used in steel production. The scrap from plant B is chopped to size and taken to plant A where it also is used to make new steel.

* Since plants A and B are not contiguous, they are separate manufacturing facilities.

* Since the scrap at plant A is returned to the furnace, all items of property used to handle and store the scrap are not taxable.

* The equipment used to handle and transport scrap produced at plant B is taxable since the scrap is transported to plant A for reuse.

* Since the choppers at both plants change the form of the scrap, they are not taxable.

Example 24

During paper manufacturing, the fibers that will comprise the finished paper product are put into a water solution. The water is drawn by an intake pipe and pump from a river that flows next to the manufacturing facility. The water is filtered and chemically treated and pumped into the hydropulper where it is combined with wood chips and other fiber source material. The resulting slurry is pumped to a fourdrinier which removes most of the water by means of vacuum pumps. The water so removed, as well as slurry that otherwise escapes the process is collected, since it contains usable fibers. This slurry is returned to the hydropulper by pumps and pipes.

* The water is a consumable that is used in the manufacturing operation. The river intake, pumps, filter, and chemicals are not taxable since they either treat the water or transport the water from the point of extraction at the river.

* The hydropulper and fourdrinier are production machinery and not taxable.

* The slurry recovery and recirculating is part of the manufacturing operation, since it recycles the product back into the manufacturing operation at the same manufacturing facility. The pumps and piping are not taxable.

Example 25

A plastics manufacturer generates steam in coal-fired boilers. Eighty-five per cent of the steam is used to heat reactor tanks, in which the first step in the manufacturing operation takes place. An insulated steam line carries the steam from the boiler to the reactor vessels. Fifteen per cent of the steam is diverted from the main steam line to heat the buildings in the manufacturing facility.

The coal purchased to fire the boilers is received at a river dock. The coal is unloaded from barges by a crane and is moved from the dock by a conveyor belt to a conical storage tower. As needed, the coal is pushed by a small bulldozer into a feed bin, which dumps the coal onto another conveyor belt which moves it to a coal pulverizer. A screw conveyor moves the pulverized coal from the pulverizer to a storage bin. Another screw conveyor removes the pulverized coal from the bin and a forced air system injects it into the boiler combustion chamber. The rate of injection is computer controlled.

Water for the boiler is pumped from the river, filtered, chemically treated, and stored in a water tank outside the boiler building. As the water is pumped from the storage tank, additional chemicals are added. Both the water and the air used to inject the pulverized coal are preheated by means of a heat exchanger in the boiler exhaust stack.

* Eighty-five per cent of the coal and boiler water chemicals are not taxable, since eighty-five per cent of the resulting steam is used in the manufacturing operation.

* The boiler and main steam line, including the latter's insulation, are not taxable, since a majority of the steam is consumed in the manufacturing operation. The line which carries steam for building heat is taxable.

* The coal unloading and handling equipment and the pulverizer are not taxable. The conical storage tower and the pulverized coal bin are taxable, since they merely store the coal.

* The forced air pulverized coal injection system is not taxable.

* The river water inlet, pumps, lines, filters, and treatment chemicals are not taxable. The water storage tank is taxable.

* The boiler exhaust heat exchanger is not taxable.

* The computer that controls the pulverized coal injection is taxable.

Example 26

A manufacturer of ready-mix concrete uses a steam generator to heat water which is used in mixing and warming component materials in the manufacture of ready-mix concrete. The concrete is sold to construction contractors and other consumers.

* The water is not taxable, as it transmits heat used in the manufacturing operation and becomes part of the product produced for sale.

* The generator is not taxable as it makes the water suitable for use in the manufacturing operation.

Example 27

A manufacturer of extruded rubber products uses injection molding machines to force rubber through dies in order to form the desired shapes. The molding machines are operated by compressed air. The air compressor is fed air from an air dryer. The dryer is necessary to keep moisture out of the air compressor lines and production machinery.

* The injection molding machines are not taxable as they are production machinery which act upon the product.

* The air dryer and compressor are not taxable because they make the air used to power the molding machines suitable for use in that function.

Example 28

A steel manufacturer uses coke in the production of iron. Coke is a fuel which provides some of the heat required for smelting and it is also the source of carbon, a necessary ingredient in the manufacture of steel, which dissolves into the hot metal.

Coke is manufactured from metallurgical grade coal in a coke plant. The coal is crushed, blended (high and low volatile coals are mixed) and transferred to the ovens by means of conveyor systems. The crushed, blended coal is placed in a larry car which runs across the top of the coke ovens and charges the coal into the ovens. The coke battery consists of a series of ovens lined with refractory brick which bake the coal to produce coke. The coke battery is built from the ground up and does not have a separate foundation.

* The coke battery and the coal crushing, blending, and charging systems, and larry cars are not taxable.

Example 29

A manufacturer buys a new coal pulverizer. The coal is fed to a boiler to produce steam to generate electricity to power equipment used to manufacture products.

* The pulverizer is used to make the coal suitable for use in the manufacturing operation and is not taxable.

Example 30

A boiler is used to produce steam which primarily operates machinery and equipment used in the manufacturing operation. Other equipment feeds water into the boiler. This includes items such as pumps and a piping system. There is also a system which filters and treats raw water drawn from a creek running through the manufacturing facility.

* The boiler is used to produce power for the manufacturing operation and is therefore not taxable.

* The water is used to transmit energy to the manufacturing operation and is not taxable.

* The piping, pumps, filters, and water treatment equipment are not taxable.

Example 31

A manufacturer installs an electrical distribution system, including generators, transformers, electrical switchgear, cable and related equipment. The electricity is used solely to produce and supply electricity to the manufacturing operation.

* The entire electrical generation and distribution system is not taxable.

Example 32

A manufacturer of specialty coil steel products uses natural gas to heat annealing furnaces. The furnaces heat treat the manufacturer's product and are part of the continuous manufacturing operation. In a field owned by the manufacturer and adjacent to the plant, the manufacturer drills two natural gas wells, using a drilling rig, trencher, and various other tools, and installs drips, pumps, and transmission lines to provide gas for these furnaces. The manufacturer also installs a gas line connected to the local utility company line through which purchased gas is piped for heating the buildings in the manufacturing facility. A branch line connects this purchased gas line to the line going from the wells to the annealing furnaces, in order to supplement, if necessary, the gas produced from the wells. One hundred per cent of the well-produced gas is burned in the annealing furnaces. No more than twenty per cent of the purchased gas is burned in the furnaces.

* The line connected to the utility's line is incorporated into the real estate, since it primarily carries gas to heat the buildings. The wells, pumps, transmission lines and associated equipment, and the branch line remain personalty, since they carry gas for use in the manufacturing operation only.

* The wells, pumps, transmission lines and associated equipment, and the branch line are part of the manufacturing operation and are not taxable since they are extracting and transporting fuel used in the manufacturing operation.

* The material for the line connected to the utility's line is taxable.

* The drilling rig, trencher, and other tools used to install the well and gas lines are taxable.

Example 33

A manufacturer purchases pumping and filtering equipment and related tanks and tubing to supply lubricating and coolant fluids to drilling and cutting machinery. This equipment is used to recirculate the fluids so that they may be reused in the manufacturing operation.

* As the fluids are being treated for reuse in the manufacturing operation, the equipment which moves and treats the fluid is not taxable.

Example 34

A manufacturing operation uses water as a coolant in its production operation. The water is continuously recirculated in a closed system. The recirculation system includes a cooling tower and related pumps and piping.

* As the water is a substance used in the manufacturing operation, the recirculation system equipment is not taxable.

Example 35

The production of flatroll metal products requires that an oil mixture, which serves as both a rolling lubricant and a coolant, be continuously sprayed on sheets in the rolling mill. Spent oil is simultaneously removed and passed through a filtering process which is interconnected with the rolling mill, after which the oil is resprayed onto the sheets.

* The rolling mill is a production machine and is not taxable.

* The oil filtration machinery treats the oil for reuse; therefore, this equipment is not taxable.

Example 36

A manufacturer of truck and tractor engines uses what are known as wet machines in its engine head and block assembly lines. These machines require the presence of a liquid coolant to operate. In the absence of such a coolant the machines would heat up rapidly, ultimately destroying the tool and the part being machined. Therefore, the interface between the tool and the block or head is flooded by spraying it with liquid coolant, a water soluble oil.

In order to save on the expense of the oil, the manufacturer devised a system to recapture the used liquid. After the coolant is sprayed on the component, it drops through a funnel-like chamber into an underground trough. The coolant collects in a u-shaped channel along with the scrap metal chips and dust produced by the machining operations. The coolant is conveyed through the underground trough by means of air pressure to a collecting tank outside the plant where a conveyor lifts the bigger chips from the coolant. These chips then enter a chipwringer which wrings out excess coolant. From the tank, the coolant is pumped back into the plant through a series of pipes. Along the way, it passes through a series of filters which removes any remaining metal particles. Thereafter the coolant is returned to the machining lines where the process begins anew.

* The entire recirculating system is not taxable. The oil is used in the manufacture of the engine heads and blocks. The recirculating system is used to filter this oil to make it reusable for the manufacturing operation. The substances are in fact intended for reuse and not for disposal or sale.

Example 37

A producer of alloy steel uses an acid solution to pickle its products. The pickling process removes scale. After pickling, the used acid is filtered to remove impurities. The filtered solution is then pumped into a tank where pure acid is added to the solution in order to raise the acid content. From this tank, the solution is pumped and piped into the pickling tanks. After the acid is reused a certain number of times it can no longer be purified and strengthened sufficiently to be economically useful. It is therefore transported through a series of pipes to an acid disposal plant, where the acid is neutralized by mixing it with lime in a tank designated the neutralizing tank. The mixture is then pumped into a sludge pond.

