



Business Leaders Urge Ohio Supreme Court To Keep Tax Reform Package in Place

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COLUMBUS -- Warning that Ohio's widely acclaimed tax reform package would be undermined and Ohio's competitiveness compromised, business leaders from across the state urged the Ohio Supreme Court today to hear a case that will determine whether grocers must pay their fair share of state taxes.

Today's filing responds to a September ruling by the Tenth District Court of Appeals that determined Ohio's Commercial Activity Tax (CAT) is unconstitutional when applied to food wholesalers and food sold in grocery stores.

In a companion filing, state officials asked the high court to overturn the appeals' court, arguing the CAT is not an unconstitutional excise tax when applied to grocers but is a permitted franchise tax. A franchise tax is levied in exchange for the privilege of doing business in the state, while an excise tax is a tax on individual transactions, such as the sale or purchase of food to be consumed off the premises.

In their amicus brief, business leaders said, "The Tenth District's decision derails Ohio's comprehensive tax reform package by reducing the number of taxpayers subject to the broad-based CAT. This decision ... reduces equity among business taxpayers in Ohio by creating a favored class of business taxpayers who will no longer pay any general business tax to support the benefits of government that they receive."

Organizations joining together on the brief include the Ohio Manufacturers' Association, Ohio State Medical Association, The Ohio Society of Certified Public Accountants, Ohio Dental Association, Ohio Chemistry Technology Council and Ohio State Bar Association and collectively represent 75,000 professionals and member companies.

If the appeals court ruling stands, the state will lose an estimate \$188 million annually from food producers, wholesalers and grocers and an additional \$355 as a result of refunds. The state noted that the ruling also could affect the CAT's applicability to sellers of motor fuel.

The potential revenue loss comes as an economic downturn already has forced a series of state budget cuts, and budget experts project the downturn to intensify in the near term.

In addition to impacting Ohio's already strained budget, the appeals court ruling could affect the state's business climate.

"Businesses have a vested interest in ensuring that this tax is applied fairly and equitably," said OMA President Eric Burkland. "Fair tax policy enhances our business climate and our quality of life."

The CAT is a key component of a sweeping tax reform package approved by the Ohio General Assembly in 2005. The package includes reductions in personal income taxes and provisions to improve Ohio's business climate by phasing out the corporate franchise and tangible personal property taxes on business and phasing in the CAT.

By enacting the CAT, lawmakers sought to meet Ohio's revenue needs by expanding the base of taxpayers to include accountants, lawyers and doctors but imposing the CAT at a very low rate.

"The intent of 2005's tax reform package was to positively position Ohio as a state serious about recruiting and retaining business," said J. Clarke Price, President and CEO of The Ohio Society of CPAs'. "Diluting the CAT tax base though legal or legislative means sets up a system favoring one sector of the economy over another, which is a slippery slope considering our state's economic climate."

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