



Revenue & Budget

## Tax policy in the 2022-23 budget bill

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**Policy Matters Ohio priority:** *Ensure state lawmakers use Ohio's public resources to create a state where all children are cared for and have the tools they need to follow their dreams; a state where everyone has what they need to be healthy; and our communities have resources they need to be safe and vibrant.*

**Outcomes:** *Ohio passed, and most lawmakers supported a budget that drains an additional \$1 billion annually from Ohio communities by giving tax breaks and tax cuts to the wealthy and special interests.*

Tax cuts and tax breaks in the 2022-23 budget bill will eliminate \$1 billion a year – permanently – from resources needed to build strong, resilient communities and prepare Ohioans for a better future. Instead, most members of Ohio's General Assembly voted to approve income-tax cuts that favor the very wealthiest Ohioans, while providing only modest benefits for moderate-income Ohioans and nothing at all for Ohioans with the lowest incomes. Benefiting especially from the elimination of the top bracket of the tax and a reduction in the top tax rate, the most affluent 1% of Ohioans would get an average \$5,400 annual tax cut, adding up to well over a third of the total cuts.<sup>1</sup> The Ohio Department of Taxation has estimated the cost of the income-tax changes at \$1.7 billion over the two years of the upcoming budget.<sup>2</sup>

In addition, lawmakers added eight new tax breaks to the existing 138, and expanded others – some starting immediately, some in later years. Spending of state General Revenue Fund dollars on tax breaks will – at \$18.7 billion over the biennium – be the second largest use of state taxpayer funds. Lawmakers also eliminated the 2016 provision to regularly review tax breaks, the Tax Expenditure Review Committee, so this huge expenditure of pooled resources will grow without monitoring or accountability – unlike use of state resources for public services, which is scrutinized and reauthorized every two years, in the state budget process.

### Changes to the income tax

The budget calls for eliminating the top bracket of the income tax, a move that only benefits those making more than \$220,300 a year. As a result of the elimination of this bracket, income-tax rates will no longer increase once a taxpayer's income reaches \$110,650. Income

<sup>1</sup> Schiller, Zach, "Ohio tax cuts would go mostly to the very affluent," Policy Matters Ohio, June 29, 2021 at <https://bit.ly/3EivDJx>

<sup>2</sup> Ohio Department of Taxation, in concert with Office of Budget and Management, "Impact of Enacted House Bill 110 (FY2022-2023 state operating budget)," July 2, 2021

over that amount will be taxed at 3.99%, compared to the current rates of 4.797% for income over \$220,300 and 4.413% on income over \$110,650.

The elimination of the top bracket and the lower 3.99% rate account for almost half the total tax cut, or more than \$400 million a year, going exclusively to affluent taxpayers.<sup>3</sup> Gov. George Voinovich and the General Assembly created the top bracket in the early 1990s, at which time it carried a 7.5% rate. The bill also includes a 3% rate cut and an increase in the income level at which Ohioans start paying the tax, from \$22,150 to \$25,000 a year, which also reduces rate taxpayers pay on that slice of their income. The bottom 80% of taxpayers making less than \$107,000 a year will get just 23% of the tax cuts. On average these taxpayers will get a tax cut of just \$43 a year. For those in the middle fifth of the income spectrum, making between \$42,000 and \$65,000, the average cut will be only \$49. Because their incomes are so low, taxpayers with income of less than \$22,150 don't pay Ohio income tax under existing state law. Though these taxpayers on average pay a larger share of their income in overall state and local taxes than the most affluent do,<sup>4</sup> none of them would get a tax cut. The increase in the minimum income one must have before income is taxed will reduce taxes for a group of taxpayers, but the savings are relatively small because such taxpayers pay so little in income tax to begin with.

The table below shows how tax filers in different income groups would fare under the fully-phased-in budget bill. The bulk of taxpayers receive barely noticeable cuts. This is how the income tax works: As income grows, it is taxed at a higher rate. That's why upper-income taxpayers are the big winners from income-tax rate cuts. And they certainly are here: The wealthiest 5% of taxpayers, with income over \$228,000, will get nearly three-fifths of the tax cuts. The size of the average annual cut for the top 1% increased from \$612 in the House bill and \$1,712 in the Senate bill to \$5,400 in the final budget bill. The biggest part of this is the elimination of the top bracket, which alone will cut taxes on the top 1% by an average \$2,260.