* The acid solution would not be taxable as it interacts with the product. The pickling tanks are production machinery and thus also not taxable.

* The pipes from the pickling tanks through the filtration system are not taxable, as this is a treatment system which makes a substance used in the manufacturing operation reusable, and the substance is in fact intended for reuse.

* The piping system used to transport the spent acid to the acid disposal plant, the pump into the neutralizing tank, the tank itself, the lime, and the pumps and pipes used to dispose of the neutralized solution are taxable under this rule as at this point the substance is not intended for reuse.

Example 38

An automobile manufacturer has a plant which stamps out steel to make automobile body parts. The manufacturer employs an engineering firm to procure and generally oversee the installation of a cold press machine which presses sheet metal into doors. The engineering firm contracts out the labor for installation of the piece of production machinery in the manufacturer's plant. The contractor which installs the machine bills the manufacturer directly.

* The charges from the contractor for the services to install the machine are not taxable as they involve the installation of an item used primarily in a manufacturing operation to produce tangible personal property for sale.

Example 39

A manufacturer builds and furnishes a new administration building. The building contains offices for executives and the personnel and accounting department. The manufacturer leases a computer to process personnel, payroll, accounting, and billing information.

* All office equipment and furnishings located in the administration building are taxable.

* The computer is taxable.

Example 40

A food processor has an automated batch system for dry ingredients. The ingredients are received from outside suppliers on pallets in bags, cartons, paper drums, etc. They are moved from the receiving warehouse area by forklift, which deposits the pallets near the dry batch mixer. Some ingredients are dumped by employees directly into the mixer. Some are dumped into feed bins which discharge directly onto a scale. The proper amount of ingredient per batch is programmed into the scale by an employee. The scale controls the feed bins, opening them in turn and shutting them when the proper weight is reached. The dry ingredients are mixed and discharged by a covered conveyor to the next stage, where water is added.

* The dry ingredients do not undergo a change in state or form until mixed with water; however, the manufacturing operation begins as to the dry ingredients when they are dumped into the feed bins or directly into the dry batch mixer, since they have been committed to the manufacturing operation when the materials handling (via the forklift) from the warehouse ceases. Thus, the bins, mixer, and scale are not taxable.

* The forklift is taxable.

Example 41

A manufacturer uses a forklift primarily to move finished goods from a storage warehouse and load them on trucks for shipment to customers.

* The tangible personal property in the warehouse and the forklift are taxable, since they are storing or handling a completed product.

Example 42

A manufacturer purchases storage equipment for the purpose of storing raw materials prior to commitment to the manufacturing operation includes tanks, racks, holding bins, and similar equipment.

* Such storage equipment is subject to tax.

Example 43

A fiberglass manufacturer generates fiberglass waste as part of its manufacturing process. The waste is collected in various ways, including a vacuum system with collection hoses that permit workers to clean up small particles. The vacuum system deposits the fiberglass into a holding bin. Larger pieces, including rejected material that fails quality assurance testing, is transported in skid boxes by lift truck. All waste fiberglass is baled and transported by the manufacturer's trucks to a landfill for disposal. All employees in the plant are required to wear masks to prevent them from inhaling glass fibers.

* Since the waste fiberglass is not sold or recycled by the manufacturer, the baler and all of the handling equipment, including the vacuum system, is taxable.

* The protective masks worn by the employees are taxable.

Example 44

Replacement parts for production machinery are kept in storage bins in the plant storeroom.

* While the parts are not taxable, the storage bins are taxable.

Example 45

A manufacturer has its employee parking lot repaved. It separately purchases the required materials and contracts the labor.

* The materials incorporated into the parking lot are taxable as the lot is real property. The labor is not taxable as it pertains to an improvement to realty. Had the manufacturer entered into an agreement whereby the contractor provided both material and labor, there would be no direct tax consequences to the manufacturer.

Example 46

A manufacturer purchases a heating system and other related parts to be incorporated into a manufacturing facility. The heating system will provide heat and serve solely for the building.

* The heating system and all related parts purchased will be taxable since it is used to produce heat for the building and not used in any manufacturing operation.

Example 47

A manufacturer of unassembled furniture has an extensive dust collection system throughout the manufacturing facility. Collecting units are located over the boring mills, saws, edgebanders, planes, and other places in the plant. Fans and ductwork exhaust the dusty air through a series of filters. The saw dust falls from the filters into movable hoppers. These hoppers are periodically dumped into a mixer, where the saw dust is blended with a small amount of liquid adhesive. The mixture is removed from the mixer by a screw conveyor to a press which forms it into briquettes which the manufacturer sells. The briquettes fall onto a conveyor belt which moves through a heat tunnel which causes rapid drying.

* The entire dust collection system is taxable, since it provides environmental control throughout the entire manufacturing facility.

* The portable dust hoppers are taxable, since they are handling a waste product.

* The adhesive, mixer, screw conveyor, press, belt conveyor, and heat tunnel are not taxable, since they are used to manufacture a product for sale.

Example 48

A manufacturer makes various kinds of candy canes. The process requires that temperature and humidity in the plant be maintained within certain narrow parameters.

* Since the temperature and humidity are regulated in the plant as a whole, rather than a special, limited area within the plant, all the equipment used to provide such regulation is taxable.

Example 49

A manufacturer of automotive parts paints the parts as part of its manufacturing process. The painting is done in paint booths, which are enclosures containing ventilation and other equipment that provide the booth with a controlled atmosphere so that paint is applied to each piece under nearly identical conditions, resulting in a uniform product. The paint is applied by a spraying system which results in a considerable amount of overspray. To flush this excess paint from the booth, a water spray flows through continuously. The water is drained from the booth into a treatment system which filters out the paint. Neither the paint nor the water is reusable in the process, so they are disposed of in accordance with pollution control regulations.

* The paint booth and its ventilation equipment are not taxable since they regulate the environment in a special and limited area of the manufacturing facility.

* The water spray equipment is also not taxable as it is necessary for the continuation of the manufacturing operation.

Example 50

An automotive parts manufacturer is ordered by a federal inspector to install guardrails along the sides of aisles traveled by forklifts and a floor sweeper in order to provide a barrier for the protection of employees operating nearby machinery. The inspector also requires the installation of flashing lights on the moving equipment. The forklifts are primarily used to move in-process product.

* The guardrails are taxable.

* The forklifts themselves are not taxable since they are used for materials handling during the continuous manufacturing operation, so the flashing lights attached to them are not taxable. The flashing lights attached to the floor sweeper are taxable.

Example 51

All of the manufacturer's employees must wear ear plugs, safety glasses, hard hats, and steel toed shoes when in production areas. Some employees must wear leather or rubber gloves and aprons, depending on their jobs. The manufacturer provides all of these protective articles to the employees without charge, except eyeglasses and shoes. Employees must provide their own eyeglasses. However, the manufacturer usually buys, by special order, safety shoes for the employees and sells them, with a minimum markup to cover administrative expenses.

* All of these protective articles and clothing are used in taxable functions. The manufacturer consumes everything except the eyeglasses and shoes and must therefore pay tax on its purchases of those items.

* Since the manufacturer is making retail sales of safety shoes, it must have a vendor's license and collect sales tax on such sales made to the employees.

* The employees must pay tax to the suppliers of their safety glasses.

Example 52

A manufacturer produces electronic equipment. Its process requires that static electricity be eliminated from the environment. If it is not, the static will destroy the electrical components. In order to ensure that the static electricity is properly discharged, the manufacturer has its production employees wear a wrist bracelet which attaches to a grounded object. The manufacturer also requires that the production employees wear contaminant-free overalls so that the production area remains free of dirt.

* The wrist bracelets are not taxable since they are equipment necessary to the production process.

* The overalls are taxable since they are clothing worn throughout the plant instead of in a special and limited portion of the manufacturing facility where the environment is totally regulated.

Example 53

A manufacturer has several safety concerns in the manufacturing plant for which it has taken various measures. It has attached guards to certain of the production machinery to protect the workers from injury and placed safety signs at various points throughout the plant. It also furnishes clothing and other equipment to workers primarily for the workers' safety and protection. Finally, the manufacturer hangs fire extinguishers on walls throughout the plant.

* Machinery guards are attached to the production machinery and are therefore not taxable.

* General safety items, unless actually attached to production machinery, are taxable. Therefore, the safety signs, clothing, and other equipment are taxable.

* The fire extinguishers are taxable.

Example 54

A manufacturer of household products purchases a computer and software for use in designing packaging for its products (a "CAD" system). The CAD equipment is capitalized and allows the manufacturer's design engineers to create and evaluate various package sizes and shapes and the effects of using different package materials. Similarly, the system can be used to design and layout different labeling. A plotter prints out the designs for review by management. When a new design is selected, the system generates detailed drawings which are sent to package manufacturers and printers who will produce the new items.

* The entire CAD system, including the software, is used in research and development and is ~~taxable~~ not taxable when it is capitalized and therefore is qualified research and development equipment.

Example 55

A manufacturer installs probes on a grinding machine, in part by using a special tool that was purchased for that purpose. The grinder is production machinery. The probes measure vibrations in the bearings of the machine while it is operating. A chart recorder records the data from the probes. When vibrations exceed a certain tolerance, new bearings are ordered and installed, thus allowing the manufacturer to make the repair in a controlled fashion and avoid extended downtime and/or more extensive damage to the grinder.

