OHIO LEGISLATIVE SERVICE COMMISSION

Russ Keller

# Fiscal Note & Local Impact Statement

**Bill:** H.B. 333 of the 132nd G.A. **Status:** As Introduced

**Sponsor:** Reps. Becker and Leland **Local Impact Statement Procedure Required:** Yes

**Subject:** To allow married couples to file state income tax returns irrespective of federal filing status

## State & Local Fiscal Highlights

| | FY 2018 | FY 2019 | FUTURE YEARS |
|---|---|---|---|
| **State General Revenue Fund** | | | |
| Revenues | Loss between $628 million and $720 million | Loss between $652 million and $747 million | Annual loss growing with income from FY 2019 amount |
| Expenditures | Significant programming costs incurred for processing and compliance | - 0 - | - 0 - |
| **Counties, municipalities, townships, and public libraries (LGF and PLF)** | | | |
| Revenues | Loss between $22 million and $25 million | Loss between $23 million and $26 million | Annual loss growing with income from FY 2019 amount |

Note: The state or school district fiscal year is July 1 through June 30. For example, FY 2018 is July 1, 2017 – June 30, 2018. For other local governments, the fiscal year is the calendar year.

- The bill permits married taxpayers to file joint or separate state income tax returns regardless of the taxpayers' federal filing status for that taxable year. Although the bill does not reduce the personal income tax base, it enables married taxpayers to file in a financially advantageous manner by limiting how much income is subject to the progressively higher marginal rates of Ohio's state income tax.
- The personal income tax revenue loss would be shared by the state General Revenue Fund (GRF, 96.66%), the Local Government Fund (LGF, 1.66%) and the Public Library Fund (PLF, 1.68% in FY 2018 and FY 2019). Funds deposited into the LGF and PLF are distributed to counties, municipalities, townships, and public libraries according to statutory formulas.
- The personal income tax base serves as the base for one of the two types of school district income tax. Because the bill does not reduce the tax base, and all school district income tax levies are subject to flat (rather than progressive) tax rates, the bill will likely not impact any revenues raised by school districts.
- As of this writing, the Tax Department did not have an exact estimate of the costs incurred as a result of H.B. 333, but the agency anticipates significant computer programming costs for revisions to its tax return processing and compliance systems.

- The tax department estimated a larger revenue loss for H.B. 333, concluding that the bill reduces GRF revenues by an amount between $790 million and $881 million in FY 2018 and between $829 million and $925 million in FY 2019.

# Detailed Fiscal Analysis

Beginning with taxable year (TY) 2017, H.B. 333 permits married taxpayers to file joint or separate state income tax returns regardless of the taxpayers' federal filing status for that taxable year. Federal law allows married individuals to file joint or separate federal income tax returns. Under current Ohio law, a married couple must file a joint state income tax return if they file a joint federal income tax return for the taxable year, and separate returns if either spouse files a separate federal return for the taxable year.

## Fiscal effect

The bill would create a revenue loss under the income tax. Some taxpayers currently file jointly because that option yields a lower federal tax liability. These married couples might prefer to file separately in Ohio, but do not do so because the potential savings on their Ohio taxes is outweighed by the benefit of filing a joint federal tax return. Similarly, some taxpayers currently filing separately because of advantages to their federal tax liability would prefer to file jointly in Ohio. The amount of the revenue loss from H.B. 333 depends on the number of taxpayers who would switch their filing status and the average amount of savings for those taxpayers electing to do so.

Ohio data from the 2015 American Community Survey (ACS) Public Use Microdata Sample, which is prepared by the U.S. Census Bureau, provides income amounts for each spouse in a household. The ACS also collects general information on the source of income, which enables end users to estimate whether the married couple would qualify for the joint filer credit. LSC modeled the policy impact of H.B. 333 and then adjusted the resulting figure for the business income deduction,[1] which cannot be simulated using ACS data. The presence of this deduction may decrease the actual revenue cost, but the estimate is unavoidably rough. Nevertheless, the lower bounds of annual estimates contained in this Fiscal Note represent a hand adjustment to the modeled cost for the business income deduction.

