

Governor Kasich's New Budget – Pre-Fourth of July Fireworks

Ohio Governor John Kasich signed a new budget and tax reform bill on June 29, 2011 that contains myriad changes from current law. Following are some of the more notable changes impacting the taxation of Ohioans and Ohio businesses.

TAX AMNESTY

Tax Commissioner Joseph Testa will establish and administer a tax amnesty program for delinquent Ohio income tax, personal property tax and substantially all other Ohio taxes. The program will allow parties to pay all tax and half the interest due in exchange for waiver of the balance of the interest due and abatement of all penalties. This amnesty program will run from May 1 through June 15, 2012.

A separate amnesty program for use tax will run from October 1, 2011 through May 1, 2013. Participants must pay all use tax due from January 1, 2009 to filing date and will receive waiver of all use tax due on purchases before January 1, 2009 and abatement of all interest and penalties.

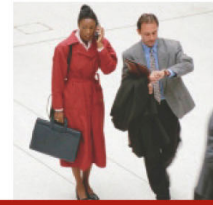
Both programs grant participants immunity from criminal sanctions and are limited to parties who are not, as of the date the program begins, under examination or in receipt of an assessment.

In addition to the financial benefits, these amnesty programs provide an opportunity for businesses to implement best practices for tracking tax owed and remitted going forward.

INVESTOHIO

InvestOhio is intended to encourage new capital investment in small businesses in Ohio and thereby promote the economic welfare of all Ohioans. InvestOhio is a tax credit available for individuals, trusts and estates who invest in small businesses in Ohio. The credit can also be available through pass-through entities that invest in small businesses. The program provides a nonrefundable credit to investors who: (1) make a qualifying investment in certain small businesses; (2) hold the investment for a defined holding period; and (3) cause the small business to register and receive the necessary certification.

A “small business” is one that has less than \$50 million in assets or whose annual sales do not exceed \$10 million, employs at least 50 full-time employees (or possibly as few as one employee) in Ohio, and within six months following the receipt of the investment spends the cash received on the purchase of equipment or real property or uses it toward the cost of certain intangibles or an expanded workforce all within Ohio.



The “holding period” varies based on the date the investment into the small business is made. For investments made between July 1, 2011 and June 30, 2013, the holding period is two years. For investments made on or after July 1, 2013, the holding period is five years. The holding period begins on the date the investment into the small business is made.

This credit may be claimed for the taxable year in which the last day of the holding period occurs. This defers the fiscal impact of the credit to future budgets.

The credit equals 10 percent of the qualifying investment in the small business, up to a maximum of \$1 million for an individual or \$2 million for married couples filing a joint return (if both spouses own qualifying investments). Excess credits can be carried forward for seven years.

Total InvestOhio tax credits are limited to \$100 million every two years. The allocation process is on a first-come, first-served basis.

SALES AND USE TAX EXEMPTION FOR COMPUTER DATA CENTERS

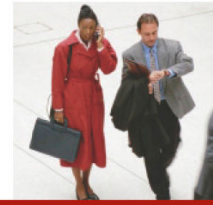
The new law includes a sales and use tax exemption for Ohio computer data centers. The exemption may be either complete or partial and applies to equipment for computer data centers, costs of materials purchased by contractors to construct computer data centers and other related costs. The exemption includes costs for delivery, installation or repair of equipment. To qualify for this exemption, businesses must invest at least \$100 million in the center over three years and pay annual compensation of at least \$5 million to employees at the center. The amount of the exemption is determined by the Tax Credit Authority following receipt and review of an application from an eligible business.

Businesses eligible for this exemption are those that provide electronic information services, which include examination and acquisition of data stored in or accessible to the computer equipment or placing data on computer equipment to be retrieved by designated recipients. Electronic publishers are not eligible for this exemption.

JOB RETENTION TAX CREDITS

The existing nonrefundable Job Retention Tax Credit is modified and extended and a new refundable Job Retention Tax Credit is adopted.

The credit equals up to 75 percent of the Ohio income taxes withheld from a business’ full-time employees. The term and actual amount of the credit will vary by business and is specified by agreement with the Tax Credit Authority. The credit may be granted for up to 15 years. However, the nonrefundable credit may not be granted for more than 10 years unless there is significant retention of employees. Credits may be taken against the income tax, commercial activities tax, insurance company tax or corporate franchise tax.



To qualify for the new refundable credit, a business must meet certain criteria including a capital investment of at least \$5 million (over three consecutive years), and *either* an annual payroll of at least \$35 million with no minimum number of employees required *or* \$20 million annual payroll with at least 500 full-time employees. Applications for the refundable credit must be approved by the Tax Credit Authority no later than December 31, 2013.

To qualify for the nonrefundable credit, a business must have an annual payroll of at least \$35 million or employ at least 500 full-time equivalents and make qualifying capital investments.

ESTATE TAX REPEALED

The Ohio estate tax is repealed effective January 1, 2013. Estates of individuals dying before that date will remain liable for Ohio estate tax at rates of either 6 percent or 7 percent on estates in excess of \$338,333.

FOR MORE INFORMATION

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