* The probes are not taxable, since they monitor the functioning of equipment used in the continuous manufacturing operation.

* The chart recorder merely makes a record of the monitoring and is taxable.

* The tool purchased to install the probes is taxable.

* The replacement bearings are not taxable, since they are incorporated into equipment used in the manufacturing operation.

Example 56

A manufacturer shuts down a reactor, which is used in the manufacturing operation, for routine maintenance. During shutdown, a section of the reactor wall is cut out, removed by crane, and a new section is welded in. Thereafter, the reactor is cleaned and the lines are flushed in preparation for start-up. All work is done by employees of the manufacturer.

* The labor performed to remove the old section, install the new section, clean the reactor and flush the lines is not taxable.

* The new section of the reactor wall is not taxable as it is part of a production machine.

* The welding torch, crane, equipment used to clean and flush the reactor, and related consumables, such as acetylene and cleaning compounds, are items used to clean, repair, install, or maintain personal property in the manufacturing facility and are therefore taxable.

Example 57

A manufacturer purchases two trucks to move work in process between buildings within the manufacturing facility. One truck is not registered for highway use since it is used solely on the manufacturer's private property. The second truck is registered, since it must travel a short distance on a public highway which passes through the manufacturing facility.

* The unregistered truck is not taxable, since it is used in materials handling of in-process product.

* The truck registered for highway operation is taxable.

Example 58

A manufacturer of paper products uses an extremely large and complex paper-making machine. The machine consists of many parts and requires constant servicing. Some parts themselves are massive and heavy. These parts must periodically be removed and replaced.

The manufacturer uses what it calls the wet end crane to lift, remove, and replace these heavy parts. The crane is sixty feet above the plant floor and it traverses the entire length of the paper-making machine by means of overhead rails.

* The wet end crane is taxable as it is machinery used to repair, install, or maintain real or personal property in the manufacturing facility.

Example 59

Concrete pipe is made in a forming kiln. The formed pipe is moved by lift truck to a steam room where it cures for one day. The steam curing speeds up the necessary chemical reaction to harden the pipe. Steam is produced by a propane fueled boiler. The propane is stored in six tanks, with lines going to a single vaporizer which converts the liquid into gas. The concrete pipe is removed from the steam room to an area where employees patch and smooth pits and flaws in the pipe. The pipe is then moved to an outside storage area where it remains for at least twenty days to allow final curing. When sold, the pipe is loaded onto flatbed trailers by a yard boom truck. Movement of the pipe in the facility is done by three interchangeable lift trucks. The lift trucks are used seventy-five per cent of the time moving the pipe to and from the steam room, twenty per cent of the time moving from the finishing area to the yard, and five per cent of the time in miscellaneous activities. The lift trucks are battery powered and share the use of a single battery charger.

* The propane, propane lines and vaporizer, boiler, and hand tools used in finishing are not taxable. The propane storage tanks are taxable.

* The lift trucks are primarily used for materials handling as part of the continuous manufacturing operation. The lift trucks and battery charger are not taxable.

* The boom truck is taxable.

Example 60

A manufacturer produces bottle caps and furnace air filters at its single facility. The bottle caps are die punched from coils of sheet steel strip. The bottle caps are then passed through an inspection device and any caps which are found unacceptable are carried by a conveyor to a bin where they are held for sale. Acceptable caps continue through additional steps which include printing and the insertion of a gasket. After the bottle caps are punched from the sheet steel strip, the remaining perforated strip is recoiled and moved by a lift truck to temporary storage racks, from which point it is further trimmed to length during its assembly into furnace air filters.

* This constitutes a single manufacturing operation that produces two different products at the same manufacturing facility.

* The punching, printing, and gasket insertion equipment are all used in the production of the bottle caps and are therefore not taxable.

* The recoiling equipment and trimming equipment are production machines and not taxable.

* The device for inspecting the bottle caps is not taxable since it is used for testing the product.

* The lift truck and storage racks are not taxable because they handle or temporarily store in-process product.

Example 61

A manufacturer purchases sheet metal for fabrication into various products. After initial storage, the sheet metal is transported to slitters by a propane powered lift truck. The slitters cut the sheet metal to length, after which it is transported to the stamping presses. As the steel goes through the stamping process, excess metal in the form of chips is produced. The metal chips are removed from the stamping area through a chute and conveyor system which transports the metal chips to a baler. The baler compresses the chips into bales which are then sold to industrial customers as scrap metal.

* The sheet metal is committed to the manufacturing operation when deposited at the slitters by the lift truck. The lift truck and the propane used to power it are taxable.

* The slitters and stamping presses are production machinery and are not taxable.

* The metal chips are scrap. Since the scrap is sold, rather than being reused in the manufacturing operation at the same facility, the chutes and conveyors which handle the scrap metal chips are taxable.

* Since the baler changes the form of the chips which are intended to be sold, the baler is production machinery and not taxable.

Example 62

A meat processor makes sausage, wieners, salami, bologna, and similar products. After grinding and mixing, the meat is extruded into casings of various types and sizes. The meat is then smoked and/or cooked. After cooking the casings are removed and discarded.

* The casings are consumables that physically interact with the product during the continuous manufacturing operation and are not taxable.

Example 63

A dairy purchases raw milk from farmers. The milk is picked up by trucks owned by the dairy. Upon arrival at the dairy facility, a pump removes the milk from the truck through a pipe and pumps it into a clarifier, which is a centrifuge that removes particle contaminants. From the clarifier, the raw milk is pumped into a storage silo where it is held for period of time. After the raw milk is removed from the silo, it proceeds through various processes, including separation (where cream is removed), blending (where cream is added back to reach proper butterfat content), standardization (where vitamin supplements are added), pasteurization, and homogenization. After homogenization, the milk is pumped to filling equipment which packages the milk in cartons or jugs.

* The trucks which deliver the milk from the farmers and the pump which removes the milk from the trucks are taxable.

* The clarifier actively refines the raw milk by centrifuging and is not taxable. The clarifier is the beginning of the manufacturing operation and the raw material (milk) is committed at that point.

* All equipment, pipes, pumps, and tanks (including the silo holding the raw milk), which process, move, or temporarily store the milk up to and including the homogenization process, are part of the continuous manufacturing operation and not taxable.

<u>* Any equipment or supplies used to clean the processing equipment, pipes, pumps, and tanks discussed above are not taxable because they are part of a continuous manufacturing operation to produce milk.</u>

Example 64

An ice cream manufacturer purchases cream, skim milk, sugar, and various flavorings and additives. The cream and milk are placed into refrigerated tanks when received. Any particular flavoring is placed into one of several storage tanks. All of these tanks are connected by piping to a mixing tank. In-line meters control the amount of cream, milk, and flavoring withdrawn from the tanks and batched in the mixing tank. After mixing, the ice cream is packaged into cartons and moved by conveyor through a freeze tunnel, where most of the ice cream becomes solid. After the freeze tunnel, the packaged product moves slowly through a hardening room on roller conveyors. The hardening room is a large freezer where the temperature is maintained at minus thirty degrees. The solidification of the ice cream is completed in the hardening room. On exit from the hardening room, the product is shrink-wrapped in appropriate quantities (e.g., four half gallons), palletized, and moved by lift truck into a large freezer to await shipment.

The tanks, freezers, and some in-process piping is cooled by a refrigeration system, which consists of compressors, condensers, piping, and an in-line tank for the coolant. Based upon an analysis of the refrigeration system piping used in the various areas of the facility, it has been determined that twenty per cent of the system is used to cool the cream and milk tanks, ten per cent for the mixing tank, in-process piping, and packaging operation, thirty per cent for the freeze tunnel and hardening room, and forty per cent for the freezer warehouse.

* The initial storage tanks for the cream, milk, and flavorings are taxable.

* The milk, cream, and flavoring are committed to the manufacturing operation at the point they are metered prior to entering the mixing tank. The meters and subsequent piping and the mixing tank are not taxable.

* The ice cream is not completed until it leaves the hardening room. The freeze tunnel, hardening room, and roller conveyors are not taxable.

* The forklift that moves the palletized product into the freezer warehouse is taxable.

* The freezer warehouse is taxable, since it is storing a completed product.

* Sixty per cent of the coolant is taxable, since that is the proportion of this fungible used in a taxable manner.

* The condensers, compressors, and tank for the refrigeration system are taxable, since their quantified primary use (sixty per cent) is taxable.

* Since the refrigeration system piping is essentially identical, it is properly treated as fungible for sales tax purposes and is sixty per cent taxable.

