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# Tax breaks to tighten, trim or trash

WENDY PATTON & ZACH SCHILLER

TAX BREAK TAKE

Tax breaks lower tax liability for a person, business or other entity. They represent revenue forgone, taxpayer dollars the state could take in but has decided not to. The State of Ohio has 134 tax expenditures representing $9.1 billion in annual revenue the state will relinquish in 2019, as well over a billion dollars in revenues sacrificed by local governments that levy a sales tax on the state base.[1]

Some tax breaks help most people (like exempting sales tax on prescription drugs); some help certain groups (exempting sales tax on prosthetic devices), and some lower costs for certain entities (exempting sales tax on purchases by schools and local governments). Two-thirds of Ohio's tax breaks go to private companies. One of the largest is the $1 billion income-tax break for business owners often known as the LLC Loophole, which should be repealed (this is covered in other Policy Matters reports and is excluded from the list below).

The value of taxes forgone to tax breaks will have grown by an estimated 17.7 percent between 2012 and 2021, adjusted for inflation, as state spending on education, local governments and many human services has fallen. Today Ohio ranks near the bottom of states on key measures of quality of life like health of the population, investment in early education and affordability of college.

In the budget he recently introduced, Governor Mike DeWine did not seek to limit or repeal any of the state's many tax breaks. Nor did the first review last year by the General Assembly's Tax Expenditure Review Committee result in any such recommendations. Yet that is badly overdue. In this issue brief we lay out hundreds of millions of dollars in tax breaks that should be eliminated or capped to restore revenues needed for investment in Ohio's people and communities. Estimated value is given for state fiscal year 2020 and is based on the state's tax expenditure report for 2020-21.

## TAX BREAKS TO TIGHTEN OR TRIM

**Vendor discount ($58.7 million):** Since 1981, retailers have received a tax break for collecting the sales tax. Today sales tax collection is done electronically, particularly by big retailers who are the biggest beneficiaries. Then-Tax Commissioner Joe Testa said in testimony that Ohio's 0.75 percent discount "essentially functions as a profit center" for big-volume retailers like Walmart or Macy's, which got 60 percent of the $55 million value in 2017. Most states don't have such a break, or cap it so it only benefits small retailers. Ohio's is one of the most lavish in the nation. This break should be tightened and trimmed. The overwhelming number of retailers in Ohio are small: restricting this benefit to those with no more than $100,000 in sales would not affect 93 percent of all retailers and save the state at least $50 million.

[1] According to the Ohio Department of Taxation, tax expenditures in the Ohio tax expenditure report "reflect reasonable estimates (rounded to the nearest $100,000 for estimates of $1 million or more) of the tax benefits realized by recipients of the tax expenditure's benefits – what has been referred to as the "revenue forgone."

**Snowbirds break (This value is not presently estimated):** Most states consider you a taxpaying resident if you spend 183 days in-state, but Ohio's residency test is based on generous "contact periods," defined as an overnight stay. Someone coming to Ohio on a Monday and leaving Tuesday has one such period (not two). If you have an out-of-state residence and no more than 212 "contact periods" over the course of a year you are considered a non-resident and not required to pay state income tax, although you could have worked full-time for 52 weeks in Ohio. In response to a court decision, recent legislation added other requirements; for instance, you can't be a nonresident if you have an Ohio driver's license or receive in-state college tuition. However, this break distorts what it means to be an Ohioan. It should be tightened and trimmed.

**Building and construction materials ($210.1 million):** Ohio's sales tax exemption for building materials has grown over time and is one of the state's 20 largest. In addition to public, religious, charitable and not-for profit entities, it now benefits structures erected for "horticultural purposes," captive deer, horses and fish farming; certain sports and convention facilities; scientific and technical entities; private schools; privatized transportation facilities; performance centers; hospitals and health care providers. No neighboring state has a comparable break, except a much more limited one in Pennsylvania covering sales of construction materials used to facilitate public utility services. The legislature should rein in the items that have grown in this tax break.

**Drug distributors ($169.0 million):** This Commercial Activity Tax (CAT) tax break goes to suppliers of qualified distribution centers (QDCs) that buy at least $500 million a year of goods and ship at least half of them outside Ohio. They can avoid paying the CAT on products they ship from these warehouses out of state. This tax break ballooned from $26 million forgone in 2008. Then-Budget Director Tim Keen noted in 2017 that this provision is used as a tax planning device to reduce CAT liability. One way to do that would be to deliver inventory destined for Ohio customers from warehouses in neighboring states. The break reduces costs for pharmaceutical manufacturers or distributors while the state of Ohio and numerous counties and cities sue some of these same companies for their alleged role in the opioid crisis. Why continue such a broad, special break for this industry? The Kasich administration unsuccessfully attempted to limit this tax break. It should be trimmed and tightened.