Notably, the ACS data set does not indicate the married couple's tax filing status. Therefore, the LSC revenue estimate reflects the difference between a couple's two hypothetical choices – filing jointly or filing separately – rather than the difference

[1] The business income deduction exempts the first $250,000 of business income from taxation and applies a 3% rate on income in excess of $250,000. This tax treatment is substantially different from the taxation of nonbusiness income, which is subject to a progressive income tax with up to eight different marginal rates.

between their current federal filing status and the alternative choice enabled by H.B. 333 (which may not be more advantageous).

Based upon this methodology, the personal income tax would lose up to $745 million, of which the GRF share is $720 million in FY 2018. The estimate is predicated on 100% of Ohio's two million married couples electing to file their state tax return in the most financially advantageous way. If some of these married couples do not maximize their financial benefit, the revenue loss could be less. Similarly, if some of these married couples already file in the most financially advantageous way, the revenue loss could be less. In future years, this annual loss would grow in a pattern similar to married couples' income growth.

Potentially, the estimated revenue loss for H.B. 333 could be too low as evidenced by the higher tax department estimate described below. The tax department used a different data source and varying assumptions for the amount of income earned by each spouse, so the full range of outcomes presented in this Fiscal Note are indicative of the contrasting methodologies and data sources.

The personal income tax revenue loss would be shared by the state General Revenue Fund (GRF, 96.66%), the Local Government Fund (LGF, 1.66%) and the Public Library Fund (PLF, 1.68% in FY 2018 and FY 2019). Funds deposited into the LGF and PLF are distributed to counties, municipalities, townships, and public libraries according to statutory formulas. H.B. 333 will reduce LGF and PLF revenues for FY 2018 by a total amount between $22 million and $25 million. Estimated revenue losses for FY 2019 would grow to an amount between $23 million and $26 million, and losses in future years would be contingent on the growth in married couples' incomes.

The personal income tax base serves as the base for one of the two types of school district income tax. Because the bill does not reduce the tax base, and all school district income tax levies are subject to flat tax rates rather than a progressive rate structure, the bill will likely not impact any revenues raised by school districts.

**Table 1. Ohio Married Couples' Income Split Among Spouses**

| Ratio of Each Spouse's Income to Couple's Total Income | Number of Married Couples |
|---|---|
| 0% and 100% | 374,727 |
| 5% and 95% | 113,848 |
| 10% and 90% | 117,383 |
| 15% and 85% | 134,934 |
| 20% and 80% | 163,300 |
| 25% and 75% | 175,231 |
| 30% and 70% | 201,818 |
| 35% and 65% | 203,514 |
| 40% and 60% | 227,549 |
| 45% and 55% | 247,237 |
| 50% and 50% | 167,062 |
| **Total Ohio Married Couples** | **2,126,603** |

Table 1 presents information about Ohio's married couples found in the American Community Survey. The ACS inquired about a married person's income as well as the income of his or her spouse. The above table expresses these replies in percentage terms. For example, Table 1 shows that 374,727 married couples have one spouse that earns 100% of the couple's income, whereas 167,062 married couples report that each spouse earns approximately equal amounts of income, which is expressed as a 50/50 split of the couple's total income.

