

Publications

State and Local Tax Alert: Ohio Senate Bill 352 Introduced to Remove Pro-Employer Local Withholding Tax Rule Enacted for COVID-19 State of Emergency

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Last March, shortly after Governor DeWine required all non-essential employees to work from home, the Ohio General Assembly wisely enacted HB 197 in order to prevent an administrative nightmare for employers. Ohio is a unique state in that Ohio has over 600 municipalities that impose a local income tax and a corresponding employer withholding tax. Each municipality is free to set its income tax rate. Any employer that has employees working in a municipality must withhold the municipality's income tax from the employee's wages (with certain exceptions not here applicable). Absent HB 197, the Governor's order would have required employers to withhold and remit withholding tax to each employee's city of residence. Section 29 of HB 197 assigned the employee's wages to the employee's principal place of work instead of the employee's city of residence thus negating the need for the employer to withhold and remit withholding tax to each employee's city of residence.

On August 11, Senator Roegner introduced SB 352. SB 352 repeals Section 29. SB 352, in its present form, does not offer any remedy to employers. SB 352, in its present form, will adversely impact private and public employers equally, and for profit and not for profit employers equally. And SB 352, in its present form, adversely impacts large, medium, and small employers as the additional administrative burden is one of scale.

Repealing Section 29, without taking into account the administrative burden this creates for all employers, is not a viable solution. SB 352, as written, does not effectively take into account the collective interests of employers, employees, and Ohio municipalities. SB 352, as written, creates the question as to whether the employer now has to file a net profits tax return with each municipality because the employer now has a payroll factor. Much time and consideration should be given to SB 352. SB 352, in its present form, seemingly creates more problems than it attempts to solve.

Vorys anticipates there will be interested party meetings for all concerned to express their respective views. Please contact Vorys if you would like to more fully discuss SB 352 and have your voice heard.