

LIGHTS ON? OHIO'S BRIGHT-LINE TAX RESIDENCY TEST COULD SOON RETURN

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In 2015, The Supreme Court of Ohio issued an opinion in *Cunningham v. Testa*, 144 Ohio St.3d 40, 2015-Ohio-2744 that essentially eliminated the benefits of Ohio's bright-line residency test and reinstated the common-law domicile test for individual income tax purposes. We previously discussed the background of the case and Ohio's bright-line residency test in our previous [SALT Buzz](#) dated May 1, 2016.

Earlier this year, Representative Gary Scherer (R-Circleville) introduced House Bill 292 which sets forth specific factors to determine if an individual is presumed not to be domiciled in Ohio for Ohio income tax purposes. Under the proposed bill, an individual will be presumed not to be domiciled in Ohio only if the individual:

- Files a statement (Form IT-DA) with the Ohio Tax Commissioner by the 15th day of the tenth month (generally, October 15 for most taxpayers) following the close of the taxable year;
 - Has no more than 212 contact periods with Ohio during the taxable year;
 - Has at least one abode outside of Ohio for which the individual did not claim a depreciation deduction under IRC § 167 for the taxable year;
 - Did not hold a valid Ohio driver's license or Ohio identification card at any time during the taxable year;
 - Did not receive a homestead exemption for real estate tax purposes for a property tax year the tax lien date of which is included in the taxable year;
- and,

- Did not receive reduced tuition for being an in-state resident if the individual attended or was enrolled at a state university during the taxable year.

The General Assembly was focused on Ohio's budget bill during the first half of 2017. It is expected that House Bill 292 will be assigned to a committee and hearings will begin when the General Assembly returns this fall. If the proposed bill becomes law, Ohio's bright-line residency test could soon return.

If you have any questions on House Bill 292 or residency treatment, please contact [Adam Garn](#), [Steve Hall](#), or [any of our other tax professionals](#).

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