



## MULTISTATE TAX

# Ohio passes FY2024-FY2025 operating budget, enacting various tax changes

## Tax Alert

## Overview

On July 4, 2023, Ohio's FY2024-FY2025 Main Operating Budget Bill, Ohio Amended Substitute [House Bill 33](#) (H.B. 33) was enacted into law. This bill amends various tax provisions including the personal income tax rate, the resident credit calculation, municipal income tax, sales and use tax exemptions, and Ohio CAT exclusions. The legislation also creates new tax credits.

This Tax Alert summarizes some of the provisions of H.B. 33.

## Personal income and franchise tax

### Personal income tax rate reduction

- Beginning in tax year 2023, the number of individual income tax brackets decreases from four to three and the rate ranges between 2.75% and 3.75%.
- For tax years 2024 and beyond, the number of brackets drops to two and the rate ranges between 2.75% and 3.5%.

### Resident credit for pass-through entity and composite taxes paid to other states

- Under H.B. 33, a resident taxpayer must include taxes levied by other states and the District of Columbia, either through composite tax or pass-through entity tax ("PTET"), in the calculation of the taxpayer's Ohio income tax resident credit. To be included in the credit calculation, the PTET must have been enacted for purposes of complying with Internal Revenue Service Notice 2020-75 ("Notice 2020-75").
- Also, pursuant to H.B. 33, taxpayers are required to addback the following to Ohio adjusted gross income: PTET imposed by another state (including the District of Columbia) that was enacted for the

purpose of complying with Notice 2020-75 and was deducted from the taxpayer's federal adjusted gross income or Ohio adjusted gross income as a business expense.

- These provisions apply to taxable years ending on or after January 1, 2023; however, taxpayers have the option to apply the provisions to taxable years ending on or after January 1, 2022 (but before January 1, 2023) by filing either an original or amended return.

## Commercial Activity Tax (CAT)

### Exclusion

- H.B. 33 increases the exclusion of taxable receipts to \$3 million dollars in 2024 and \$ 6 million dollars in 2025.

### Qualified Research Expense Credit

- For taxpayers that file on a consolidated elected or combined basis, each person in the taxpayer's group must separately compute the allowable qualified research expense credit using qualifying expenses incurred by that person.
- Taxpayers filing on a consolidated elected or combined basis may only claim the credit for persons included in the taxpayer's group as of December 31 of the calendar year in which the qualified research expenses are incurred.
- H.B. 33 grants the Tax Commissioner authority to audit a sample of the taxpayer's qualified research expenses to determine eligible credit amounts.

## Municipal tax

### Additional one-month extension

- For taxable years ending on or after January 1, 2023, if a business entity has received a six-month federal extension, H.B. 33 provides that the entity has an additional, automatic one-month extension to file its Ohio municipal income tax return. For calendar year taxpayers, the extended due date is November 15<sup>th</sup>.

### Alternative apportionment for remote employees

- For taxable years ending on or after December 31, 2023, H.B. 33 provides that a taxpayer may make an election to use a modified municipal income tax apportionment formula with respect to net profits attributable to the activities of remote employees and owners.
- Under the election, sales, wages, and property related to activities performed by the remote employee at that employee's qualifying remote work location shall be situated to that individual's qualifying reporting location.
  - "Qualifying remote work location" means a permanent or temporary location at which an employee or owner chooses or is required to perform services for the taxpayer, other than a reporting location of the taxpayer or any other location owned or controlled by a customer or client of the taxpayer.  
"Qualifying remote work location" may include the residence

of an employee or owner and may be located outside of a taxing municipality.

- "Qualifying reporting location" is defined as the reporting location at which an employee or owner performs services for the taxpayer on a regular or periodic basis during the taxable year.
- If a taxpayer makes the alternative apportionment election, the taxpayer is not required to file a net profit return with a municipality solely because a qualifying remote employee's or owner's qualifying remote work location is located in the municipality.

## Sales/Use/Indirect

### Expanded sales tax holiday

- H.B. 33 provides for an expanded sales tax holiday to be held beginning in 2025 if there is a surplus of at least \$60 million in the expanded sales tax holiday fund at the end of a given fiscal year.
- Not later than the 31<sup>st</sup> day of July 2024 and each year thereafter, the director of budget and management shall certify to the tax commissioner that a sales tax holiday shall be held in August the following fiscal year.
- Prior law provided for a permanent sales tax holiday on the first Friday, Saturday, and Sunday in August of each year. The last occurrence of the sales tax holiday under prior law provisions will occur, August 4-6, 2023.

### Sales tax exemption for baby products

- Beginning on and after October 1, 2023, H.B. 33 provides for a sales tax exemption for certain baby products. The exemption includes child diapers, creams and wipes. Car seats, cribs, and strollers that meet certain safety standards under the Code of Federal Regulations are also exempt.

### Sales and rentals to government entities

- H.B. 33 also adds a specific reference to construction material and services sold or rented to government entities for temporary traffic control or drainage purposes to existing provisions of law that exempt all sales and rentals to government entities from the sales and use tax.

## New Ohio tax credits

- H.B. 33 has introduced either expanded or new Ohio tax credits impacting personal income tax (PIT), financial institution tax (FIT) or insurance premium taxes. A brief summary of the new Ohio credits follows:
  - Welcome Home Ohio (WHO) credits authorize credits for developers or land banks up to \$90 thousand dollars for each residential unit for qualifying rehabilitation or building of housing units sold to lower income owners/occupants. The WHO credits are available to offset PIT, FIT, or premium insurance taxes.

- Single Family Home Developer Credits are non-refundable credits against FIT and insurance premium taxes for investment in the development and construction of single-family housing projects.
- The Ohio production and motion picture credit has been extended and funding increased.

## Get in touch

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