

Ohio Politics

Ohio lawmakers might take another look at coronavirus law change that lets cities collect income taxes from employees working from home

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An Ohio lawmaker says she may take another look at a recent law change that affects tax withhold for work-from-home employees who are no longer commuting to a different city. (AP Photo/Mark Lennihan, File) AP

COLUMBUS, Ohio — An Ohio lawmaker who plays a key role in setting state tax policy said she's interested in revisiting a recently passed state law that allows cities to continue collecting income taxes from suburban commuters who are now working from home.

State Sen. Kristina Roegner, a Hudson Republican who chairs the Senate's tax-policy committee, said the issue hasn't come up in the legislature since the tax-withholding provision initially was passed as part of a larger coronavirus response law.

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Changing tax withholdings for urban cores with large commuter populations also would lead to a significant tax shift, and could causes big cities to lose significant revenue to surrounding suburbs, she said.

But, she said, "If people truly are not going into the cities at all and they haven't been there for months, and they're going to continue to telework from home, perhaps they should be paying taxes where they are working."

Under the new law, work done at home as a result of Gov. Mike DeWine's coronavirus emergency declaration, signed in March, for legal purposes is considered work done "at the employee's principal place of work." That means employers in Cleveland, for example, have kept withholding income taxes as if their Cleveland office is open, even for those working their homes outside Cleveland.

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The provision states it shall remain in place as long as DeWine's emergency declaration is in place, plus 30 days.

The change was sought by the Ohio Chamber of Commerce, so businesses wouldn't have to change their tax withholdings while dealing with other aspects of the crisis.

Cities, lawyers and taxpayers have varying interpretations of the provision, with some predicting legal challenges from taxpayers who feel they're entitled to refunds for paying taxes for months to cities where they haven't been working.

The provision requires by default that taxes continue to be withheld for the city where an employer does business. But Dan Tierney, a spokesman for Gov. Mike DeWine, said that doesn't mean individual workers can't now ask their employers to change their tax withholding to reflect they work from home. For some people, this could mean they would pay less in taxes, depending on tax rates and tax laws in their home and workplace communities.

"The goal of the language was to allow employers to not have to undergo massive human resources work while also making changes to keep their employees safe during the pandemic," Tierney said. "But the way the [Ohio Department of Taxation] is interpreting it is, we're not punishing employees who want to make sure the withholding reflects the city where they're working from home, if that's what they want to do as a personal choice for tax purposes."

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As for re-visiting the law, Tierney said: “We continue to evaluate changes to the tax code that may be appropriate as conditions in the state change.”

Maurice Thompson, a conservative legal activist in Ohio, previously has said taxpayers who are working from their homes outside the cities that are collecting the income taxes could be entitled to refunds.

He’s previously said he was considering pursuing legal actions to push the issue, but said this week he’s been busy challenging other aspects of the state’s coronavirus regulations, and hasn’t had time to pursue it.

Rob Zimmerman, a Cleveland-area attorney who specializes in public policy, said he believes the law says Ohioans must continue to pay taxes to the cities where they work, even if they’re working from home.

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“It seems to me that would be a pretty heavy lift to challenge this on statutory or constitutional basis, but that doesn’t mean an enterprising attorney couldn’t come up with something,” he said.

But from a policy standpoint, he said lawmakers will have to confront the issue after the emergency order eventually lifts.

“I would guess a lot more people and a lot more employers are going to want to stay at home, and that’s going to really force the issue here,” said Zimmerman, who’s also a Shaker Heights city councilman.

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