OHIO GENERAL ASSEMBLY ALERT

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Upcoming State Budget Expected to See Major Tax Changes – "This is a significant budget issue for the state, counties, and transit authorities," says State Budget Director

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In the coming weeks, Governor Kasich and the General Assembly will begin drafting Ohio's two-year state budget. While the official introduction of the budget will take place in February of 2017, discussions about what the budget will entail have already begun due to major concerns regarding a looming potential billion-dollar budget revenue loss as a result of a federal decision regarding Ohio's sales and use tax.

Federal regulators at the **Centers for Medicare and Medicaid Services** recently determined that the Ohio sales and use tax applied only to Medicaid managed-care companies is illegal. This means the State of Ohio will no longer be able to collect this tax, resulting in an $800 million revenue loss for the state over the biennium. In addition, because counties and local transit authorities also collect this tax, they will see an estimated hit of $400 million statewide. State projections indicate that this ruling wipes out almost half of Ohio's tax revenue growth and that counties are now looking at an average loss of 7.5% of their sales tax revenue.

It is critical that clients understand that the state budget process will affect funding sources. Under the Ohio Constitution, the Ohio General Assembly must pass a balanced budget and therefore will have to either raise tax revenues, cut spending, or do both. In addition to the budget shortfall, the Governor's long-term goal of eliminating the state income tax will also affect Ohio's tax structure. As such, the Administration and Ohio General Assembly will likely propose changes to some of the 20 state business tax sources, including:

1. **Sales and Use Tax** – The Sales and Use Tax generates most of the state's revenue, over $10 billion in 2015. It is also significant to county governments and regional transit authorities because they are authorized to levy sales and use taxes at the county level which "piggy back" on the state sales and use tax.

The upcoming budget will likely seek to increase or expand the sales and use tax. In past budget proposals, the Administration proposed to increase the state sales and use tax rate, as well as expand the number of products and services the tax applies to, including: parking, advertising, travel packages and tours, cable television subscriptions, legal and lobbying services, public relations services, management consulting services, and market research and opinion polling.

2. **Commercial Activity Tax (CAT) –** The CAT was enacted in 2005 to replace the tangible personal property tax and corporation franchise tax for Ohio businesses. Considered a business privilege tax, the CAT is imposed on most businesses in Ohio and measured by gross receipts.

The Administration previously proposed to increase the CAT rate to generate an estimated $700 million in additional revenue, which would come straight from Ohio's businesses.

3. **Cigarette and Other Tobacco Products Tax (OTP)** – This tax is paid primarily by wholesale dealers through the purchase of stamps that are affixed to packs of cigarettes. However, individual consumers are responsible for paying the tax on cigarettes that are not taxed at the wholesale dealer level.

Tobacco related tax increases are constantly debated at the Statehouse. Most recently, the Administration proposed a full $1 increase on the cigarette excise tax rate, and the General Assembly enacted a tax increase from $1.25 a pack to $1.60 a pack.

4. **Financial Institutes Tax (FIT)** – The FIT is imposed on financial institutions for the privilege of doing business in Ohio and could potentially see increases or modifications during the upcoming budget debates.

5. **Severance Tax** – Enacted in 1978, the Severance Tax is paid by persons or firms that extract or sever certain natural resources from the soil or waters of Ohio. In 2015, the severance tax generated nearly $27 million for the state.

During the last budget, the Administration proposed reforms and increases to this tax to include a 6.5% tax on the gross market value of hydrocarbons, which was projected to raise $250 million over the biennium.

Additionally, the General Assembly may look to cut spending for programs to alleviate the budget shortage. In the past, this has meant less state funding to local governments and state-run programs, elimination of tax credits and incentives, and privatization of government functions, such as prison systems. The General Assembly will likely look at additional privatization options including, but not limited to, the state's automobile fleets, certain state run utilities, additional prisons, information technology services, and parking garages. These changes would provide opportunities to private companies to become involved in public-private partnerships.

It is likely that your business or organization will be impacted by the upcoming budget process, so it is important that you stay informed and active to ensure your voice is heard. If you have any questions or concerns about the upcoming biennium budget, please do not hesitate to contact one of the listed Roetzel attorneys.

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