



www.lsc.ohio.gov

# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

H.B. 197  
133<sup>rd</sup> General Assembly

## Fiscal Note & Local Impact Statement

[Click here for H.B. 197's Bill Analysis](#)

**Version:** As Reported by Senate Ways & Means

**Primary Sponsors:** Reps. Powell and Merrin

**Local Impact Statement Procedure Required:** No

Philip A. Cummins, Senior Economist, and other LBO staff

### Highlights

- The bill incorporates into Ohio income tax law changes made to the federal Internal Revenue Code (IRC) since 2018. The most significant of those changes occurred in December 2019, with provisions generally affecting tax returns to be filed for tax year (TY) 2019.
- Incorporation of IRC changes potentially reduces personal income tax (PIT) revenue by up to \$10 million in FY 2020 and up to \$3 million in FY 2021. In the current biennium, the revenue loss would be shared by the state General Revenue Fund (GRF, 96.62%), the Local Government Fund (LGF, 1.68%), and the Public Library Fund (PLF, 1.70%). Funds deposited into the LGF and PLF are distributed to counties, municipalities, townships, and public libraries according to statutory formulas and decisions by county budget commissions.
- Ohio taxable income (OTI) plus any business income deduction serves as the tax base for one of the two types of school district income tax (SDIT). The modification of federal adjusted gross income (FAGI) incorporated in Ohio law may reduce school district income taxes by up to \$250,000 in FY 2020 and up to \$90,000 in FY 2021. The amount of the local revenue reduction for each respective school district would depend on the number (if any) of taxpayers in that district that are impacted by the IRC changes recognized for conformity by the bill.
- The bill modifies a recently enacted sales and use tax exemption for incontinence products paid by Medicaid to comply with requirements of the Streamlined Sales and Use Tax Agreement. This provision appears to have no fiscal effect.
- The bill also makes numerous technical and corrective changes to tax law that have no fiscal effect.

## Detailed Analysis

The bill incorporates Internal Revenue Code (IRC) changes since 2018 into Ohio income tax law, narrows a sales and use tax exemption for certain protective incontinence products, and makes many other technical and corrective changes that appear to have no fiscal effects. Please refer to the LSC bill analysis for a detailed description of these changes. The bill declares an emergency so would go into effect immediately when enacted and be exempt from the referendum.

### IRC incorporation

The bill incorporates changes to the IRC made by House Resolution (HR) 1865, the Further Consolidated Appropriations Act, 2020, into Ohio income tax law. The Act represents the most significant federal tax revenue law change since 2018. Ohio tax law incorporates by reference parts of the IRC and other federal laws. Periodic amendments to federal law do not become part of Ohio law unless they are incorporated by an act of the General Assembly. Several provisions in HR 1865 modified the definition of federal adjusted gross income (FAGI) and these actions materially affect the tax base for some Ohio taxpayers. FAGI is the starting point for determining Ohio adjusted gross income (FAGI with certain additions and deductions), Ohio tax base, and Ohio taxable income.

Generally, HR 1865 repealed three health care taxes that were originally enacted as part of the 2010 health care reform legislation,<sup>1</sup> made changes to federal retirement plan rules, extended several expired tax provisions, provided new disaster tax relief, and repealed a provision of law that taxed exempt organizations when they provided parking to their employees. Among the revisions, those related to retirement plans and the extension of certain expired provisions<sup>2</sup> would most affect Ohio's individual income taxes, as they would modify FAGI for some Ohio taxpayers. Some of the changes were retroactive and would apply to previous tax years, which may lead to the filing of amended tax returns.

The following provisions in HR 1865 would tend to materially decrease Ohio income tax revenue during the current biennium:

- Increase of the age of required beginning date for required distributions to 72 years (up from 70.5 years);
- Repeal of the maximum age for allowing contributions to a traditional individual retirement account (IRA; the previous age limit was 70.5 years);
- Extension of the exclusion from gross income of discharge of indebtedness on qualified principal residence (effective for discharge of indebtedness after December 31, 2017);

---

<sup>1</sup> HR 1865 repealed three taxes that were enacted as part of the Patient Protection and Affordable Care Act: the medical device excise tax, the excise tax on high-cost employer sponsored health plans (also called "Cadillac" tax), and the annual fee on health insurance providers. Those changes have no revenue effect on the GRF.

<sup>2</sup> The federal bill included more than 25 tax provisions that either had already expired or that were scheduled to expire, but the large majority of those provisions do not affect FAGI.

- Expansion of section 529 plans to allow distributions for expenses associated with apprenticeship programs and up to \$10,000 of student loan repayments (for distributions made in 2019);
- Penalty-free distributions of up to \$5,000 from qualified retirement plans and IRAs for births and adoptions;
- Extension of the above-the-line deduction for qualified tuition and related expenses (effective after December 31, 2017);
- Repeal of rules related to the taxation of unearned income of certain children (effective after December 31, 2017);
- Extension of energy-efficient commercial buildings deduction (effective after December 31, 2017).

The following provisions in HR 1865 would tend to materially increase Ohio income tax revenue during the current biennium:

- Reduction of the minimum age for allowable in-service distributions of pensions for miners from 62 years to 59.5 years;
- Nonspouse designated beneficiaries of an IRA required to take distributions over ten years instead of distributions over the designated beneficiary's lifetime.