Figure 1

Estimated impact of tax cut by income group							
More than one-third of HB 110 income tax cut goes to wealthiest 1%							
Income grouping	Lowest 20%	2nd lowest 20%	Middle 20%	Fourth 20%	Next 15%	Next 4%	Top 1%
Income range	\$0- <\$23K	\$23K- <\$42K	\$42K- <\$65K	\$65K - <\$107K	\$107K - <\$228K	\$228K - <\$551K	\$551K or more
Average income	\$ 14K	\$ 32K	\$ 53K	\$ 83K	\$ 146K	\$ 327K	\$ 1.447 M
Average change from Senate cut	\$0	-\$42	-\$49	-\$79	-\$186	-\$811	-\$5,400
Average share of tax cut	—	6%	7%	11%	19%	22%	36%

Source: Institute on Taxation and Economic Policy, June 2021. Covers Ohio residents based on estimated 2022 income levels.

<sup>3</sup> Schiller, Op. Cit.

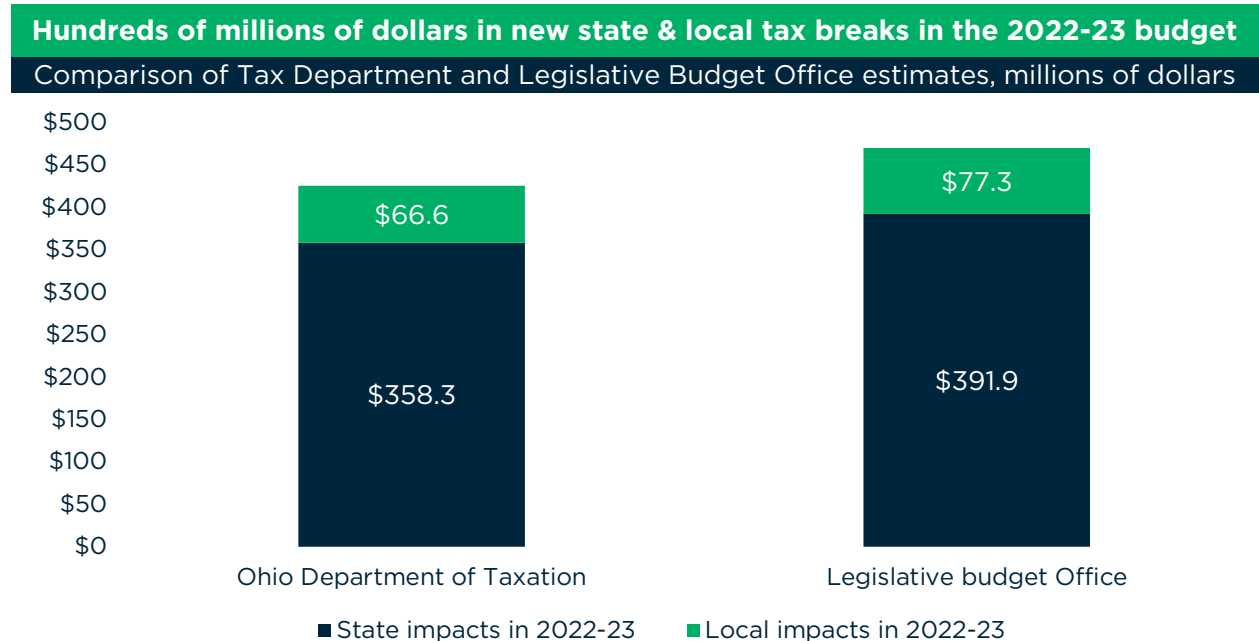
<sup>4</sup> "Who Pays? A distributional analysis of the tax systems in all 50 states." Institute on Taxation and Economic Policy, sixth edition, 2018 at <https://itep.org/whopays/>.

The tax reductions in the budget bill come on top of huge tax cuts the richest Ohioans have received over the past 16 years. While lower- and middle-income Ohioans on average paid the same or more in state and local taxes, the wealthiest 1% received more than \$40,000 a year in tax cuts.<sup>5</sup> Legislators are asking 80% of Ohio taxpayers to ignore this giveaway in exchange for an average tax cut of \$43.

### Tax Breaks in the 2022-23 budget

Legislators added eight new state tax breaks and modified five in HB 110, the current budget bill. Figure 2 illustrates that the cost is high: The breaks divert between \$324 and \$391 million revenue from the GRF and between \$66.6 and \$77.3 million revenue loss from local governments, according to estimates of the Ohio Department of Taxation and the Legislative Budget Office. Commitments of tax expenditures of potentially hundreds of millions were also made for the 2024-25 biennium and the 2026-27 biennium.