<u>* Any equipment or supplies used to clean the freeze tunnel, processing equipment in the hardening room, and roller conveyors are not taxable because they are part of a continuous manufacturing operation to produce ice cream.</u>

<u>**Example 65**</u>

<u>A paving asphalt manufacturer purchases sand, stone, and asphalt cement from an outside source. The sand and stone are weighed as they are received to ensure the proper amount of product was received by the manufacturer and is subsequently stored in an outside storage area at the manufacturer's facility. The asphalt cement is stored in a tank that churns and heats the asphalt cement to ensure its viscosity. When the paving asphalt manufacturer is ready to produce asphalt, the sand and stone are moved by conveyor to a screening grate to be classified by size and the product may be subsequently crushed to the necessary levels. Once the sand and stone are at suitable sizes, the products (along with the resulting stone dust) are moved by conveyor to feeder bins, which measure the appropriate amount of each product based on the purpose of the resulting asphalt. Conveyors move the proper amounts of sand, stone, and stone dust to the dryer to remove humidity. Everything then goes into a mixer, including asphalt cement. The mixer empties directly into trucks that will deliver the asphalt to the paving site.</u>

<u>* The scale that weighs the incoming sand and stone is taxable. This is an administrative process prior to the beginning of manufacturing to ensure the proper amounts of raw materials were received.</u>

<u>* The initial storage tank for the asphalt cement and the equipment that churns and heats the asphalt in the storage tank are taxable because they do not change the asphalt cement into a different state or form from which it was received. It merely maintains the product in its original form.</u>

<u>* The conveyors that take the sand and stone to be classified by size are taxable because the raw materials are not committed to the manufacturing process. The point of commitment is the screening grate.</u>

<u>**Example 66**</u>

<u>As part of the manufacturing process, welding robots are used throughout an assembly plant to weld the various components of the final product. Fumes created from the welding process contain harmful complex metal oxide compounds from consumables, base metals and the base metal coatings, creating safety concerns for employees throughout the manufacturing facility. Special ventilation and exhaust</u>

systems are installed in the direct vicinity of the welding operation to supply fresh air and exhaust the fumes containing the harmful components. The ventilation and exhaust equipment is not essential for purposes of continuing production, but merely is in place to help cleanse the environment of the manufacturing facility.

* The special ventilation and exhaust systems are neither incorporated into machinery or equipment used in a continuous manufacturing operation and do not qualify as excepted safety equipment, nor totally regulate the environment in a limited area of the facility where such total regulation is essential for production to occur. As such, the systems are taxable.

April 27, 2017

<u>VIA Electronic Mail</u>

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

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

Dear Ms. Stanley:

Pursuant to Ohio Department of Taxation's (ODT) notice, issued on April 11, 2017, The Ohio Manufacturers' Association (OMA) is hereby providing ODT with written comments to Ohio's Manufacturing Sales and Use tax rule 5703-9-21.

The OMA is dedicated to protecting and growing manufacturing in Ohio. The OMA represents over 1,400 manufacturers in every industry throughout Ohio. For more than 100 years, the OMA has supported a reasonable, necessary and transparent state tax system that encourages investment and growth.

Ohio's sales tax was first enacted as a temporary measure in the depths of the Great Depression in the 1930s. At that time, it was conceived as a tax on the final personal consumption of tangible goods. One year after initial enactment, the use tax was enacted, the two taxes were made permanent and the first exemption for machinery and equipment used to produce tangible personal property for sale by manufacturing was added.

The rationale for these exclusions is simple: The taxes are intended to be imposed upon the final personal consumption of goods and, now, those selected services that are subject to tax. Intermediate transactions prior to the final sale of the product, including the acquisition of machinery and equipment and the raw materials that are incorporated into the final product are not intended to be taxed.

Ohio, like many states, continues to provide an exemption from the sales tax for purchases of tangible personal property used in the process by which tangible personal property is produced for sale by manufacturing. In Ohio this exemption was for a long time the subject of much litigation as to its application and scope.

In 1989 the legislature enacted a sweeping revision to the manufacturing exemption in an effort to clarify and reduce the amount of litigation. At the same time ODT promulgated rule 5703-9-21 which provided guidance, including examples, relating to the application of the new rule.

ODT has recently proposed revisions to the rule. This represents the first time since the rule was promulgated in 1989 that changes have been proposed. While some of the changes made by ODT are not material other changes are significant. The following changes appearing to be substantive include:

1. Proposed changes in the fourth paragraph of division (B)(1), relating to the beginning of the manufacturing process and the commitment of materials to that process;

2. Proposed new division (C)(12) relating to equipment used to clean towels, lines, and other similar items provided as part of a laundry cleaning service;

3. Proposed new division (C)(13) relating to equipment used to clean processing equipment in manufacturing related to dairy products produced for human consumption;

4. Revision to Example 2 that add the words “measured and” to the example;

5. Example 54 is revised to address the exemption of qualified research and development equipment;

6. The addition of a statements of exemption in Examples 63 and 64 relating to cleaning dairy processing equipment; and

7. New examples 65 and 66 relating to the beginning point of manufacturing and safety equipment.

To the extent these changes are substantive in nature; they may have a profound impact on the industry and its needs to consider the changes and weigh in on them. The short turnaround requested by ODT for full comments from the industry on these major revisions is simply not possible in the designated time.

This rule review represents the first time in almost 30 years that revisions to the rule have been proposed. This rule was crafted in a very deliberative and collaborative manner involving manufacturers and ODT, and it has enjoyed relative success in achieving its goals of relative certainty and reduced litigation.

OMA requests a similar approach for this rule review. Recreating the collaborative work group would continue the good will and common understanding that were generated in the original process. Many things in manufacturing have changed over the last 30 years and this five year rule review is the perfect vehicle to modernize and update the rule benefiting both manufacturers and Ohio.

The OMA appreciates the opportunity to comment on this initial draft to Rule 5703-9-21. We look forward to working with ODT as the rule review moves forward. Again we strongly urge ODT to reconvene the previous collaborative work group to work through any issues and ambiguities the rule may have created over the past 30 years. If ODT has any questions regarding the foregoing, please do not hesitate to contact me or OMA's tax counsel, Mark Engel at Bricker & Eckler LLP (513-870-6565).

Sincerely,

Robert A Brundrett

Rob Brundrett
Director, Public Policy Services

CC: Matt Chafin
Merle Madrid
Peter Voderberg

TO: OMA Tax Committee
FROM: Rob Brundrett
SUBJECT: Tax Public Policy Report
DATE: May 16, 2017

Overview

The General Assembly will continue to hold hearings throughout the spring and early summer. The main focus continues to be on the state budget. It was announced recently that tax revenues continue to disappoint and that the state is about $800 million short heading into the next biennium. The House revamped the Governor's tax proposals and sent the budget to the Senate. Ohio must have a signed budget by the end of June.

Tax Legislation

Senate Bill 9 – Sales Tax Holiday

Senator Kevin Bacon introduced Senate Bill 9 which provides for a three-day sales tax "holiday" in August 2017 during which sales of clothing and school supplies are exempt from sales and use taxes. The holiday was passed and used in 2016 as well. The bill quickly passed the Senate and has cleared the House committee. It is now waiting on a full House floor vote.

House Bill 26 – Transportation Budget

Representative Rob McColley introduced House Bill 26, the state's transportation budget. The bill makes appropriations for programs related to transportation and public safety for the biennium and provides authorization and conditions for the operation of those programs. The House included a Division of Freight at ODOT. This new division would have been focused on all modes of freight transportation. However the Senate pulled the provision. The bill was passed and signed into law by the Governor at the end of March.

House Bill 27 – Workers' Compensation Budget

Representative Tom Brinkman introduced House Bill 27, which is the BWC standalone budget. The bill makes changes to the Workers' Compensation Law, makes appropriations for the Bureau of Workers' Compensation, and provides authorization and conditions for the operation of the Bureau's programs. A sub bill is expected to be voted out of committee as early as this morning.

House Bill 28 – Industrial Commission Budget

Representative Tom Brinkman introduced House Bill 28, which is the Industrial Commission standalone budget. The bill makes appropriations for the Industrial Commission for the biennium, and provides authorization and conditions for the operation of Commission programs. The bill has passed the House and is beginning Senate hearings.

Senate Bill 36 – CAUV

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

House Bill 49 – State Operating Budget

The Governor previously outlined his final budget proposal including several major tax provisions. Originally the Governor proposed more income tax reductions. As introduced, the budget proposed a nearly $3.2 billion, 17% cut in income taxes over the two years beginning July 1. The number of income tax brackets would have been reduced from nine to five. The top tax rate would have dropped to 4.33%.

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

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

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

Finally as every business taxpayer knows, Ohio has an administratively burdensome, and costly, municipal tax system. Governor Kasich proposed to simplify its payment process.

He would streamline the process by having businesses file just one form for municipal taxes and make a single payment through the Ohio Business Gateway. The Ohio Department of Taxation would process payments and distribute revenues back to the appropriate local governments, just as it does for county sales taxes and school district income taxes.

Midway through the House budget process it was learned that Ohio was short nearly $800 million. This proved problematic for many of the Governor's original ideas. The House eliminated all of the Governor's tax proposals. Instead they collapsed the tax brackets and included a revised municipal income tax collection provision and an amended version of the "throw back" rule. This amended version was advocated for by the OMA to protect manufacturers located in townships.

The Senate is expected to put their mark on the bill over the next month. Conference Committee is setting up to be a hectic and action packed week or two. The bill must be signed by the end of June.

Senate Bill 114 / House Bill 155 – Vehicle Training Tax Credit

Senate Bill 114 and House Bill 155 are companion bills that authorize tax credits for expense incurred by employers to train a commercial vehicle operator. These bills would allow businesses to take credits against the CAT. HB 155 has a hearing scheduled for this week.

Senate Bill 132 – Foreign Trade Zone CAT Credit
The bill would establish a five-year pilot program whereby taxpayers with facilities in Ohio with activated foreign trade zone status may claim a nonrefundable commercial activity tax credit equal to the amount redeployed by the taxpayer to job creation and renewable energy resources.

Tax News
OMA Gets Win in Supreme Court
On Thursday Nov. 17, the Ohio Supreme Court issued its long-awaited decisions in three cases involving the application of the commercial activity tax to remote sellers. In a 5-2 decision, the court upheld Ohio's economic nexus standard and rejected the argument that a physical presence in the state was required by the commerce clause before a remote seller could be subject to the tax.

