

Proposed Tax Changes in Ohio Budget Bill

By Daniel B. Waters and Madison Lisotto Whalen

The 2020-2021 Ohio Biennial Budget passed the Ohio House by a vote of 85-9, and moves on to the Ohio Senate for debate. [House Bill 166](#) has a number of important tax law changes that will affect not only Ohioans, but also businesses that could now have sales tax nexus with Ohio.

House Bill 166 also features a change to a very Ohio business friendly deduction. The Business Income Deduction has been in effect since 2015, and recently allowed taxpayers to deduct up to \$250,000 of business income from their Ohio adjusted gross income, with any excess business income taxed at a flat 3%. Per House Bill 166, the deduction will be capped at \$100,000 for a taxpayer filing as married filing jointly and \$50,000 for married filing separate. Also, any business income over the cap will be subject to ordinary tax rates.

The most sweeping change for businesses is the inclusion of marketplace facilitators into those required to collect sales tax. Ohio had previously established the criteria for a remote seller to be subject to sales tax collection on sales of property in Ohio. A marketplace facilitator will now have nexus if they have \$100,000 in sales or 200 separate transactions of taxable property/services in Ohio in the current or preceding calendar year.

The proposed standards are a reduction in the remote seller presumptions of \$500,000 in sales, and 1,000 transactions. These standards are also in keeping with similar revisions to other state sales tax laws in the wake of *South Dakota v. Wayfair*, 138 S. Ct. 2080 (2018). Companies meeting these standards will be required to collect and remit Ohio sales tax. Failure to remit sales tax could result in the full application of penalties under Ohio law. The assessment of personal liability is one of the most severe penalties.

While the reduction in the Business Income Deduction is bad news for those receiving business income in excess of \$100,000, the House Bill does provide a reduction for all tax rates. The highest tax rate drops from 4.997% to 4.667%. Additionally, the threshold for taxable income is raised from \$10,500 to \$22,500.

The current bill is before the Ohio Senate, so these changes are not final. Roetzel will be monitoring the progress and will keep you informed as the matter evolves.

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