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H.B. 51
134th General Assembly

Final Analysis

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Primary Sponsor: Rep. Lampton

Effective date: Emergency: Incorporation of Internal Revenue Code changes and public meetings and hearings effective February 17, 2022; provisions addressing valuation adjustments effective May 19, 2022

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SUMMARY

- Allows a county auditor to initiate the property valuation adjustment process for destroyed or damaged property.
- Requires the Department of Taxation to prescribe a form to be used to request a valuation adjustment.
- Incorporates changes to federal tax law taking effect since March 31, 2021, into Ohio income tax law.
- Establishes a policy for virtual public meetings and hearings for use until June 30, 2022.

DETAILED ANALYSIS

Valuation adjustment for damaged property

Under continuing law, the taxable value of property that is injured or damaged may be reduced by the county auditor to account for the casualty, either pursuant to a request made by the property owner or two disinterested residents of the same township or municipal corporation. The act adds a third way for obtaining such a valuation adjustment by authorizing the county auditor to initiate a property valuation adjustment for destroyed or damaged property without receiving a request from the owner or two disinterested persons.

Additionally, the act requires the Department of Taxation to prescribe a form for requesting a valuation adjustment. Prior law required the owner or two disinterested persons to apply by filing an oath (in the case of the owner) or an affidavit (in the case of the two

disinterested persons). Under the act, the owner, the two disinterested persons, or the auditor, acting on behalf of the owner, may initiate the adjustment by filing this form.¹

Calculation of adjustment

Under continuing law, the amount of the valuation adjustment depends not only on the extent of the damage, which must be at least \$100 in order to qualify for an adjustment, but also the date the damage occurred. Depending on the calendar quarter in which the damage occurred, the valuation adjustment may range from the full extent of the damage to only 25% of the total amount of the damage. The table below summarizes the amount of the damage that may be deducted from the property's valuation based on the calendar quarter the damage occurred.

If the injury or destruction occurs during. . .	Then the county auditor must deduct from the property's valuation . . .
The first calendar quarter	An amount that fairly represents the extent of the injury or destruction
The second calendar quarter	75% of that amount
The third calendar quarter	50% of that amount
The fourth calendar quarter	25% of that amount

Incorporation of Internal Revenue Code changes

The act incorporates into Ohio tax law recent changes to the Internal Revenue Code (IRC) taking effect after March 31, 2021.² The incorporated changes include those made by the "Infrastructure Investment and Jobs Act," H.R. 3684 of the 117th Congress, in November 2021. These changes directly affect the tax base of Ohio income tax taxpayers by adjusting federal adjusted gross income (FAGI), the starting number for determining a taxpayer's Ohio taxable income.³ The incorporated changes also affect the tax base of school districts levying an income tax on the basis of FAGI.⁴

The most significant of the federal law changes affecting Ohio law is a modification of the tax treatment of contributions to the capital of a corporation. The modification will allow

¹ R.C. 319.38.

² R.C. 5701.11(A).

³ R.C. 5747.01(A), not in the act.

⁴ R.C. 5748.01(E), not in the act.

certain regulated water and sewer utilities to exclude amounts that qualify as contributions of capital of the taxpayer from gross income. If these utilities are organized as a pass-through entity and owned by individuals, such reduced gross income would lead to reduced FAGI.

Reason for incorporation

Ohio tax law incorporates by reference parts of the IRC and other federal laws. Periodic amendments to federal law do not become part of Ohio law unless they are incorporated by an act of the General Assembly.⁵ The incorporation applies to only general, undated references to the IRC or other federal laws, and does not apply to references that specify a date.

If federal tax law amendments are not incorporated, an affected taxpayer would have to adjust the taxpayer's federal adjusted gross income or taxable income, either by adding or subtracting the relevant amounts, in order to compute the taxpayer's Ohio tax liability.

Alternative tax law election

The act also revises Ohio tax law with respect to an election available to taxpayers whenever federal amendments become incorporated. Prior law authorized a taxpayer whose taxable year ended after March 27, 2020, and before March 31, 2021, to irrevocably elect to apply to the taxpayer's state tax calculation the federal tax laws that applied to that taxable year. (The two March dates are the dates of the two most recent incorporations.) The election was available to taxpayers who were subject to the personal income tax and to electric and telephone companies that were subject to municipal income taxes.

The act allows this election to be made for a taxpayer's taxable year ending after March 31, 2021, but before the incorporation provision's effective date, February 17, 2022. The act retains a provision specifying that similar elections made under prior versions of the law remain effective for the taxable years to which the previous elections applied.⁶

Public meetings and hearings

The act authorizes a public body to hold and attend meetings and hearings by means of teleconference, video conference, or any other similar electronic technology. For this purpose, "public body" and "meeting" have the meanings defined in Ohio Open Meetings Law. "Hearing" includes an administrative hearing, hearing held in compliance with the Administrative Procedure Act, or any other hearing at which a person may present written or oral testimony on a matter before a public body.

The authorization expires on June 30, 2022. If a public body holds a meeting or hearing under this authority, all of the following apply:

1. Any resolution, rule, or formal action of any kind has the same effect as if it had occurred during an open meeting or hearing of the public body.

⁵ See *State of Ohio v. Gill*, 63 Ohio St.3d 53 (1992).

⁶ R.C. 5701.11(B).

2. Notwithstanding the Ohio Open Meetings Law, members of a public body who attend meetings or hearings by means of teleconference, video conference, or any other similar electronic technology, must be considered present as if attending in person, must be permitted to vote, and must be counted in determining whether a quorum is present.
3. Public bodies must provide notice of the meetings or hearings to the public, the media that have requested notification, and the parties required to be notified of a hearing, at least 24 hours in advance, by reasonable methods by which any person may determine the time, location, and the manner by which the meeting or hearing will be conducted, except in an emergency requiring immediate official action. In the event of an emergency, the public body must immediately notify the news media that have requested notification of a meeting, and any parties required to be notified of a hearing, of the time, place, and purpose of the meeting or hearing.
4. The public body must provide the public access to a meeting held under this authority, or to any hearing that is held under this authority if the public would otherwise be entitled to attend. The access must be commensurate with the method in which the meeting or hearing is being conducted. The act lists examples such as live-streaming on the internet, local radio, television, cable, or public access channels, call-in information for a teleconference, or any other similar electronic technology. The public body must ensure that the public can observe, when applicable, and hear each member's discussions and deliberations, whether the member is participating in person or electronically.

Also, when members of a public body conduct a hearing by means of teleconference, video conference, or any other similar electronic technology, the public body must establish a means, through use of electronic equipment that is widely available to the general public, to converse with witnesses and to receive documentary testimony and physical evidence.

The act states that the authority applies notwithstanding any conflicting provision of the Revised Code, and specifies that nothing in the act may be construed to negate any provision of Open Meetings Law,⁷ Administrative Procedure Act,⁸ or other provision of the Revised Code that does not conflict with this authority.⁹

Generally, the Open Meetings Law requires public bodies to take official action and conduct all deliberations upon official business only in open meetings where the public may attend and observe. Public bodies must provide advance notice to the public indicating when and where each meeting will take place and, in the case of special meetings, the specific topics that the public body will discuss.

⁷ R.C. 121.22, not in the act.

⁸ R.C. Chapter 119.

⁹ Section 3.

HISTORY

Action	Date
Introduced	02-03-21
Reported, H. Ways & Means	02-24-21
Passed House (98-0)	03-03-21
Reported, S. Ways & Means	01-25-22
Passed Senate (33-0)	01-26-22
House concurred in Senate amendments (91-1)	02-09-22