In part, the court held that the $500,000 threshold of receipts was sufficiently substantial for commerce clause purposes. OMA filed an amicus brief in the cases, urging the Court to uphold the economic nexus provisions.

March 7, 2017

The Honorable Tim Schaffer
Chairman, Ways and Means Committee
Ohio House of Representatives
77 S. High St., 11th Floor
Columbus, OH 43215

RE House Bill 49 – Centralized Tax Collection Reform

Dear Chairman Schaffer:

Historically Ohio has had one of the country's most administratively burdensome taxing structures, mostly attributable to Ohio's local income tax system. Ohio is one of a handful of states that taxes both individuals and businesses at the local level and the only state in which each municipal corporation makes its own rules and regulations. The administrative cost in time and money puts Ohio at a disadvantage compared to its peer states and diverts Ohio manufacturers' resources from productive activity.

In the past, The Ohio Manufacturers' Association (OMA) has advocated that Ohio adopt a consolidated and streamlined municipal income tax code that would create a uniform statewide standard. Despite the good progress made in House Bill 5 (130th General Assembly), Ohio's municipal tax system remains costly and cumbersome to manufacturers as they are still required to comply with a myriad of different local tax systems.

House Bill 49 would make Ohio's municipal income tax system simpler and more predictable, both important characteristics of a competitive tax system. The bill does two things in particular that manufacturers support. First, the bill seeks to minimize compliance costs associated with filing in multiple jurisdictions. The governor's proposal to centralize collection and administration for business filers would significantly reduce the time and cost associated with multiple net profit return filings. Second, the bill proposes to eliminate the "throwback" rule. This outdated rule discourages economic development; this punitive tax puts Ohio cities at a competitive disadvantage for attracting business investment.

These important reforms of Ohio's municipal income tax system will help increase Ohio's overall competiveness. If you wish, please contact me at (614) 629-6814 or rbrundrett@ohiomfg.com to discuss further. Thank you for your work on this important bill.
Sincerely,

Robert Brundrett
Director, Public Policy Services

BEFORE THE WAYS AND MEANS COMMITTEE
OF THE OHIO HOUSE OF REPRESENTATIVES
REPRESENTATIVE TIM SCHAFFER, CHAIRMAN

TESTIMONY
OF
MARK ENGEL
BRICKER & ECKLER LLP
OMA TAX COUNSEL

MARCH 21, 2017

Mr. Chairman and members of the Committee, my name is Mark Engel. I'm a Partner in charge of Bricker & Eckler's Cincinnati-Dayton office; my practice is taxation, with concentrated experience in all aspects of state and local taxation, including tax planning, compliance, and litigation in sales and use, income, commercial activity, public utility, and property taxation as well as economic development. I also serve as tax counsel for The Ohio Manufacturers' Association (OMA). I'm testifying today on behalf of OMA regarding the governor's business tax proposals incorporated in House Bill 49. The OMA was created in 1910 to advocate for Ohio's manufacturers; today, it has 1400 members. Its mission is to protect and grow Ohio manufacturing.

For Ohio to be successful in a global economy, the state's tax structure must encourage investment and growth and be competitive nationally and internationally. A globally competitive tax system is characterized by (a) certainty, (b) equity, (c) simplicity and (d) transparency. Economy of collections and convenience of payment are also important considerations. And, generally, manufacturers support efforts to broaden the business tax base, which enables lower rates.

It is poor tax policy to single out any one segment of the economy or group of taxpayers to bear the cost of tax relief for the general population. Similarly, except to resolve existing inequality, or in cases of other policy imperatives, Ohio tax policy should not create a windfall for any group of taxpayers at the expense of other groups of taxpayers. Compliance and administration of any tax should be as simple and inexpensive as possible for taxpayers and tax administrators alike.

Good tax policy also generates necessary revenues to support the essential functions of government. To ensure transparency regarding the true cost of government and the rate of its growth, however, funding government programs with fee revenue instead of general fund revenue should be discouraged. Good budgeting and spending restraint at all levels of government are vital to ensure a competitive tax environment.

Major tax reforms approved by the Ohio General Assembly in 2005 and additional reforms from 2011-2016 have led to significant improvements to a tax system that was for many years widely regarded as outdated. Reforms included reducing overall tax rates, eliminating tax on investment, broadening the tax base, providing more stable and predictable revenues, and simplifying compliance.

The elimination of the tangible personal property tax, the corporate franchise tax, and the estate tax has strengthened the competitiveness of Ohio's tax system. So has the reduction of the personal income tax rate as well as the creation of a broad-based, low-rate commercial activity tax.

Commercial Activity Tax

Major tax reforms approved by the Ohio General Assembly in 2005 led to significant improvements to a tax system that was obsolete. These reforms reduced overall tax rates, eliminated tax on investment, and broadened the tax base, all of which have provided more stable and predictable revenues, and simplified compliance.

The most competitive aspects of the commercial activity tax, or CAT, are its broad base, its low rate, and its broad application to business entities. Those attributes can only be maintained when the state stands firm against pleas for individual carve-outs and exemptions. House Bill 49 does propose several changes to the CAT. However we appreciate that the budget does not propose to increase the rate nor does it carve out any new exemptions from the current base. We would encourage the House to follow the governor's lead and keep the rate where it has been since the CAT was enacted, and not allow any new exemptions to the tax. Every new exemption puts increased pressure on the rate leaving the remaining taxpayers vulnerable to an increase in the tax.

As a gross receipts tax, the CAT applies to every transaction in the chain of commerce. Thus, the tax is paid multiple times and is included in the price that the final consumer pays for a good or service. The distortive effect of taxing intermediate transactions is minimized when the tax rate is kept low. By raising the rate, this distortive effect is magnified. It renders Ohio's tax structure less transparent and its businesses less competitive. It is important for the House to remember these key particulars about the CAT as the budget debate plays out. The rate must remain low for the CAT to work effectively.

CAT Facts

Much has been debated regarding the CAT. For manufacturers, while the tax is not perfect, it has done much to spur growth and investment in Ohio's largest industry. According to Ohio Department of Taxation Fiscal Year 2016 Commercial Activity Tax Returns data, manufacturers made up the second-largest group of CAT taxpayers, representing 11 percent of all taxpayers (retail trade is the largest).

Moreover, manufacturers pay 23.8 percent of the state's total – more than any other group (in terms of CAT revenues based only on the 0.26 percent CAT rate for gross receipts in excess of $1 million).

When it was first enacted, there were few exclusions from the CAT and only four credits. The tax expenditure associated with those exclusions in 2009, the first year the tax was fully phased in, was approximately $300 million. Those exclusions were built into the tax as enacted and the 0.26 percent rate was established with those exclusions in mind.

In its fiscal year 2018-2019 tax expenditure report, the Department of Taxation lists a larger number of exclusions and credits to the CAT. The total cost of those expenditures is more than $600 million! Thus, in just over 10 years, additional credits and exclusions were added to the tax that doubled the amount of the tax expenditure.

The CAT is a stable tax. Although it is a gross receipts tax that pyramids along the economic chain, it is tolerated because of its broad base and low, low rate. However, in less than 10 years, tax expenditures associated with the tax have doubled. Ohio cannot chip away at the base and expect to avoid increases to the rate. Ohio traveled down this path before with the franchise and personal property taxes. The trip was a disaster. Ohio should not venture down that path again with the CAT.

The CAT was enacted as a tax on commercial activity. All enterprises engaged in such activity should be paying the CAT; in fact, equality in the burden of taxation demands that all remain subject to the tax.

Sales Tax / Income Tax

House Bill 49 proposes to increase the state sales from 5.75% to 6.25%. The rationale offered for increasing the sales tax rate is the belief that in order to spur economic growth, consumption, rather than income, should be taxed. That is one of the reasons the CAT, which taxes commercial consumption, was enacted. Similarly, a sales tax acts to tax personal consumption. It is not intended to tax business inputs such as raw materials, machinery and equipment that are used to produce other outputs that are ultimately taxed.

Manufacturers were pleased to see that the budget proposal did not include a large expansion of sales tax to certain business services and the proposed expansion would not be applied to transactions between members of an affiliated group of entities. Both would be detrimental and stifle manufacturing and economic growth in Ohio. However manufacturers already pay a large amount of sales tax in Ohio. According to the 2015 Annual Report of the Ohio Department of Taxation, manufacturers as an economic segment paid more than $426,000,000 in sales and use taxes directly to the state of Ohio. This is in addition to the untold millions of tax dollars that were paid to, and reported by, vendors and retailers located in Ohio. In terms of tax directly owed to state, as opposed to the tax that is collected from others, manufacturing is one of the largest payers of sales and use taxes in the state. Any increase in the sales tax places an increased tax burden on all manufacturers and remains a concern.

House Bill 49 proposes to collapse the nine existing income tax brackets to five brackets. Current rates starting at 0.495 percent and topping out at 4.997 percent for incomes above $200,000 are reduced to 0.456 percent to 4.33 percent. The personal exemption for taxpayers with taxable income less than $40,000 would increase from $2,250 to $3,000. For taxpayers with a taxable income between $40,000 and $80,000, the exemption would increase from $2,000 to $2,500. Finally, income limitation for taxpayers eligible for the low income credit is increased from $10,000 to $15,000 in adjusted gross income less personal exemptions.

