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$7 Billion in Annual Tax Breaks Will Continue Without Review

New Tax Break Rushed Through, Worth Up to $100 Million Per Biennium

The Conference Committee working on Ohio's biennial state budget stripped language included in the Senate's version from the bill that would have created a new committee to review all tax exemptions, credits and deductions. These tax expenditures annually amount to more than $7 billion a year, according to the Ohio Department of Taxation.

At the same time, the Conference Committee approved a new tax break, worth up to $100 million each biennium starting in FY2014-15, which would allow investors to receive tax credits for investments in "small business enterprises." This new break, dubbed InvestOhio, does not require covered companies to create jobs. Meanwhile, it would cost the state badly needed tax revenue, complicate the tax system and add to the need for tax enforcement, while its benefit is unproven. It raises numerous questions and could have used an analysis by a Tax Expenditure Review Committee, which, under the Senate bill, would have been charged with reviewing all new proposed tax breaks.

"The Conference Committee has missed a golden opportunity to lift the cloak from Ohio's tax breaks and subject them to the scrutiny that other state spending receives," said Zach Schiller, research director of Policy Matters Ohio. "The creation of an expensive, new tax break at the same time, without public scrutiny, demonstrates the need for such review."

The new tax break would go to investors in companies with at least 50 Ohio employees or more than half of whose employees are in Ohio. Companies would have to have assets of less than $50 million or annual sales of no more than $10 million. Investors could get a 10% income-tax credit if they invested in such companies and held onto the investment long enough.

This new InvestOhio tax break raises numerous questions. The bill language attempts to insure that covered companies are investing in Ohio, either through investment in property or employee compensation here. However, it appears it may allow the tax break for compensation of existing employees. Does this mean that taxpayers will be providing up to $100 million per biennium to subsidize ongoing operations of companies as they are now? While this could be a drafting error, it illustrates what can happen when legislation is rushed through without enough scrutiny.

At the same time, nothing in the bill language would keep investors from qualifying for the tax break by investing in companies that have been debarred from doing business with the state. Ohio should not be subsidizing investors in companies that haven't paid taxes they owe, that violate environmental standards or don't pay the minimum wage. Yet this tax break has no standards disqualifying investments for companies that violate Ohio law.

Among other concerns raised by this new tax credit:

- It appears to allow credits for investments in companies based out of state that buy motor vehicles, as long as they are purchased and registered in Ohio and they are used mostly for business purposes. Thus, a company operating largely in Kentucky or Michigan could qualify by buying vans it uses to conduct business out of state.
- Credits could be granted based on company investments in copyrights, patents, trademarks, and other intangible property "used in business primarily in this state." However, this is a vague formulation. How will "primarily" be defined?
- The development department is required to monitor the credit, in consultation with the tax commissioner. This could be a major job for a department that already is unable to properly monitor existing economic development incentives (see "2010 Report of the Ohio Attorney General Regarding Economic Development Accountability," Dec. 31, 2010). No minimum investment is required, so investors could receive such credits for very small investments, making the monitoring function a considerable chore. In addition, investors will be able to use the credit for up to 7 years.
- How will this fit with existing tax credits, such as the Technology Investment Tax Credit, which provides a 25 percent credit for certain investments in small, Ohio-based technology companies?

Companies covered by these credits are not required to create jobs in Ohio; their investors can qualify if the company buys Ohio real estate, as long as it's used in the business. At the same time, the proposal would reward many who would invest in Ohio anyway, costing the state badly needed revenue with no result.

Most Ohioans will not benefit from this new tax break. In fact, it is unclear that the change will provide meaningful economic benefits to the state, while it is clear that it would reduce revenue. This credit badly needs the kind of review that could have been provided by the now-dead Tax Expenditure Review Committee. For instance, according to the earlier language that would have established the committee, it could have reviewed:

- the businesses and industries likely to benefit;
- whether the credit would promote growth or retention of high-wage jobs, or would aid community stabilization;
- whether its objectives could have been accomplished successfully without the tax expenditure or with less cost to state and local governments;
- whether it could have been accomplished successfully through a program that requires legislative appropriations; or
- whether it may provide unintended benefits to an individual, organization, or industry other than those the legislature intended.

The General Assembly should restore language to create a committee to review tax expenditures, and have the committee examine this new tax break before it becomes a part of Ohio law.

Policy Matters Ohio is a nonprofit, nonpartisan research institute with offices in Cleveland and Columbus.