Figure 2



Source: Policy Matters Ohio, based on “Impact of Enacted House Bill 110 (FY 2022-2023 state operating budget), Estimates by Ohio Dept of Taxation, in concert with Ohio OBM, General Revenue Fund Impacts, July 2, 2021; Legislative Budget Office comparison document for HB 110, Ohio Department of Taxation, at <https://bit.ly/3FYuVKX>

Tax breaks that lawmakers created, modified, or eliminated are also listed below. Lawmakers also enacted numerous property tax breaks that affect local government; they are not covered here. The table in the appendix shows estimates of revenue loss.

**Lawmakers dramatically expanded public funding for private schools** in the 2022-23 budget bill; new tax breaks (spending through the tax code) send additional state resources

<sup>5</sup> Patton, Wendy and Zach Schiller, “Overhaul: A plan to rebalance Ohio’s income tax,” Policy Matters Ohio, June 25, 2018 at <https://bit.ly/3tJevM3>.

for home schooling, private schools and charter schools.<sup>6</sup> This drains resources from the public system, which serves the vast majority of Ohio’s children. These tax breaks included:

- Income tax credit for home schooling – This provision provides a tax credit of up to \$250 for items used directly for home school instruction for one or more children who are home schooled.
- Income tax credit for scholarships for private schools – Legislators created a tax break of \$750 for cash donations made to nonprofit scholarships for primary and secondary school students to go to private schools.
- Income tax credit for private school tuition – Including the impact on local governments and the state GRF this tax break could cost Ohio anywhere from \$6 million to \$8.4 million, according to estimates.

**Income tax deduction for capital gain from sale of a business** - This new tax break will allow certain business owners to deduct capital gains from selling interests in their businesses. Business owners already have an enormous tax break in the LLC Loophole (on passthrough business income). It is hard to see how using state resources to encourage people to sell their interest in Ohio businesses makes any sense.

**Venture capital gains** – This new tax break gives an income tax deduction, for taxable years beginning in and after 2026, for the capital gains of investors in certain Ohio-based “venture capital operating companies” (VCOCs) certified by the Director of Development. Ohio already pays just over \$14 million a year in a failed venture capital effort. The program failed to cover the debt service and now state resources are tapped to subsidize this most risky of investment strategies.

**Sales tax break for use of temporary workers and other employment services** - Exempts employment services (providing personnel to perform work under the supervision and control of the purchaser) and employment placement services from the sales and use tax. It gives firms an incentive to use temporary workers instead of making permanent hires, which undercuts the purpose of using Ohio’s tax dollars to create good jobs.

**Sales tax break on metal bullion and coins** – After repealing it twice and reinstating it once before, lawmakers again reinstated the sales and use tax exemption for sales of investment metal bullion and investment coins. This applies to sales made on or after October 1, 2021. This is the second time this tax break has been reinstated after repeal.

**Megaproject tax incentive program** – This provision in the budget bill for 2022-23 expands and extends a variety of state and local tax incentives to attract “mega projects,” defined as a development project that includes at least \$1 billion in investment or creates at least \$75 million in Ohio payroll.

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<sup>6</sup> Although charter schools are considered ‘community’ schools within the public system, the majority are operated by for-profit management companies. See Staver, Anna, Ohio Lawmakers Move to Ban For-Profit Charter School Operators, The Columbus Dispatch, March 11, 2020 at <https://bit.ly/3uRGSbq>.

**Transformational mixed use development tax credit** – Extends the sunset date by two years to an existing insurance premium tax credit for capital contributions to the construction of a transformational mixed-use development. Revenue loss associated with the tax credit will be incurred in FY 2024-25; the Taxation Department estimates it will cost \$188.5 million over that biennium.<sup>7</sup>

**Rural business development credit** - Re-ups the rural business development program by another \$45 million (in total, not per year) and changes eligibility, allowing entities that are not within state boundaries to qualify for financing under this program. The cost is put off until the 2024-25 biennium, when it will cost an estimated \$10.9 million.<sup>8</sup>

**Motion picture tax credit** - Lawmakers narrowed the motion picture tax credit to eliminate eligibility for production contractors.

**Opportunity zone tax break** – Broadens eligibility for a state opportunity zone tax credit and makes the credit transferrable to benefit investors who don't pay the state income tax. Increases, from \$1 million to \$2 million, the limit on the amount of credits that may be awarded to an individual during a fiscal biennium.

**Beer and wine tax exemption** - Expands the tax exemption related to certain types of production. The cost to the state was not quantified.<sup>9</sup>

**Kilowatt Hour Tax** – This change was not a modification but a clarification. Lawmakers clarified rules around electricity produced for internal use or for co-generation by an end-user; cost to the state was estimated at \$6.1 million over the biennium.<sup>10</sup>

## **Eliminated in the budget bill: Accountability**

**Tax Expenditure Review Committee** - In 2016, Ohio's state lawmakers were lauded for passing a bill to start reviewing tax breaks regularly. The legislation to create the Tax Expenditure Review Committee (TERC) passed on a unanimous, bicameral, bipartisan basis.<sup>11</sup> However, lawmakers eliminated the TERC in the 2022-23 budget bill, after failing to carry out its mandates in the 2020-21 budget period.