As noted earlier, sound tax policy dictates that any tax should have a broad base, a low rate, and few exclusions in order to minimize economic distortion. OMA applauds recent efforts, including House Bill 49 to reduce Ohio's personal income tax rates and collapse the number of income tax brackets. However, OMA is concerned when those efforts have typically been tied to a proposal to increase the sales tax. This tax-shifting is not beneficial and may be counter-productive as businesses and consumers adjust to higher and higher sales tax rates. Rather, if income tax rates are to be reduced further, exclusions and exemptions from the personal income tax ought to be re-examined. If rates are reduced, the need for those exclusions and exemptions disappears. This would provide a broader base and a lower rate for all taxpayers, reduce overall taxes, and avoid the problems of tax-shifting.

Ohio currently relies upon a number of taxes of general application to fund its operations. Tax-shifting and other efforts that reduce or increase reliance on any of those taxes should be considered with great caution. One only needs to consider the crisis in Nevada in 2008, or the current crisis in Alaska, to recognize the problems of over-reliance on any one tax. Just as a broad base is important for any single tax, a broad base of general taxes is equally important for the fiscal welfare of Ohio.

Ohio manufacturers understand that lowering the state's income tax rates and reducing the number of brackets is intended to increase the state's overall competitiveness with other states when attempting to attract new businesses and/or retain expanding businesses. We are worried however, by offsetting these reductions, a much higher burden is placed on the sales tax and increases in other taxes such as the tax on beer.

Centralized Municipal Business Tax Collections

Historically Ohio has had one of the country's most administratively burdensome taxing structures, mostly attributable to Ohio's local income tax system. Ohio is one of a handful of states that taxes both individuals and businesses at the local level and the only state in which each municipal corporation makes its own rules and regulations. The administrative cost in time and money puts Ohio at a disadvantage compared to its peer states and diverts Ohio businesses' resources from productive activity.

In the past, the OMA has advocated that Ohio adopt a consolidated and streamlined municipal income tax code that would create a uniform statewide standard. Despite the good progress made in House Bill 5 (130th General Assembly), Ohio's municipal tax system remains costly and cumbersome to businesses as they are still required to comply with a myriad of different local tax systems.

House Bill 49 would make Ohio's municipal income tax system simpler and more predictable, both important characteristics of a competitive tax system. The bill does two things in particular that manufacturers support when it comes to municipal taxes. First, the bill seeks to minimize compliance costs associated with filing in multiple jurisdictions. The governor's proposal to centralize collection and administration for business filers would significantly reduce the time and cost associated with multiple net profits return filings. Second, the bill proposes to eliminate the "throwback" rule. This outdated rule discourages economic development; this punitive tax puts Ohio cities at a competitive disadvantage for attracting business investment.

These important reforms of Ohio's municipal income tax system will help increase Ohio's overall competiveness.

Conclusion

The OMA supports tax policy that supplies sufficient revenue for the execution of necessary state services in a manner that stimulates economic growth, investment and job creation. Tax policy should encourage growth of capital, and growth in jobs in Ohio.

Manufacturing is the largest contributor to the state's GDP, contributing more than 17 percent. The success of Ohio manufacturing – through its vast network of in-state customers and suppliers - large global firms and their local supply chains - enhances the economic vitality of all other Ohio industries and Ohioans' quality of life. Reducing tax rates in a manner that treats all taxpayers fairly should be encouraged.

House Bill 49 provides some tax benefits to manufacturers including reducing income taxes and centralizing municipal business tax collections without increasing the CAT or expanding sales tax services to affiliated entities or business to business transactions. However, as one of the largest payers of the state's sales tax, Ohio manufacturers are concerned about the shift from income to sales tax.

Thank you very much for the opportunity to comment and provide input to House Bill 49, the proposed state operating budget. Ohio's manufacturers are prepared to help improve the business climate in the state. We look forward to continuing our partnership with the administration and the General Assembly.

I'll be pleased to answer any questions you may have.

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April 26, 2017

The Honorable Ryan Smith
Chairman, Finance Committee
Ohio House of Representatives
77 S. High St., 13th Floor
Columbus, OH 43215

RE House Bill 49 – Centralized Tax Collection Reform

Dear Chairman Smith:

Historically Ohio has had one of the country's most administratively burdensome taxing structures, mostly attributable to Ohio's local income tax system. Ohio is one of a handful of states that taxes both individuals and businesses at the local level and the only state in which each municipal corporation makes its own rules and regulations. The administrative cost in time and money puts Ohio at a disadvantage compared to its peer states and diverts Ohio manufacturers' resources from productive activity.

In the past, The Ohio Manufacturers' Association (OMA) has advocated that Ohio adopt a consolidated and streamlined municipal income tax code that would create a uniform statewide standard. Despite the good progress made in House Bill 5 (130th General Assembly), Ohio's municipal tax system remains costly and cumbersome to manufacturers as they are still required to comply with a myriad of different local tax systems.

House Bill 49 as proposed by the governor would have made Ohio's municipal income tax system simpler and more predictable, both important characteristics of a competitive tax system. His proposal sought to minimize compliance costs associated with filing in multiple jurisdictions. The proposal centralized collection and administration for business filers which would significantly reduce the time and cost associated with multiple net profits return filings.

Yesterday the House Finance Committee removed the governor's centralized collections proposal and replaced it with several changes. Among the changes the substitute bill now would allow businesses to file a single or estimated tax return through the Ohio Business Gateway on which the business can report and pay the total tax due to all of the municipalities in which the business earned net profits. Ohio could charge the lesser of 1% of the tax due or $1,000.00 for the privilege of filing these returns.

OMA and its members oppose these new changes to the substitute bill. Creating a fee to pay taxes sets a very bad precedent moving forward. OMA requests the original language from the governor's proposal be reinserted in Substitute House Bill 49.

Reinserting this important reform of Ohio's municipal income tax system will help increase Ohio's overall competiveness. If you wish, please contact me at (614) 629-6814 or rbrundrett@ohiomfg.com to discuss further. Thank you for your work on this important bill.

Sincerely,

Robert Brundrett
Director, Public Policy Services

Ohio Manufacturing Investment Tax Credit

Based off of the Hoosier Business Investment Tax Credit used in Indiana (See Indiana Tax Document)

GOAL: To tailor the Hoosier Business Investment Tax Credit into a pro-manufacturing Ohio tax credit focused on incumbent manufacturers, in order to increase Ohio's competitiveness and protect and grow manufacturing in Ohio.

Ohio Manufacturing Investment Tax Credit possible provisions:

- Nonrefundable tax credit
- Based on investment / jobs
- Calculation of a credit based on capital expenditures favoring manufacturing investment
- Annual amount available per year TBD
- Can be used to offset the following Ohio taxes
  - Withholding
  - Sales
  - Use

Thank you to Mark Kelly from ArcelorMittal who put together a lot of information based on this committee's previous conversations regarding this type of manufacturing centric credit.

INDIANA
A State that Works

Indiana Economic Development Corporation

HBITC

HOOSIER BUSINESS INVESTMENT TAX CREDIT

DESCRIPTION

The Hoosier Business Investment (HBI) Tax Credit provides incentive to businesses to support jobs creation, capital investment and to improve the standard of living for Indiana residents. The nonrefundable corporate income tax credits are calculated as a percentage of the eligible capital investment to support the project. The credit may be certified annually, based on the phase-in of eligible capital investment, over a period of two full calendar years from the commencement of the project.

ELIGIBILITY

To be eligible for the tax credit:

- Project will result in net new jobs that were not previously performed by employees of the applicant
- Project is economically sound and will benefit the people of Indiana by increasing opportunities for employment and strengthening the economy of Indiana
- Receiving the tax credit is a major factor in the applicant's decision to go forward with the project and not receiving the tax credit will result in the applicant not creating new jobs in Indiana
- Political subdivisions/municipalities affected by the project have offered significant incentives to the business

Eligible capital investment includes new machinery and building costs associated with the project as outlined by I.C. 6-3.1-26-8.

EVALUATION CRITERIA

Each project will be evaluated on its individual merits and with a cost-benefit analysis after it has met the basic requirements as follows:

- Business commits to new capital investment in Indiana
- Business commits to the creation of full-time, permanent jobs for Indiana residents at the project location
- Project supports the purpose of the tax credit, and meets all requirements as set forth in I.C. 6-3.1-26

REPORTING REQUIREMENTS

Upon execution of an HBI tax credit contract with IEDC, the business will be required to report for every calendar year during the term of the contract for a period of 10 years.

Information Required:

- Summary statistics relating to capital investment that occurred in the applicable year
- Individual employee data to support contractual employment and wage thresholds
- Detailed line-item report of eligible investment costs by invoice

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Ohio Manufacturers' Association

Tax Counsel Report
16 May 2017
By Mark A. Engel
Bricker & Eckler LLP

Administrative Actions:

On March 29, 2017, the Department issued informal directions regarding the meaning of "indirect ownership" for purposes of the personal income and pass-through entity taxes. The release contains a pair of examples illustrating how the department will apply that term for both taxes. It distinguishes "constructive ownership" which incorporated attribution rules and states that attribution will not be used for purposes of determining "indirect ownership."

The Tax Commissioner has requested comments are part of his review of O.A.C. 5703-9-21, the manufacturing sales tax rule. See the attached discussion about this effort.

Legislative Actions:

Sub. H.B. 49 is the House's version of the budget bill for 2018-2019. It passed out of the House in April and now is being addressed by the Senate. Virtually all the tax provisions in the original bill were removed. The substitute bill does contain the following:

- Removes the Oct. 15, 2017 sunset date for the enterprise zone program, making the program permanent.

