

**MEMORANDUM**

TO: Kerrie Ryan, Ohio Department of Taxation

FROM: Emily Kaylor, Regulatory Policy Advocate

DATE: August 31, 2016

RE: **CSI Review – Sales Tax Rules (OAC 5703-9-13 through 5703-9-20, 5703-9-23, 5703-9-24, 5703-9-25, 5703-9-27, and 5703-9-29)**

On behalf of Lt. Governor Mary Taylor, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Agency as provided for in ORC 107.54.

Analysis

This rule package from the Ohio Department of Taxation consists of six no-change and seven amended rules related to the sales tax. The rule package was submitted to the CSI Office for its statutorily-required five-year review on July 15, 2016. The public comment period ended on August 5th with no comments received.

Many of the rules are definitions and descriptions related to sales and use tax to explain how the tax is determined, including construction contracts, coupons and gift cards, tangible personal property, farming, watercraft, and outdoor advertising. Additionally, Rule 5703-9-13 establishes a monthly or semiannual filing requirement (based on the business's revenues) unless a vendor, seller, direct pay holder, or consumer files a request with the Tax Commissioner and they agree to an alternative filing period. CSI follow-up with the Department discovered that Ohio currently has 238,279 sales tax filers, of which about 56% file semiannually.

Although the BIA correctly states that there are no adverse impacts created by the amendments, it does not detail adverse impacts from the current rules, including the administrative costs of filing monthly or semiannually with the Department. During early stakeholder outreach, the Department

received comments from taxpayers, the Ohio Council of Retail Merchants, and the Ohio Farm Bureau. These comments are all addressed in the BIA, and the Department explains where it made changes based on feedback or where it replied with justifications. No comments were received during the CSI review.

After reviewing the proposed rule and associated BIA, the CSI Office has determined the purpose of the rule is justified.

Recommendations

For the reasons explained above this office does not have any recommendations regarding this rule package.

Conclusion

Based on the above comments, the CSI Office concludes that the Ohio Department of Taxation should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.