Tax cuts and tax breaks approved in the budget bill won't lead to a better quality of life for most Ohioans. A few very well-off individuals and some corporations will receive nearly all the benefit of these changes. Tax credits and cuts won't feed or educate a child. The average cut for the middle-class won't help a mom afford childcare so she can work without worrying if her child is safe, and the loss of basic transparency protections won't make our streets safer or our choices more democratic. State lawmakers could have made better choices for our

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<sup>7</sup> Impact of Enacted House Bill 110 (FY 2022-2023 state operating budget), Estimates by Ohio Dept of Taxation, Op. Cit.

<sup>8</sup> Ibid.

<sup>9</sup> Ibid.

<sup>10</sup> Ibid.

<sup>11</sup> Patton, Wendy and Zach Schiller, "Weak Review: Tax Expenditure Review Committee should balance tax breaks against Ohio's needs," Policy Matters Ohio, June 4, 2018, at <https://www.policymattersohio.org/research-policy/quality-ohio/revenue-budget/tax-policy/weak-review-tax-expenditure-review-committee-should-balance-tax-breaks-against-ohios-needs>.



communities. They could partner with local leaders and use our public funds for excellent schools, expanded public transit, access to employment centers, job training, health care and safe parks to benefit all Ohioans - instead of enacting more special interest tax breaks.

## APPENDIX

### Estimates for revenue loss due to tax expenditures in budget bill for 2022-23

Millions of dollars

	State General Revenue Fund				Local Government			
	Taxation Department		Legislative Budget Office		Taxation Department		Legislative Budget office	
<b>New tax breaks</b>	<b>2022</b>	<b>2023</b>	<b>2022</b>	<b>2023</b>	<b>2022</b>	<b>2023</b>	<b>2022</b>	<b>2023</b>
Employment services sales tax exemption	\$92.4	\$138.6	\$92.4	\$138.6	\$25.6	\$38.5	\$28.8	\$43.3
Metal Boullion and coins sales tax exemption	\$3.8	\$5.9	\$4.4	\$6.7	\$1.0	\$1.5	\$1.3	\$1.9
Home schooling income tax credit	\$3.6	\$3.6	\$2.8	\$2.8	---	---	---	---
Donation to private school scholarship - income tax credit	\$50.5	\$50.5	\$70.0	\$70.0	---	---	---	---
Private school tuition income tax credit	\$4.2	\$4.2	\$2.1	\$2.1	---	---	\$1.0	\$1.0
Megaproject supplier gross receipts exclusion from the Commercial Activity Tax	\$0.0	\$1.0	n/a	n/a	---	---	---	---
<b>TOTAL - 2022-23 biennium</b>	<b>\$154.5</b>	<b>\$203.8</b>	<b>\$171.7</b>	<b>\$220.2</b>	<b>\$26.6</b>	<b>\$40.0</b>	<b>\$31.1</b>	<b>\$46.2</b>
<b>Future tax breaks - 2024-25</b>	<b>2024</b>	<b>2025</b>	<b>2024</b>	<b>2025</b>	<b>2024</b>	<b>2025</b>	<b>2024</b>	<b>2025</b>
"Megaproject" supplier gross receipts exclusion from the Commerical Activity Tax	\$10s	\$10s	---	---	---	---	---	---
Transformational mixed-use development program - tax credit against the insurance tax	\$91.8	\$96.7	---	---	---	---	---	---
Rural Business Growth program income tax credit	\$0.0	\$10.9	---	---	---	---	---	---
<b>Future tax breaks - 2027-28</b>	<b>2027</b>	<b>2028</b>	<b>2027</b>	<b>2028</b>	<b>2027</b>	<b>2028</b>	<b>2027</b>	<b>2028</b>
Business income tax deduction for capital gains from the sale of a business	\$100s	\$100s	\$100s	\$100s	---	---	---	---
Veture capital gains tax deduction	\$8.9	\$9.2	\$10s	\$10s	---	---	---	---

Source: Policy Matters Ohio, based on "Impact of Enacted House Bill 110 (FY 2022-2023 state operating budget), estimates by Ohio Dept of Taxation, with Ohio OBM, General Revenue Fund Impacts, July 2, 2021; Legislative Budget Office, Comparison Document for HB 110 at <https://bit.ly/2YITIUG>