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**BUDGET BRIEF**

## New Tax Expenditures Considered by the Conference Committee

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The budget bill under negotiation in the conference committee of the Ohio legislature will impose devastating cuts on schools, local governments and health and human services. These cuts will hurt our economy and result in fewer jobs in the public and private sectors. Yet elected leaders who tout the virtue of spending cuts are spending on the other side of the ledger: in the tax code. The final phase-in of a 21 percent income tax cut enacted in 2005 is costing $800 million over the two-year budget. The various versions of the pending budget bill for state fiscal years 2012-2013, House Bill 153 ("HB 153") would authorize, expand, extend or otherwise modify a number of tax breaks for businesses, agriculture, energy, gift card users, racetracks and more. It would eliminate the estate tax, which applies to just the wealthiest 8 percent of Ohio estates, and provides hundreds of millions of dollars for local services. In the first few months of the 129th General Assembly, Ohio legislators have considered more than three dozen tax cuts, credits, modifications or eliminations and Governor John Kasich has discussed possible new tax cuts for banks and investors.

Tax expenditures are earmarks in the tax code, but get a lot less attention. These exemptions, credits and deductions often benefit particular entities or special interests. While frequently justified on the basis of 'job creation,' many are targeted to boost profits; in these cases, jobs are generally a secondary objective that may or may not "trickle down," depending on legislative language. And they often cause immediate job loss in the public sector and long-term job loss in the private sector. They are the gift that keeps on giving: Ohio's tax expenditure budget will amount to more than $7 billion a year for 128 tax breaks during FY12-13, some of which have been on the books since the 1930s.

The pending budget bill, HB 153, includes a proposal inserted by the Senate that would establish a tax expenditure review commission, charged with scrutinizing the objectives and effectiveness of each tax expenditure or modification. The commission would review each proposal as a step in the legislative process and would submit an annual report to the legislature and Governor. Tax expenditures would be individually reviewed once every eight years. This is a good measure that should be part of the final budget bill. The very provisions it includes should be applied to each and every one of the tax breaks also included in the bill.

Ohio's conference committee could still require this. Prior to authorizing any new tax perks or modifications, legislators should task the Tax Expenditure Review Commission with recommending cuts of 10 percent of the $7 billion in the current tax expenditure budget. These could be approved by the General Assembly this calendar year and used to reduce the deep cuts in critical state services. In addition to review, all tax expenditures should be to sunsetted on a regular basis. Reauthorization should require a vote. Once current tax breaks have been adjusted, new tax breaks should be considered - as new spending initiatives – of the 129th General Assembly.

Tax expenditures proposed in the pending budget bill are listed and briefly described below. Dozens of other new tax expenditures are under consideration in the General Assembly. One would provide a commercial activity tax credit on investment losses by foreign entrepreneur investors who invest in certain Ohio projects. Another would reduce the income tax rate on capital gains reinvested in Ohio-based investments. These are just two among many.

**Tax breaks proposed in HB 153, the SFY 2012-13 budget**

**1) School property tax exemption:** Under current law, leases of school buildings or land to for-profit entities are subject to taxation. The version of the budget for the coming biennium (HB 153) as passed by the House exempts such leases from taxation. The Senate narrows this exemption to include only leases to schools specializing in science, technology, engineering and math (STEM), community schools, Educational Service Centers, or chartered, nonpublic schools serving primary or secondary educational purposes. The fiscal effect is not quantified.

**2) Qualified energy project exemption to public utility taxes:** This tax break was implemented to encourage renewable energy generation projects (for example, wind farms or solar fields) to break ground in Ohio by the end of 2011. The Senate extends the deadline by three years. Local fiscal impact is anticipated where such projects locate, but is not quantified.

**4) Commercial activity tax exemption for uranium enrichment facility transactions:** This authorizes a commercial activity tax exemption for receipts from transactions involving uranium within an area containing a uranium enrichment facility that meets certain qualifications. This tax break is targeted to operations of a particular entity, USEC Inc., at the Piketon nuclear reservation. Fiscal impact that may be in the millions of dollars is anticipated.

**5) Commercial activity tax; Expansion of the New Refundable Job Retention Tax Credit (JRTC)**: This provision gives a tax benefit which may be greater than the state taxes the recipient company pays; if so, the State writes a refund check for the overage. The proposed modification increases flexibility in allocation of these benefits over the course of the biennium. It also boosts the total amount authorized for this use, just slightly through 2013 (by a million dollars, from $24 million to $25 million) but very sharply beginning in 2014, allowing an amount of $25 million per year until 2029. The estimated fiscal impact is $17 million in this biennium. This impact grows over time.

**6) Computer Data Center Sales and Use Tax Exemption:** The Senate authorizes the Tax Credit Authority to grant a full or partial exemption from all sales and use taxes for equipment used in the operation of a computer data center business meeting certain qualifications. Sales tax exemptions for machinery and equipment purchased for use in manufacturing and other industries are already in the tax expenditure budget; this expands the benefit to computer data centers. This is the type of tax loophole that benefits a particular company or a narrow set of companies. House Bill 153 pegs the estimated fiscal impact vaguely, at several millions of dollars.

**7) Sales Tax Exemption for Certain Tangible Property and Services Used in Agriculture:** The Senate exempts building materials and related services used in livestock structures and buildings for deer, horses and fish from the sales and use tax; it also exempts machinery and equipment and agricultural land tiles used "primarily" (in place of "directly" in current law) for farming, agriculture, horticulture, or floriculture. The estimated fiscal effect is not quantified.

**8) Sales and Use Tax Exclusion for Redeemed Customer Loyalty Coupons**: The Senate excludes from sales tax purchases made with gift cards or certificates that are part of a vendor's awards, loyalty, or promotional program. The fiscal effect is not quantified.

**9) Historic Building Rehabilitation Tax Credit:** The House extends the credit for rehabilitating a historic building, which was to end June 30th of 2011, in perpetuity and reduces the annual allocation for the credit from $60 million per application period to $25 million per fiscal year. The fiscal impact is estimated at $25 million per year but starting most likely after the pending biennium.

**10) Estate Tax Repeal**: The House recommends and the Senate accepts repeal of the estate tax. The fiscal effect will include a loss of "tens of millions" to the state GRF and "hundreds of millions" to local governments, which receive 80 percent of the estate tax. The estate tax does not impact 92 percent of Ohio's estates. The proceeds from eliminating this tax will go to heirs of wealthy estates. Communities will have to make up for the cuts by raising less progressive taxes or eliminating services that help communities and families thrive.

**11) Tax Exemptions for Privatized State Services:** Sales, income and commercial activity tax breaks are provided for a set of state services that might be sold to private firms: the turnpike, the wholesale liquor function, prisons. The Senate eliminated the exemptions for private prisons; differences between the House and the Senate versions will be ironed out in conference committee. Tax breaks will boost the return on investment for investors who purchase state assets. It will deprive Ohioans of revenues needed to support the state budget and its services. The fiscal effect is not quantified.

**12) Tax on wagers at race tracks: Racing Facility Capital Improvement Tax Reduction Extension:** Extends by three years, to December 31, 2017, from December 31, 2014,the final date on which a horse racing permit holder is eligible to take tax reductions to recover costs incurred in a renovation, reconstruction, or remodeling project costing at least $6 million at a race track. (The taxes reduced are those paid on amounts wagered on racing.) The fiscal effect is not quantified.