OHIO LEGISLATIVE SERVICE COMMISSION

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Fiscal Note & Local Impact Statement

Bill: H.B. 524 of the 132nd G.A. **Status:** As Introduced

Sponsor: Reps. Scherer and Patterson **Local Impact Statement Procedure Required:** Yes

Subject: Income tax deduction for contributions to 529 plans to include those made to non-Ohio 529 plans

State & Local Fiscal Highlights

- Current law allows a personal income tax deduction for contributions to qualified tuition programs (529 plans) managed by the Ohio Tuition Trust Authority. The bill permits the same deduction for contributions to 529 programs established by other states and thus decreases Ohio taxable income and personal income tax revenue. However, the revenue loss is uncertain, possibly a few millions of dollars annually.
- Under permanent law, the personal income tax revenue loss would be shared by the General Revenue Fund (GRF, 96.68%), the Local Government Fund (LGF, 1.66%), and the Public Library Fund (PLF, 1.66%). 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.
- The reduction in Ohio taxable income under the bill would reduce school district income tax revenues to those districts that use Ohio taxable income as the basis for calculation of taxes owed.

Detailed Fiscal Analysis

Income deduction for contributions to 529 plans

Federal law authorizes states and post-secondary education institutions to operate tax-preferred college savings programs, known as qualified tuition programs or "529 plans." The state of Ohio currently offers such a plan, under which individuals may contribute to an investment account to pay for future post-secondary expenses. Earnings from such plans are not taxed when funds distributed from the plan are used for educational purposes. Ohio's plan is administered by the Ohio Tuition Trust Authority.[1]

[1] The recently enacted federal Tax Cuts and Jobs Act extends the tax treatment of qualified tuition programs to include the use of 529 plans for primary and secondary school education. Ohio conformed to this provision of federal income tax law with S.B. 22, which was signed into law on March 30, 2018.

Ohio law allows a state income tax deduction for contributions to Ohio's 529 plan. Under prior law, the GRF revenue loss from this tax expenditure was estimated to be $14.8 million in FY 2019, according to the Tax Expenditure Report released in January 2017 by the tax department. H.B. 49, the budget act for the current biennium, increased the maximum income tax deduction for such contributions to $4,000 from $2,000, starting in tax year 2018. This increase in the deduction amount was estimated to decrease personal income tax revenue by $6.9 million per year beginning in FY 2019. Therefore, the total estimated revenue loss from this contribution deduction under current law would be $21.8 million for FY 2019, and probably more in future years. The income tax deduction under continuing law is per beneficiary per year for the taxpayer or the taxpayer and the taxpayer's spouse, regardless of whether the taxpayer and spouse file separate returns or a joint return; annual contributions in excess of $4,000 per beneficiary may be deducted in ensuing years, subject to the annual $4,000 limit.

House Bill 524

Starting with taxable years beginning in 2017, the bill extends the Ohio income tax deduction to contributions made to any 529 plan established by another state or by a post-secondary institution.

As of 2016, the total value of customer accounts in Ohio's 529 plans totaled approximately $9.39 billion, including $4.46 billion and $4.64 billion in the Direct 529 Plan and the Advisor 529 Plan, respectively.[2] An official at the Ohio Department of Higher Education indicated Ohioans held about 40% of assets in the financial advisor-sold plan, and about 75% for the 529 investment plan sold directly to investors. Therefore, a substantial share of the value in the Ohio 529 plans is held by non-Ohioans. This implies that it is possible that Ohioans also invest substantial amounts of money in 529 plans established by other states.

Therefore, extending the Ohio income tax deduction to contributions by Ohioans to 529 plans established by another state or by a post-secondary institution would decrease personal income tax revenue. However, the size of the revenue loss is undetermined because LSC does not have a reliable basis for estimating contributions from Ohioans to out-of-state 529 plans, and no data appear to be available on the magnitude of those contributions. Also, as a result of the bill, additional taxpayers may contribute to out-of-state 529 plans or increase their contributions to such plans. To the extent such new or additional contributions are not simply replacing those that would have been made to the Ohio 529 plans, the revenue loss from the bill may increase, but that effect also cannot be estimated. Though uncertain, LSC cannot rule out the possibility that the potential revenue loss from the bill may be a few millions of dollars per year.

[2] For the prepaid tuition credit 529 savings plan, which has been closed to new contributions since December 31, 2003, the aggregate value of customers' accounts was about $287 million. Ohio residency of owner or beneficiary was required at the time of account opening.

Under permanent law, the personal income tax (PIT)revenue loss would be shared by the General Revenue Fund (GRF, 96.68%), the Local Government Fund (LGF, 1.66%), and the Public Library Fund (PLF, 1.66%). 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.

School district income tax

School district income taxes (SDIT) are based on either Ohio taxable income of taxpayers residing in the school district or on 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 these two tax bases to use. For school districts in which Ohio taxable income serves as the starting point for calculation of school district income taxes, increasing the PIT deduction for 529 savings plan contributions will reduce school district income tax revenues. The local revenue reduction amount caused by H.B. 524 for each respective school district depends on the number (if any) of taxpayers living in that district who utilize the marginal increase in the PIT deduction. In calendar year 2017, 144 school districts levied an income tax from the "traditional" tax base rather than the earned income tax base. During FY 2017, these school districts raised $316.8 million through school district income taxes. The aggregate revenue loss for the school district income tax is also uncertain, though likely small.

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