- Changes the manner in which the current agricultural use value of land is determined.

- Provides costs to a property owner in the event that a public entity appeals and ultimately loses a real property valuation contest.

- Eliminates the sales tax brackets and instead computes the tax by applying the applicable rate to the price paid, with the calculation carried to three decimal places and rounded up or down.

- Requires remote sellers that do not have a physical presence in Ohio to collect sales tax if they have annual receipts in excess of $100,000 from Ohio sales and more than 200 separate transactions.

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- Makes procedural revisions to the motion picture tax credit, including the imposition of an application fee.

- Extends the temporary CAT credit for historic rehabilitation costs to July 1, 2019 (credit remains in place for other taxes).

- Earmarks a portion of CAT revenue for nuclear plant fire departments.

- Exempts from the kWh tax, electricity used by a qualified end user in chlor-alkali (defined as a process that uses electricity to produce chlorine and other chemicals through electrolysis of a salt solution) manufacturing.

Please see the attached memorandum regarding the municipal income tax sourcing changes.

Judicial Actions:

Ohio Supreme Court

In *Johnston Coca-Cola Bottling Co., Inc. v. Hamilton Cty. Bd. of Revision*, Slip Opinion No. 2017-Ohio-870, the Supreme Court ruled it was not unreasonable or unlawful for the Board of Tax Appeals to rely upon an appraisal report prepared by an employee of the county auditor. It also ruled that the prohibition against determining the value of property based upon its present use did not preclude an appraiser from relying upon comparable property sales involving leased properties.

In *Emerson Network Power Energy Systems, N.A., Inc. v. Lorain Cty. Bd. of Revision*, Slip Opinion No. 2016-8392, the Court ruled that the BTA must explain its reconciliation of conflicting evidence of value and may not simply make a conclusory finding. In addition, where property is sold after the BTA's hearing, but prior to its decision, and a party moves the BTA to re-open its hearing, the BTA must render a decision on that motion.

In *Lutheran Social Services of Central Ohio Village Housing, Inc. v. Franklin Cty. Bd. of Revision*, Slip Opinion No. 2017-Ohio-900, the Court reversed the decision of the BTA for two reasons. First, the BTA adopted the opinion of value of one appraiser without discussion the contrary evidence submitted by another appraiser. Second, the BOR failed to submit a transcript or recording of its hearing to the BTA, so that the BTA did not have the benefit of the arguments of the parties presented there. The case was remanded to the BTA with instructions to reconsider all the evidence and to explain its conclusions.

Ohio Court of Appeals

In *Painter v. Testa*, 2017-Ohio-267 (5th Dist.), the Court of Appeals upheld a responsible party assessment against the owner of an entity that attempted to sell its business three different times pursuant to a management and purchase agreement under which the purchaser agreed to be responsible for all tax filings and payments. The liquor license and vendor's license remained in the name of the seller at all times. The contractual provision did not serve to relieve the owner of the business from his liability for the taxes that were not paid.

In *State v. Fields*, 2017 Ohio 400 (2nd Dist.), the Court of Appeals held that a taxpayer convicted of failing to pay municipal income tax on cash received as a gift received ineffective assistance of counsel. The taxpayer had received a form 1099-Misc that indicated the income was for "nonemployee compensation." Counsel failed to contest that characterization and failed to raise issues that would have precluded sentencing the taxpayer to jail for the failure to pay a civil debt.

In *Om Harikrushn, LLC v. Summit Cty. Bd. of Revision*, 2017-Ohio-1028 (9th Dist.), the Court of Appeals reversed the common pleas court and ruled that the price paid at a sheriff's sale, supported by an appraisal, was sufficient to establish the value of the property. The Court of Appeals noted no evidence was introduced to support the county's higher valuation. Moreover, the fact the effective date of the opinion was other than the tax lien date nevertheless constituted evidence of value that the court could use, since all the information in the appraisal report was certified by the appraiser as true and accurate.

In *Carr v. Cuyahoga Cty. Fiscal Officer*, 2017-Ohio-1050 (8th Dist.), the Court of Appeals ruled that listing values and sales prices, without comparison or adjustment to the subject property, were not sufficient to establish a value that was lower than that determined by the county.

Ohio Board of Tax Appeals

Nothing to report.

Tax Commissioner Opinion

Nothing to report.

Other

The Tax Commissioner has determined that the reimbursement of certain expenses advanced by a legal firm for the benefit of its litigation clients were taxable receipts for purposes of the CAT. Jones Day, Reavis & Pogue, Account No. 95077285 (March 17, 2017). The fees included those for witnesses, experts, court reporters, investigative services, and costs related to these types of individuals. The Tax Commissioner ruled these fees were part of the price paid for the services provided by the law firm to its clients. That official rejected the argument that such receipts were excluded under the theory the firm acted as the clients' agent, as no common-law agency arrangement was shown to exist. The Tax Commissioner also narrowly construed part of the administrative rule that provided the reimbursement of filing fees were not taxable gross receipts.

Municipal Income Tax "Throw-out" Rule Tossed by House

Mark A. Engel, Bricker & Eckler LLP

Although H.B. 49 as introduced contained major changes to the way municipal income tax was reported and paid by business, the provisions in the substitute bill that was adopted by the House was relatively quiet. In addition to providing permissive authority for taxpayers doing business in multiple cities to file using the Ohio Business Gateway, the only other provision of substance involved the so-called "throw-back" rule for sourcing receipts from the sale of tangible personal property. The sourcing provision, found in R.C. 718.02(D)(1), provides three situations in which receipts from sales of tangible personal property are sourced to a municipality. The third provision states that sales shipped from a location in a city to a location outside the city were sourced to the city unless the taxpayer, through its employees, solicited sales at the location where the goods were shipped. Absent such solicitation, the sales were "thrown-back" to the city from which the goods were shipped.

This provision has been the object of frustration to taxpayers for years. Hearing that frustration, the substitute bill removes that provision from the sourcing rules. The existing language, with deletions lined through and additions underscored, appears here:

"(D) For the purposes of division (A)(3) of this section, receipt from sales and rental made and services performed shall be sitused to a municipal corporation as follows:

"(1) Gross receipts from the sale of tangible personal property shall be sitused to the municipal corporation in which the sale originated. For the purposes of this division, a sale of property originates ~~in a municipal corporation~~ only if, regardless of where title passes, the property meets ~~any~~ either of the following criteria:

"(a) The property is shipped to or delivered within the municipal corporation from a stock of goods located within the municipal corporation.

"(b) The property is delivered within the municipal corporation from a location outside the municipal corporation, provided the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within such municipal corporation and the sales result from such solicitation or promotion.

~~"(c) The property is shipped from a place within the municipal corporation to purchasers outside the municipal corporation, provided that the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.~~"

The bill also provides that taxpayers may, but are not required, to make single or aggregated municipal income tax filings through the Ohio business gateway. There is no charge levied by the state if a taxpayer takes advantage of this provision.

Tax

Trump Proposes Big Tax Cut for Business
May 5, 2017

Last week, U.S. National Economic Director Gary Cohn and Treasury Secretary Steven Mnuchin, on behalf of the Trump Administration, revealed "core principles" of the president's tax reform plan. Many of the proposals were similar to those he made on the campaign trail, including a cut in the tax rate for businesses to 15%.

Director Cohn and Secretary Mnuchin emphasized throughout the briefing that many details were still being negotiated.

OMA Connections Partner, **GBQ**, **summarizes the proposals here**. *4/29/2017*

"Golden Opportunity" to Revise Sales & Use Tax Rule
April 28, 2017

This week OMA submitted **initial comments** to the Ohio Department of Taxation regarding revisions to **OAC 5703-9-21**, the manufacturing sales tax rule. OMA requested in the comments that the department reconvene the working process initiated in the late 1980s that drafted the original rule. The rule itself has not been reviewed in almost 30 years.

This rule review provides a golden opportunity for manufacturers to work together to improve upon the original success of the rule and to ensure that the tax department fairly treats the manufacturing process.

On May 16 the OMA Tax Committee will focus on the rule and the process the association will take to ensure manufacturing's voice is heard during the review. We will have a presentation from the tax department, as well as analysis from our subject matter experts. **Register for the committee meeting here**.

OMA will be creating a working group to help steer the association as discussions begin with the department. All members who would like to work through the OMA to review this very important rule please contact OMA's **Rob Brundrett**. *4/27/2017*

Manufacturing Sales and Use Tax Rule Review – Action Needed
April 21, 2017

As part of the required review of its rules, Ohio Department of Taxation has **proposed revisions** to **OAC 5703-9-21**, the manufacturing sales tax rule. This is the first time since the rule was promulgated in 1989 that changes have been proposed. A **memorandum** from OMA tax counsel **Mark Engel** of Bricker & Eckler provides background and details of the rule and the proposed changes.

In 1989 the legislature enacted a sweeping revision to the manufacturing sales tax exemption to provide more certainty and reduce the amount of litigation associated with the tax exemption. At the same time, the Department of Taxation promulgated a rule providing guidance, including examples, regarding the application of the new rule. The rule revisions were the result of a lengthy process in which both industry and the department worked out provisions acceptable to both parties.

OMA and its members were heavily involved in the creation of this rule. Now for the first time since the rule was first enacted, the department is preparing for a required rule review. This is an opportunity for manufacturers to work together to revise portions of the rule that have been troublesome over the past two decades.

