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Informed on Tax Reform

A Brief on the Big Changes

Last year Governor Taft proposed significant changes to the Ohio Tax Code that were incorporated in the budget bill passed by the legislature. Below is a brief summary of the implications of Ohio's new tax structure.

Corporate Franchise Tax will be phased out over five years for most corporations. The rate will be 80% starting in 2006, 60% in 2007, 40% in 2008, 20% in 2009 and 0% in 2010.

Tangible Personal Property Tax immediately exempts new machinery and equipment placed in service during 2005 for the 2006 report and after. The tax on remaining machinery and equipment, furniture and fixtures, and inventory will be phased out over four years. The rate will be 18.75% in 2006, 12.5% in 2007, 6.25% in 2008 and 0% in 2009.

Personal Income Tax is reduced across the board 21% over five years as follows: 4.2% cumulative rate reduction in 2005, 8.4% in 2006, 12.6% in 2007, 16.8% in 2008 and 21% reduction in 2009.

Sales and Use Tax vendor discount remains at .9% through June 30, 2007, and there are certain definitional changes.

Excise Taxes on cigarettes increased from \$.55 per pack to \$1.25 per pack. There is no increase in the alcoholic beverage tax.

Real Property Tax roll back of 10% on property "used in business" has been eliminated beginning tax year 2005. The State will no longer pay 10% of the real property tax on commercial property, which will increase real property tax for all owners of commercial property, with limited exceptions.

Commercial Activity Tax (CAT) became effective July 1, 2005. This is a tax for the privilege of doing business in Ohio and is measured by gross receipts. It is being phased in over five years. All persons and entities (including but not limited to corporations, LLCs, associations, LLPs, firms, etc.) doing business in the State of Ohio are subject to this tax with the exception of State entities, non-profit organizations and certain other limited excluded persons. Any business with taxable gross receipts of \$150,000 or more in a calendar year is subject to the CAT. This also includes persons engaged in the sale or rental of any type of property.

Planning is important for companies who obtain gross receipts from customers located outside Ohio. In certain cases such receipts are not subject to CAT. As such, the actual location where the purchaser ultimately uses or receives the benefit of what was purchased is paramount in determining the proportion of the benefit in Ohio and whether or not said receipts are situated to Ohio and subject to CAT.

With these significant changes in Ohio's tax law it is strongly recommended that you consult with your accountant with respect to CAT. Also, please do not hesitate to contact our Tax Department if you have any questions with respect to any of these issues. This article is merely a brief summary of a very small portion of the changes. Any U.S. federal tax advice contained herein is not intended or written to be used, and any such tax advice cannot be used, for the purpose of avoiding penalties that may be imposed by the Internal Revenue Service.

By C. William Klausman

Topics this issue:

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Featured Attorneys



James W. Wheeler

Jim's practice areas include foreclosure law, creditor bankruptcy law, creditor rights law, real estate law and title insurance law.

He received his B.A. and J.D. from The Ohio State University. Jim is a member of and serves on a variety of committees for the Columbus, Ohio State and American Bar Associations. He is also a member of the Mid Ohio Lenders Counsel Association and Central Ohio Land Title Underwriters Association.

Jim and his wife, Sharon, have two children and 5 (soon to be 6) grandchildren. In his free time Jim enjoys sports, music, travel and is the long-time sports announcer for Westerville North High School.



Mark J. Sheriff

Mark chairs our Collection Department and specializes in commercial and retail collection, corporate litigation and financial counseling and planning.

Mark is an Ohio State grad who earned his J.D. from the University of Cincinnati. He is past president of the Commercial Law League of America, is active in the Columbus and Ohio State Bar Associations and was recently recognized by Ohio Super Lawyers Magazine.

A long-time resident of Upper Arlington, Mark served 16 years on UA's board of education. He and his wife, Sonja, have three children.

