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Education organizations speak out on recent commercial activities tax decision

COLUMBUS — Three statewide education management organizations released a statement today in reaction to a recent Ohio Court of Appeals decision that would essentially exempt a significant part of the tax base from the state's commercial activities tax (CAT). The Ohio School Boards Association (OSBA), Buckeye Association of School Administrators (BASA) and Ohio Association of School Business Officials (OASBO) said that if the Ohio Supreme Court upholds the decision, the results will undermine the state's ability to adequately fund education.

"School districts benefit from the new CAT that was recently enacted as part of a sweeping tax reform package in 2005," said Fred Pausch, OSBA director of legislative services. "Seventy percent of its proceeds are dedicated to education. If the state loses revenue as a result of this court decision, we think it will mean trouble for school funding."

The CAT, a gross receipts tax, replaced two other business taxes: the corporate franchise tax, collected at the state level, and the business tangible personal property (TPP) tax, which raised nearly \$1.6 billion annually and was levied and collected locally by school districts and other local governments.

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The CAT was supported by a broad range of stakeholders and sold on the premise that it was a more modern, fair and simple tax that would replace outdated, unfair taxes that were said to be stunting Ohio's economic development.

"Schools gave up a reliable local business property tax in exchange for this more 'business-friendly' tax," said Tom Ash, BASA director of governmental relations. "We did not oppose the change, even though it meant a smaller local tax base and less local revenue for many school districts. We understood that everyone had to sacrifice to keep the state competitive, so we acquiesced in the repeal of the TPP. But that was with the understanding that the state would have a replacement with the CAT to help fund schools in the future."

The CAT is assessed based on businesses' gross receipts and operates very differently from a direct tax on food. Since there is a very broad tax base for the CAT, the rate taxpayers pay is relatively low; for every \$100 a business collects in receipts, it pays 26 cents in commercial activity taxes.

"Let's put this in perspective," said Barbara Shaner, OASBO associate executive director. "Plaintiffs in the CAT lawsuit (wholesalers and grocers) claim that the CAT is unfair and onerous for them and their customers. Yet the CAT replaces other business taxes those businesses paid in the past, and the low rate seems reasonable as part of their fair share for the services the state provides — including schools."

"If the plaintiffs are successful in this case, it opens the door for others to try the same tactic, causing even more erosion," Pausch said. "The tax package needs to stay intact."

"The state is already under tremendous fiscal pressure with the current state of the economy," Ash said, "and the last thing we need is a significant loss in expected revenue in addition to the reductions that resulted from the tax reform package as a whole."

According to the Ohio Department of Taxation (ODT), the CAT was never projected to fully replace the revenue eliminated in the tax reform package of 2005. It is not expected to raise enough revenue to offset the total losses from the elimination of the TPP and corporate franchise tax, as well as the income tax reductions the state enacted. ODT estimated that the effect of the appeals court's decision will reduce CAT revenue by \$188 million.

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“The schools hope that the Ohio Supreme Court will review the Court of Appeals ruling and come to a more reasonable decision,” Shaner said. She indicated that the three organizations would consider participating in the CAT case as a “friend of the court” should the Supreme Court take it up.

BASA is a nonprofit professional organization of school system leaders, specifically, superintendents, central office administrators, building-level administrators, higher education administrators and faculty, graduate students and other educational personnel.

OASBO is a not-for-profit educational management organization dedicated to learning, using and sharing the best methods and technology of school business administration.

OSBA is in its 53rd year of service to public education. It represents the state’s public school boards’ members and provides them with consulting, training and other services.