All members who would like to work through the OMA to review this very important and impactful rule please contact OMA's **Rob Brundrett**. *4/20/2017*

OMA Advocates for Centralized Municipal Tax Collection
April 7, 2017

This week the **OMA submitted testimony** to the House Finance Committee in support of a provision in the governor's budget proposal (**HB 49**) that would streamline and centralize the administration of the net business tax.

Despite recent progress Ohio has one of the country's most administratively burdensome tax structures, mostly attributable to Ohio's local income tax system. Ohio is one of a handful of states that taxes both individuals and businesses at the local level and the only state in which each municipal corporation makes its own rules and regulations.

The administrative costs of the system disadvantage Ohio compared to its peer states. The governor's proposal seeks to minimize compliance costs associated with filing in multiple jurisdictions.

The proposal in the state budget bill to centralize collection and administration for business filers would significantly reduce the time and cost associated with multiple net profit return filings. *4/6/2017*

OMA Testifies on State Budget Tax Proposals
March 24, 2017

OMA Tax Counsel **Mark Engel** of Bricker & Eckler testified before the House Ways and Means Committee this week on the governor's tax proposals contained in **House Bill 49**, the state operating budget.

The bill makes a variety of changes to the state's tax system including cutting personal income taxes, reducing the number of personal income tax brackets, centralizing municipal business tax collections, and expanding the base and increasing the rate of the sales tax.

The **OMA testimony highlighted** support for centralizing municipal tax collections and reducing the income tax and brackets, but cautioned against increasing the sales tax rate in order to offset personal income tax reductions.

The bill is scheduled to be voted out of the House in mid-April. *3/23/2017*

OMA Supports Centralized Municipal Tax Collection
March 10, 2017

This week the OMA **submitted testimony** to the House Ways and Means Committee in support of a specific proposal in the governor's budget (HB 49) that would streamline and centralize the administration of net business tax.

Ohio has one of the country's most administratively burdensome taxing structures, mostly attributable to Ohio's local income tax system. Ohio is one of a handful of states that taxes both individuals and businesses at the local level and the only state in which each municipal corporation makes its own rules and regulations.

The administrative costs of the system put Ohio at a disadvantage compared to its peer states and diverts Ohio manufacturers' resources from productive activity. The proposal seeks to minimize compliance costs associated with filing in multiple jurisdictions.

The governor's proposal to centralize collection and administration for business filers would significantly reduce the time and cost associated with multiple net profit return filings. *3/9/2017*

House Ways and Means Committee Sets Budget Hearing Schedule
March 3, 2017

Here's a peek at the House Ways and Means Committee **hearing schedule** to deal with HB 49, the state's biennial budget. *3/2/2017*

Federal Tax Reform "Blueprint" Described
March 3, 2017

In a recent post, OMA Connections Partner, RSM US, updates us about the federal tax reform proposal known as the Blueprint:

"The Republican leadership of the House of Representatives, and the leadership of the Ways and Means Committee, have advanced an innovative tax reform proposal that is commonly referred to as the Blueprint. As expected of nearly all income tax reform proposals, it would reduce individual income tax rates and the number of tax brackets, paying for those rate reductions with a broadening of the tax base. For example, the Blueprint would reduce the top individual income tax rate from 39.6 percent to 33 percent, eliminate the alternative minimum tax, and eliminate most individual, non-business deductions, other than those for mortgage interest and charitable donations. It does not appear that the existing social security tax on earnings above the "wage base" of approximately $120,000 would be affected. The Blueprint's most important innovation, however, is its novel approach to the taxation of business and investment income, **described more fully here**." *3/2/2017*

An Interesting Pro-Taxpayer Decision Against IRS
February 24, 2017

The Sixth Circuit recently ruled that Roth IRAs that purchase shares of a Domestic International Sales Corporation (DISC) and have dividends returned to it cannot have those transactions recharacterized as excess contributions by the IRS. This is a significant win for taxpayers.

Read **more about this case** from OMA Connections Partner, MCM CPAs & Advisors. *2/22/2017*

OMA Tax Committee Hears Briefing on State Budget
February 17, 2017

Pictured: Ohio Tax Commissioner Joe Testa
This week Ohio Department of Taxation Commissioner **Joe Testa**, House Finance Committee Chairman **Ryan Smith** and House Ways and Means Committee Chairman **Tim Schaffer** met with the OMA Tax Committee to discuss **HB 49, the state operating budget**, and more specifically, the tax proposals in the budget.

The governor's budget proposal is focused on driving down the income tax. The reduction in income tax would be paid for through a variety of other tax increases including the sales tax, cigarette taxes, beer and wine taxes, and a new severance tax.

The budget also proposes centralized collection for business municipal taxes, something the OMA has long advocated.

The budget wrangling must conclude in time for it to be signed into law no later than June 30.

For a front row seat regarding the state's tax developments, join the OMA Tax Committee at **My OMA, select My Communities**. *2/16/2017*

HB11 **INCORPORATING FEDERAL REVENUE CHANGES** (SCHERER G) To expressly incorporate changes in the Internal Revenue Code since February 14, 2016, into Ohio law.

Current Status: 3/30/2017 - **SIGNED BY GOVERNOR**; eff. 3/30/2017

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-11

HB49 **OPERATING BUDGET** (SMITH R) Creates FY 2018-2019 main operating budget.

Current Status: 5/18/2017 - Senate Finance General Government and Agency Review Subcommittee, (Sixth Hearing)

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-49

HB61 **TAX EXEMPTION-FEMININE PRODUCTS** (JOHNSON G, KELLY B) To exempt from sales tax the sale of tampons and other feminine hygiene products associated with menstruation.

Current Status: 5/2/2017 - House Ways and Means, (First Hearing)

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-61

HB70 **FUEL TAX TRANSPARENCY** (MERRIN D) To enact the "Fuel Tax Transparency Act" requiring stickers to be placed on retail service station pumps displaying the rates of federal and state taxes applicable to gasoline and diesel fuel.

Current Status: 3/15/2017 - House Government Accountability and Oversight, (First Hearing)

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-70

HB86 **MINIMUM WAGE INCREASE** (SMITH K, CRAIG H) To increase the state minimum wage to ten dollars and ten cents per hour beginning January 1, 2019.

Current Status: 2/28/2017 - Referred to Committee House Economic Development, Commerce and Labor

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-86

HB89 **AUGUST SALES TAX HOLIDAY** (PATTERSON J, KELLY B) To provide for a three-day sales tax "holiday" in August 2017 during which sales of clothing and school supplies are exempt from sales and use taxes.

Current Status: 2/28/2017 - Referred to Committee House Ways and Means

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-89

HB104 **TAX REFUND ON BAD DEBTS** (SCHAFFER T) To allow vendors to receive a refund of sales tax remitted for bad debts on private label credit accounts when the debt is charged off as uncollectible by the credit account lender.

Current Status: 4/25/2017 - **REPORTED OUT**, House Financial Institutions, Housing and Urban Development, (Third Hearing)

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-104

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

Current Status: 5/16/2017 - House Public Utilities, (First Hearing)

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

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

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

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

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

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

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

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

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

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

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

Current Status: 5/1/2017 - Referred to Committee House Ways and Means

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

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

Current Status: 5/1/2017 - Referred to Committee House Ways and Means

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

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

Current Status: 5/10/2017 - Introduced

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

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

Current Status: 3/28/2017 - **REPORTED OUT**, House Ways and Means, (Third Hearing)
State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-9

SB36 **AGRICULTURAL COMPUTATION** (HITE C) To require that the computation of the capitalization rate for the purposes of determining CAUV of agricultural land be computed using a method that excludes appreciation and equity buildup and to stipulate that CAUV land used for a conservation practice or enrolled in a federal land retirement or conservation program for at least three years must be valued at the lowest of the values assigned on the basis of soil type.
Current Status: 5/10/2017 - **PASSED BY SENATE**; Vote 33-0
State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-36

SB65 **ENERGY STAR TAX HOLIDAY** (BROWN E) To provide a three-day sales tax "holiday" each April during which sales of qualifying Energy Star products are exempt from sales and use taxes.
Current Status: 3/22/2017 - Senate Ways and Means, (Second Hearing)
State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-65

SB114 **CDL TRAINING TAX CREDIT** (HITE C) To authorize a tax credit for expenses incurred by an employer to train a commercial vehicle operator.
Current Status: 5/3/2017 - Senate Ways and Means, (First Hearing)
State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-114

SB123 **PROPERTY TAX COMPLAINT PROCESS** (COLEY W) To limit the right to initiate most types of property tax complaints to the property owner and the county recorder of the county in which the property is located.
Current Status: 5/3/2017 - Senate Ways and Means, (First Hearing)
State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-123

SB131 **EMPLOYEE COMPENSATION-TAX CREDITS** (DOLAN M) To provide that compensation paid to certain home-based employees may be counted for purposes of an employer qualifying for and complying with the terms of a Job Creation Tax Credit.
Current Status: 5/17/2017 - Senate Ways and Means, (Third Hearing)
State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-131

SB132 **TAX CREDIT-FOREIGN TRADE** (DOLAN M, EKLUND J) To establish a five-year pilot program whereby taxpayers with facilities in this state with activated foreign trade zone status may claim a nonrefundable commercial activity tax credit equal to the amount redeployed by the taxpayer to job creation and renewable energy resources.
Current Status: 4/26/2017 - Referred to Committee Senate Ways and Means
State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-132

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

Current Status: 5/10/2017 - Referred to Committee Senate Ways and Means

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