Ohio Senate Moves To Strengthen Oversight of Home Mortgage Industry

The fact that Ohio led the nation in foreclosures in 2005 and was high on the list for consumer bankruptcies has led the senate to propose new laws in an attempt to strengthen oversight and enforcement of the state's home mortgage industry. Unscrupulous lenders often put unsuspecting buyers into a mortgage they will never be able to afford, almost assuring a default and resulting foreclosure. Whether the rise in foreclosures in 2005 is a result of a lack of oversight and weak enforcement or a loss of over 230,000 jobs is open for debate.

Ohio is one of only two states that exempt the mortgage industry from the Consumer Sales Practices Act. Senate Bill 162, Senate Bill 185 and Senate Bill 199 seek to change that. These three Bills, if

enacted into law, will expand the Consumer Sales Practices Act to cover brokers and certain lenders.

Senate Bill 162 amends the current Ohio predatory lending law; and expands the Consumer Sales Practices Act to cover *dealers* in intangibles. Senate Bill 185 expands the Consumer Sales Practices Act to cover *transactions between two businesses and dealers* in intangibles. Senate Bill 199 expands the Consumer Sales Practices Act to cover *transactions between customers and dealers* in intangibles and removes the public records exception on investigations and exam information for Broker' Licenses. All three Bills if enacted will apply to brokers and certain lenders. Banks under federal regulation might not be subject to the Consumer Sales Practices

Act under these new laws.

Will these three Bills, if enacted into law, reduce the number of Foreclosures in Ohio or make credit more expensive for families and make business more difficult for honest lenders? Those concerned the laws will make credit more expensive for families and make business more difficult for honest lenders have argued for a solution that tackles underlying economic problems and takes specific steps to close abusive lenders.

The Senate passed the reform legislation on February 22. If the House concurs the consumer protection law will be expanded to the mortgage industry. Lenders and foreclosure attorneys alike anxiously await the outcome.

By Jim Wheeler

Collecting Accounts Receivable – The Legal Process

Sometimes it becomes necessary to take legal action to collect an accounts receivable or money that is due and owing under a contract. Before proceeding you should be aware of the legal process involved.

In the State of Ohio the legal process starts with the filing of a Complaint. Filing fees range from \$50 up to \$250, depending on the county and the court where the lawsuit is filed.

Once a Complaint is filed with the court it is served on the debtor along with a Summons prepared by the Clerk. The Summons accompanying the Complaint advises the debtor that they have 28 days from the date they are served to file an Answer or other responsive pleading with the court if they dispute the amount due and owing. At the end of 28 days if the debtor has failed to respond in any fashion whatsoever, the creditor's attorney can file a Motion and Entry for Default Judgment with the

court. A judgment will then be entered in favor of the creditor against the debtor for the amount requested in the Complaint, including applicable interest and court costs.

If the debtor obtains counsel or files an Answer, pro se, within the 28-day period, then it becomes necessary to proceed with the appropriate discovery techniques and preparation for an eventual trial. That is a subject for another issue of this newsletter. Assuming a judgment is ultimately entered, there are several legal methods available to collect.

Once a judgment is obtained, a Certificate of Judgment becomes a lien against any real estate owned by the Defendant or the debtor in the county where it is filed. Additionally, if the debtor is an actively operating business, the creditor has the right to ask the Sheriff or Bailiff's Office to levy execution on all of the assets of

that business and, if necessary, actually seize them and advertise and appraise them for a judicial sale. Additionally, any money that the debtor has in a bank account can be immediately attached without any notice to the debtor. If the debtor is an individual who is employed, it is also possible in the State of Ohio to garnish their wages. Lastly, the debtor can be subpoenaed or ordered to appear in court to answer any questions about what assets they own and possess that can be used to satisfy the judgment. If they own real estate, it is also possible to proceed with a foreclosure action.

Any questions regarding the process and how it works can be directed to the Firm's Collection Department. We are prepared to help you collect your delinquent accounts receivables or any money owed to you for whatever reason.

By Mark J Sheriff

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