**Data centers ($20.2 million)**: Some of the world's biggest, wealthiest companies have been winning state sales-tax breaks worth tens of millions of dollars for new data centers (these came too late to be figured into the taxation department's estimate of their value in the last tax expenditure report). In 2015, Amazon was awarded such breaks estimated at $77 million over time. Google is getting $43.5 million and Facebook $37 million, each for new data centers in New Albany. These incentives exempt them from sales tax on purchases of hundreds of millions of dollars of equipment and extend over decades. These facilities employ comparatively few workers; Google and Facebook promised 30 and 50 jobs, respectively. The law requires companies invest $100 million and maintain an annual payroll of just $1.5 million. Though they may seem to offer a high-tech future, they do not mean other high-tech development is likely. This tax break should be trimmed and tightened.

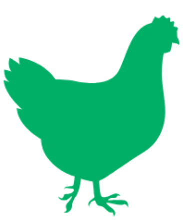
## TAX BREAKS TO TRASH

**Timeshare in jet planes ($13.8 million):** In 2003, the General Assembly created a new sales-tax break benefiting buyers of time shares in private jets. The state caps sales tax on these purchases at $800, so a wealthy buyer who spends $150,000 could save thousands of dollars. Those buying timeshares in private jets should pay their fair share. This tax break should be repealed.

**Precious metal and coins ($5 million):** In 2016 the General Assembly reinstated a break on the sales and use tax for the purchase of investment bullion and coins, repealed after a political scandal in 2005. Governor Kasich vetoed the 2013 attempt, stating: "...There is no reason to provide preferential treatment to one class of items and not others that could possibly increase in value, such as art, sports cards, or antiques. Therefore, this veto is in the public interest." This tax break keeps getting in trouble; it should be repealed.

**Private school tuition ($23.1 million):** Ohio's legislature chose to conform to rules in the new federal tax law around what money in "529" college savings accounts can be used for, now allowing income-tax deductions for K-12 private school tuition. The 12.4 million in revenues forgone to this tax break in 2018 will almost triple to $35.5 million in 2020. This benefits upper-income families who chose to send their children to private schools and will pump millions of state dollars needed for public education into private schools instead. This tax break should be repealed.

**Beauty park ($2.3 million):** This exemption from the Commercial Activity Tax is for a very specific set of companies: those located in a suburban Columbus business park that are in the same supply chain making "a personal care, health, or beauty product or an aromatic product, including a candle." It was opposed by the Ohio Manufacturers Association, which disagrees with special interest carve-outs to the Commercial Activity Tax that specifically advantage some companies over others. This special-interest carve out should be repealed.



**Egg producers ($4.2 million):** Ohio has a tax break for equipment sold for use in agriculture, and also has a specialized tax break for egg production. The industry has been a bad neighbor: one company used contractors linked to human trafficking while another paid hundreds of thousands of dollars in fines for polluting Ohio waters. There is no reason this industry, with its troublesome behavior, should qualify for special tax treatment compared to all other agricultural businesses. Moreover, offered the opportunity to explain why this tax break was needed at a review hearing last year, no one bothered to show up. Bad neighbors shouldn't get tax breaks; this should be repealed.

**Tobacco and alcohol products ($3.3 million):** In the executive budget for 2018-19, Governor Kasich proposed repealing the 2.5 percent discount that distributors of cigars, chewing tobacco and other tobacco products get for timely payment of their taxes and eliminating the tax credit that sellers of beer, wine and mixed beverages get for paying their alcoholic beverage tax a few weeks in advance. “It shouldn’t be necessary to reward businesses for paying their tax on time,” Testa noted. These breaks should be repealed.

**Grain handlers ($2.9 million):** The exemption for grain handlers is based on the idea that for-profit grain handlers need it to compete with nonprofit grain handlers, which aren’t subject to the commercial activity tax. It was opposed by the Ohio Manufacturers’ Association, whose representative noted in testimony to the Senate Ways and Means Committee that, “All for-profit enterprises should be paying the CAT; in fact, equality in the burden of taxation demands that they all remain subject to the tax.” The state should do as the OMA advised.

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