Please note that the list above is not exhaustive as the federal bill includes numerous other provisions that may have an impact on Ohio income taxes to a lesser degree. Also few of the federal provisions are likely to modify the treatment of business income for Ohio personal income tax purposes. However, because of the business income deduction in current law, those would have a negligible effect on Ohio income taxpayers, so they are not considered in this analysis.<sup>3</sup>

### **Fiscal impact on the GRF**

On balance, incorporation of the federal law changes in Ohio income tax law is likely to reduce GRF revenue during this biennium. Given the extent and complex nature of these changes, and the confidential nature of individuals' tax returns, LBO cannot provide a precise estimate of the net revenue loss from the bill. Notwithstanding those limitations, the potential revenue loss from the bill might be up to \$10 million in FY 2020, and up to \$3 million in FY 2021. However, LBO does not rule out that the actual fiscal impact could be less than estimated

---

<sup>3</sup> HR 1865 also includes an extension of the federal New Market Tax Credit (NMTC) which would have a material negative fiscal impact on the GRF in the next biennium (FY 2022-FY 2023) from the Ohio New Market Tax Credit. This credit is a nonrefundable tax credit for financial institutions and insurance companies that qualify for the federal NMTC Program. Thus, it is not a credit against the Ohio income tax, but against the financial institutions tax or insurance taxes. The Ohio Development Services Agency determines the amount of credits and may issue a maximum of \$10 million worth of credits each fiscal year.

above.<sup>4</sup> In the current biennium, the GRF retains 96.62% of all GRF tax receipts, the Local Government Fund (LGF) receives 1.68% of all GRF tax receipts, and the Public Library Fund (PLF) receives 1.70% of all GRF tax receipts.<sup>5</sup>

For the next biennium, however, LBO believes the revenue impact on the GRF is likely to be more limited. The bill might result in no fiscal gain or loss, or may be a potential gain of up to \$1 million each in FY 2022 and FY 2023, as the revenue gains from certain provisions offset losses that may arise from other provisions in HR 1865.

The Joint Committee on Taxation (JCT) of the United States Congress estimated the federal revenue effects of individual income tax changes, and these estimates served as the basis for this fiscal note. JCT estimates were converted into a nationwide taxable income base using the appropriate federal tax rates. Ohio was assumed to have 3.2% of that nationwide individual income tax base (Ohio's share of the nation's personal income was approximately 3.2% in 2018). Then, an overall average tax rate of 3% was applied to the estimated Ohio taxable income to arrive at the potential revenue loss from the bill.<sup>6</sup> The fiscal impact of the provisions that affect tax years prior to TY 2019 is assumed to occur in FY 2020. It is possible, however, that amended returns for those prior years will instead affect FY 2021. This would decrease the estimated fiscal impact in FY 2020 and increase that of the following fiscal year.

### **Fiscal impact on school districts**

School district income taxes (SDITs) are based on either (1) the Ohio taxable income (OTI) of taxpayers residing in the school district, plus any business income deducted in deriving OTI, or (2) the portion of that income that is earned income, generally limited to wages and self-employment income. School boards and voters of individual school districts choose whether to enact income taxes in their districts and which of the two bases to use. As of January 2020, 203 school districts levy an income tax, and the majority of those use adjusted OTI (also known as the traditional base). For school districts using the traditional base, the reduction in FAGI will reduce adjusted OTI and school district income taxes. This would result in overall revenue loss for affected school districts (statewide) of up to \$250,000 in FY 2020 and up to \$90,000 in FY 2021. The amount of the local revenue reduction for each respective school district would depend on the number (if any) of taxpayers in that district that are impacted by the IRC changes recognized for conformity by the bill.

### **Sales tax exemption: Medicaid-covered incontinence products**

The bill modifies a recently enacted sales and use tax exemption for sales of prescription diapers or protective incontinence underpads for the benefit of a Medicaid recipient, specifying that the exemption is available for only those products sold by a Medicaid provider that has entered into a valid provider agreement with the state. The purpose of the change is to enable the state to remain in compliance with the Streamlined Sales and Use Tax Agreement. The

---

<sup>4</sup> The fiscal estimation assumes that changes in FAGI affect taxpayers uniformly across the country.

<sup>5</sup> Under codified law, the GRF receives 96.68% of the tax receipts, and the LGF and PLF each receives 1.66%.

<sup>6</sup> Ohio's marginal tax brackets range from 2.850% to 4.797%.

change will apply beginning in April 2020 – the same month in which the exemption itself is scheduled to begin to apply.

The sales and use tax exemption for such products, purchased for individuals enrolled in the state's Medicaid Program, was enacted by S.B. 26 of the 133<sup>rd</sup> General Assembly. Based on a review of expenditures reported by the Ohio Department of Medicaid and sold by Medicaid providers, the exemption was estimated to reduce state sales tax receipts by \$1.7 million per year (or about \$0.4 million in FY 2020). This revenue loss estimate was predicated on the presumption that Medicaid providers have a valid provider agreement with the state, so this provision of H.B. 197 appears to have no fiscal effect.