

2019 OHIO TAX CONFERENCE HIGHLIGHTS

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The annual Ohio Tax Conference has always provided attendees excellent insight into Ohio state and local tax developments and issues facing taxpayers. This year was no exception. We highlight several developments below.

New Tax Commissioner

This year's Conference included the introduction of Ohio's new Tax Commissioner, Jeff McClain, during a breakout session moderated by former Tax Commissioner Tom Zaino, now Managing Member of Zaino Hall & Farrin. During the breakout sessions, Commissioner McClain discussed his intent to make the Department accessible to taxpayers, listening to their concerns and ideas. While it was too early in the DeWine Administration to set out any particular tax initiatives, he did not expect any of the types of tax proposals that were generated under the prior administration.

Chemicals Used in Pollution Control Facilities

In the Ohio sales and use tax area, Department officials announced a change in a long-standing policy that will impact most manufacturers. The Department stated that chemicals used in an exempt facility will now be retroactively treated as taxable unless the chemicals were included in an approved application for an exempt facility. Department officials stated that auditors will consider past transactions as taxable if the chemicals are not mentioned in a taxpayer's exempt facility application.

Based on the application requirements, it is entirely possible that taxpayers did not include chemicals in their applications. Taxpayers should review their applications to determine if chemicals were included and consider amending their applications if necessary.

Statewide Municipal Income Tax System

Municipal income taxation continued to be a hot topic this year. During a first-day breakout session on the municipal income tax, the results of a major municipal income tax case were announced. As you may know, several cities filed lawsuits to enjoin the Department of Taxation (ODT) from administering a statewide municipal net profit taxes system. The injunction was denied by the Franklin County Common Pleas Court and the cities appealed to the Tenth District Court of Appeals. A hearing was held last year, and the Court of Appeals decision was issued on the first day of the Tax Conference. On the second day of the Conference, representatives from ODT and RITA, along with Tom Zaino, reviewed the Court of Appeal's decision in detail with the attendees.

Business Income Deduction

Ohio's "business income deduction" and flat 3% preferential tax rate on "business income" was a topic of discussion in the Income Tax and Pass-Through Entity Tax breakout session, at which Steve Hall was one of the panelists. Some of the discussion focused on ODT Information Release IT 2016-01, which is entitled "Guidance Relating to an Equity Investor's Apportionment of Gain from the Sale of a Closely-Held Business." That Information Release was drafted largely in response to the *Corrigan v. Testa* decision, which was a case decided largely on Due Process Nexus considerations. The discussion at the breakout session related to whether the Information Release contained a complete analysis regarding the Revised Code's definition of "business income" as opposed to merely addressing some of the Supreme Court's analysis as applied to the facts of the *Corrigan* case. Following the Tax Conference, ODT slightly modified the Information Release to address some of the comments made in the breakout session.

If you would like to discuss these or any other state and local tax issues, please contact [Tom Zaino](#) or any other [ZHF professional](#).

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