**Chart 1. Estimated Annual Tax Savings Per Married Couple**

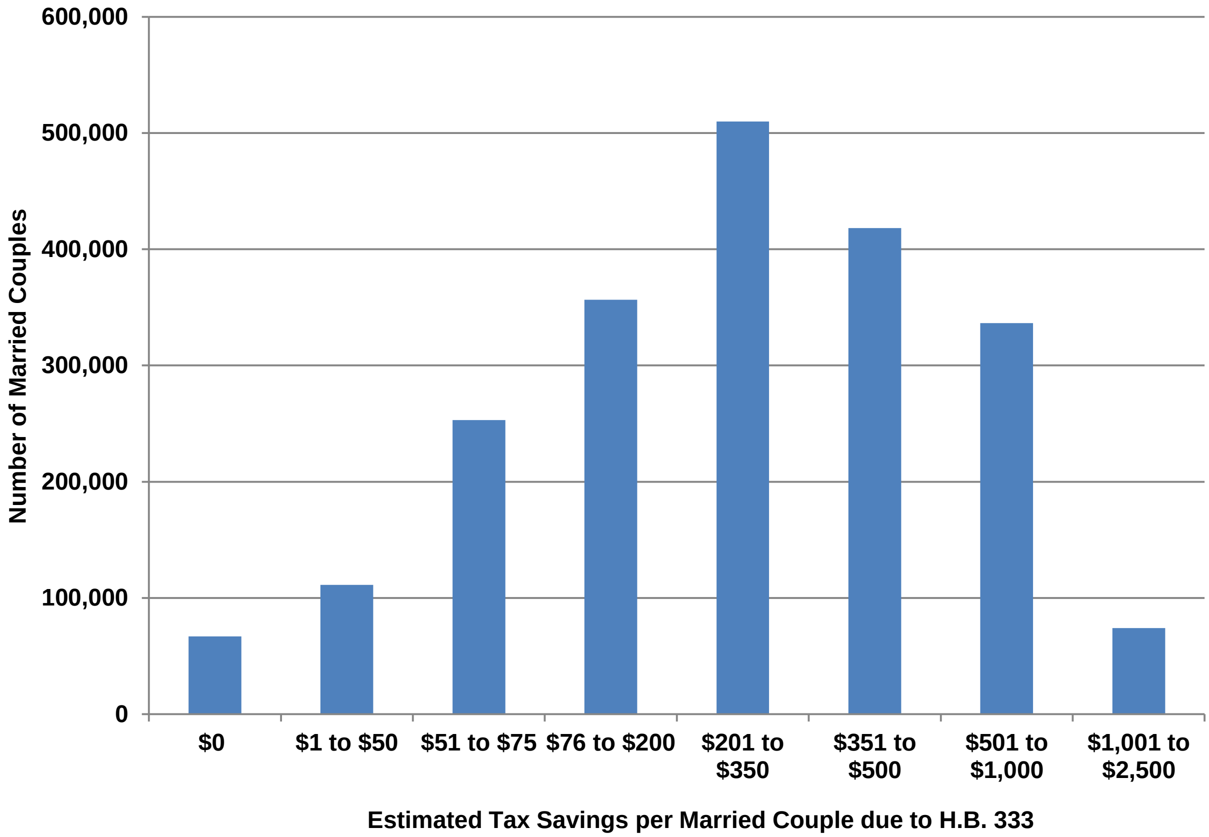


Chart 1 groups Ohio's married couples based upon their estimated tax savings from the bill. All of the same caveats for the state revenue loss incurred by H.B. 333 are relevant to the conclusions in Chart 1. Approximately 67,000 of Ohio's 2.1 million married couples would likely not benefit from the bill. Up to 97% of married couples could benefit from the bill to varying degrees. Under the parameters of this simulation, no married couple would receive savings of more than $2,500 per year. A little more than 500,000 married couples could annually save between $201 and $350 if H.B. 333 were enacted.

## Tax department estimate

The Ohio Department of Taxation utilized TY 2015 individual income tax data. The state tax return discloses business and nonbusiness income, so it is better positioned to model the impact of the business income deduction. Nonbusiness income is reported on a combined basis for those married couples filing jointly, so assumptions were necessary when splitting this combined amount between the two spouses.

The tax department simulated models for married couples currently filing jointly and couples filing separately. The resulting conclusions implied a state revenue loss between $817.3 million and $911.6 million for FY 2018 and between $858.2 million and $957.5 million for FY 2019. The GRF share of these losses would be 96.66% of this all funds total in the current biennium.

## Impact on agency expenditures

LSC contacted the tax department for their assessment of H.B. 333 on agency expenditures. Although a dollar estimate was not available as of this writing, the computer programming costs incurred in response to this legislation may be significant.

The Department remarked that it would probably not need to prescribe any new forms, as taxpayers can already file separately. However, some modifications to [tax department] instructions, frequently asked questions, and internal information would be necessary to explain the change and address administrative issues for which H.B. 333 does not provide clear guidance. Furthermore, the Department's internal computer system might need reprogramming to allow for Ohio returns to not match federal returns. Finally, the compliance programs, which rely on federal data, will also need retooled, as the federal and Ohio returns will no longer have matching federal information.

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