Ohio Legislative Service Commission

Bill Analysis

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S.B. 155

128th General Assembly
(As Introduced)

Sens. Carey, D. Miller

BILL SUMMARY

- Requires a pass-through entity owner who, for federal tax purposes, defers income resulting from the entity's repurchase of debt at a discount in 2009 or 2010, to recognize that income on a nondeferred basis for Ohio income tax purposes.
- Defers until July 1, 2011, payment of income tax refunds resulting from an election under federal tax law to apply a 2008 small business net operating loss against operating profit reported in the preceding third, fourth, or fifth taxable year.
- Requires the Department of Job and Family Services to operate the Disability Medical Assistance Program in the same manner the Program was operated as of June 30, 2009.
- Makes appropriations.[1]

CONTENT AND OPERATION

Deferred forgiven debt income

(R.C. 5747.01(A)(28) and (S)(15))

In H.B. 1, the 128th General Assembly expressly incorporated into the Ohio personal income tax provisions of the American Recovery and Reinvestment Act of 2009 (ARRA). One ARRA provision creates an exception to the general requirement that a taxpayer report as income debt forgiven by the taxpayer's creditor. (26 U.S.C.

[1] For an analysis of those appropriations, see the Legislative Service Commission's Fiscal Note for S.B. 155.

61(a)(12) and 108(i).) Forgiven debt income is subject to the Ohio income tax, as the starting point for computing an individual's Ohio adjusted gross income is the individual's federal adjusted gross income. (R.C. 5747.01(A).)

The exception created in the ARRA, in general, allows corporations and pass-through entity owners to defer income resulting from the corporation's or entity's reacquisition in 2009 or 2010 of its issued debt for less than the full amount owed with the balance cancelled or forgiven by the creditor. (26 U.S.C. 108(i).) If the corporation or owner elects to defer the income, the income must be recognized in five equal increments over five taxable years. The recognition begins with the fifth taxable year after the taxable year in which the debt was reacquired if the reacquisition occurred in 2009, or fourth taxable year if the reacquisition occurred in 2010.

The bill requires a pass-through entity owner who elects to defer the income for federal tax purposes (including an estate or trust) to add the income back for purposes of determining the owner's Ohio adjusted gross income or taxable income for the taxable year in which the debt reacquisition occurred. Likewise, when the owner recognizes the deferred income for federal tax purposes, the owner must subtract the recognized income when determining Ohio adjusted gross income.

Extended net operating loss carryback

(Section 3)

The ARRA amended federal tax law to authorize a small business that experiences a net operating loss for its taxable year 2008 to elect to apply that loss against an operating profit experienced in its preceding three, four, or five taxable years. (26 U.S.C. 172(b)(1)(H).) ("Small business" means a business whose annual gross receipts for the preceding three taxable years averaged $15 million or less.) Prior to the ARRA, a small business would have been permitted to apply a taxable year 2008 operating loss against operating profits in only the preceding two taxable years.

The bill applies to an income tax refund payable to a sole proprietor or an equity owner of a pass-through entity resulting from the election to apply a taxable year 2008 net operating loss as authorized by ARRA. The bill delays payment of such a refund until July 1, 2011.

Disability Medical Assistance Program

(Sections 4 and 5)

Under former law, the Department of Job and Family Services was required to establish and administer the Disability Medical Assistance Program, a state-funded program that generally provided medical assistance to persons who were medication dependent and not eligible for Medicaid. For a person to be considered "medication dependent," a licensed physician had to certify that the person was subject to ongoing treatment for a chronic medical condition of sufficient severity (including severe pain) such that the absence of continuous prescription medication could reasonably be expected to result in placing the patient's health in serious jeopardy, serious impairment to bodily functions, serious dysfunction of any bodily organ or part, or death. The medical condition could include physical or mental impairment and must have lasted or could have been expected to last for a continuous period of at least 12 months. In addition to being medication dependent and ineligible for Medicaid, the applicant had to meet certain residency, income, and citizenship requirements. Covered services included certain inpatient and outpatient physician services, prescription drugs, certain medical supplies, certain laboratory and x-ray services, and dental extractions and related x-rays.

The Disability Medical Assistance Program was abolished by Am. Sub. H.B. 1 of the 128th General Assembly.

The bill requires the Department to operate the Disability Medical Assistance Program in the same manner the Program was operated as of June 30, 2009. The bill also makes an appropriation to fund the Program. The Director of Job and Family Services is permitted to adopt any rules necessary for the implementation of the Program. The rules are to be adopted pursuant to R.C. 111.15.

HISTORY

ACTION	DATE
Introduced	07-13-09

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