



September 22, 2016

Chairman Testa and members of the Net-Operating Loss Impact Review Committee;

I am Kent Scarrett, Executive Director of the Ohio Municipal League and I want to thank you for giving me the opportunity to testify before you today on the NOL data collection project. I want you to know that we appreciate the time and consideration shown by Chairman Testa and this committee to the challenges expressed by our members regarding the data collection methodology adopted in May by the committee and we welcome the opportunity to continue the conversation on how best our members can comply with the goals of the committee's assignment.

The Ohio Municipal League held a special meeting of the OML Income Tax committee last Friday to discuss the Department of Taxation's proposed alternative methods to the originally proposed data collection method. While all present still preferred OML's proposed Representative Sampling Method, it was agreed that Alternative Option #2 was the preferred of the two methods.

Alternative Option #1, which constitutes to mandate a full pull of a tax filings from 2011 and onward and thus will require a tremendous investment of time, will provide accuracy challenges due to the inaccurate cases where losses were disallowed due to non-filing or late filing of tax returns thus requiring a manual review. This proposed alternative may require additional software programming at the cost of the municipality. Even with software the process would be extremely time-consuming and would take time away from the critical task of municipal income tax collection. Furthermore, the date of compliance, when enacted, could only leave up to a 90-day window for the voluminous information to be compiled, which would be impossible for many municipalities. Finally, even were all this data compiled, it would not reflect municipalities that currently do not have an NOL carryforward. These are the municipalities that are the most impacted by the unfunded mandate in HB5 requiring all cities and villages to offer both individuals and businesses a 5 year carry-forward.

After careful consideration and debate, our tax administrators believe the preferred method of the two alternatives is Option #2. While it does address some problems, it still presents challenges. Taxable years 2018 and 2019 would be impossible to include by the submission deadline of August 31, 2020. Additionally, neither year would be truly representative of any true loss from NOL, as this time period is just a "phase in" of 50% NOL. Without a mandatory adjustment from the Committee on the reported results, the numbers will misrepresent NOL impact post phase-in.

Option #2 also still requires a full pull, or that every filing be individually reviewed, which will require substantial time to pull returns for both business and individuals and perform microsimulation on all the data, prepare the report, and submit it by the deadline. Even were the report submitted by the deadline, the data would not be fully accurate due to the reason stated above as well as delayed audits and taxpayers who fail to file their returns.

Both Option #1 and #2 represent a severe financial and opportunity cost for municipalities, as response to taxpayers on questions and issues would be impacted, timing of refunds could be delayed to the very end of the 90-day statute, and revenue would be reduced because staff would be working on this project instead of following up on outstanding balances and non-filed tax returns.

Finally, the date of compliance is not adequate time to include both taxable years, taking into consideration returns that are reported on a fiscal year basis, and those returns that would be under extension.

This said, Option #2 is preferred to Option #1 because it delays any implementation of the process for a few years; it does not require a “look-back” to previous tax years where records may be incomplete; it allows for real-time gathering of information; and since taxpayers may need to be contacted for more information, these taxpayers will be easier to locate.

We once again ask that the committee consider the proposed Representative Sampling Method, as it not only gives municipalities the opportunity to participate in this important survey, and will take less time away from the important task of income tax administration and collection, but also provides auditable data, since every municipality is using the same sampling base.

Again, we thank the chair and committee members for your time, and I would be happy to try and entertain any questions you may have.