



Ohio Municipal League

Our Cities and Villages ★ Bringing Ohio to Life

Concepts municipalities support in sub. HB 5 representing municipal compromises

(List does not include all details or technical components including serious drafting errors that remain in the as “passed by the House” version of the bill, requiring legislative action)

Occasional Entrant changes adding 8 days to the current 12 day “safe harbor” period & “preponderance of a day” definition

Residency standards

Due dates for filings and payments

Penalty and Interest standardization

Imposition of tax on qualifying wages without age limits

2106 deductions

Local Board of Tax Appeals composition

Employee withholding thresholds and deposit frequencies

Extension guidelines and due dates

Estimated Payment thresholds

Statute of Limitations

Casino winnings

Gambling/Lottery winnings

Professional Athletes

Real Estate Commissions

Innocent Spouse Relief

Taxpayer Bill of Rights

Treatments municipalities oppose in sub. HB 5 resulting in significant revenue loss to cities and villages

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Net Operating Loss Carry Forward:

- Mandates that all municipalities allow a 5 year NOL carry forward (*municipalities offer a locked-in tiered system of 0,1,3,5yrs to remedy current inconsistencies*);
- Mandates that all municipalities allow a 5 year NOL carry forward for business entities **and** individual taxpayers.

Occasional Entrant Treatment:

- Prohibits municipalities from collecting back to “day 1” after occasional entrant “days in” threshold of 20 days is met (**current treatment requiring withholding back to day one after the threshold is met is uniformly applied by municipalities**).

Offsetting:

- Requires municipalities to “net” all gains and losses together, generated by diverging sources of income, apportioned or unapportioned, regardless of similarity or nexus, to be applied against each other

- Permits taxpayers to take the same pass-through loss twice.

Throwback provision:

- Bill language nullifies the application of the provision (**Current treatment is uniformly applied by municipalities.**)

Supplemental Executive Retirement Plan (SERP):

- Am Sub.HB5 exempts this **nonqualified deferred compensation** plan from municipal taxation. Currently, court cases are proceeding to determine the status of such plans. Municipal position is to let the court rulings determine treatment. (**Current treatment is uniformly applied by municipalities as SERPs are included in “qualifying wages” and taxable as such.**)

Consolidated Returns:

- Allows taxpayer to override authority of tax administrator when taxpayer is required to file on a consolidated basis, **creating greater non uniformity**

- Allows taxpayer to elect to include or exclude gains or losses of a pass through entity they own, **creating greater non uniformity.** (Currently, municipalities uniformly exclude gains and losses as part of the filing).

- Allows taxpayer to elect to include or exclude related factors of the pass through entity (property, sales, payroll) in calculating the allocation formula to be applied to the consolidated group, **creating greater non-uniformity.** (Currently, municipalities uniformly exclude these factors in such calculations.)

Alternative Apportionment method:

- Allows taxpayer to unilaterally decide to use an alternative method of apportioning net profits without the consent of the tax administrator, **creating greater non uniformity.** Current uniform practice is TP must receive permission by tax administrator before using an alternative apportionment method.