New Local Tax Reform Bill in the Commonwealth

Mar 27, 2024

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In what has otherwise been a generally mild Kentucky Legislative Session in terms of tax reform, the 2024 Regular Session has turned up the heat on local tax initiatives. A tale as old as time—Kentucky has made efforts to pass legislation to authorize local tax reform for decades, and yet nothing has ever managed to make it past the General Assembly. Could this be the year?

Kentucky's Constitution, which has not been amended on this topic in well over one hundred years, limits the revenue that local jurisdictions may attain through taxation. In particular, local jurisdictions rely primarily on property taxes and the Occupational License Tax (OLT) to fund their jurisdictions. While the OLT, which is a two-part "license fee" on net profits or gross receipts and payroll earned in the jurisdiction, can be lucrative for some jurisdictions, over time, it has not proven to be an exceptionally reliable source of revenue.

Given this limitation, the Kentucky General Assembly has attempted several times to pass legislation that would authorize flexibility in finding new revenue sources for local jurisdictions. As discussed in depth in our prior articles (*see* our Tax Law Defined® Blog), expanding local taxes in Kentucky is not an easy feat. It is a multi-step process that requires an amendment to the Kentucky Constitution to first receive a three-fifths majority vote of the total membership of each house of the General Assembly and then to obtain a majority popular vote at the next House of Representatives general election by Kentucky citizens.

As recently as the 2022 Regular Session, the Kentucky General Assembly seemed to have traction for House Bill 475, which did not set forth a specific type of local tax reform, but rather proposed to amend the Constitution to authorize the General Assembly to create and enable local tax changes. Despite the bill having approximately 40 co-sponsors, one of which being Speaker of the House David Osborne, and passing the House of Representatives 80-17, the House Bill 475 did not make it out of the Senate

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Appropriations and Revenue Committee, and thus did not become law.

Now, two years later, it appears that the General Assembly is back up to bat for local tax reform. House Bill 14, introduced on March 12, and its companion legislation, House Bill 724, introduced on March 21, take a similar path as House Bill 475 from the 2022 Regular Session and do not set forth a specific type of local tax reform, such as local-option sales tax, but instead propose to amend the Constitution to authorize the General Assembly to create new taxing structures for local governments.

H.B. 14 provides the proposed language that would be presented on the ballot before Kentucky voters at the next election, as well as the proposed amendment to Section 181 of the Kentucky Constitution. The General Assembly appears to again be proposing the exact same amendment to the Constitution as was included in House Bill 475 from 2022. Thus, again, the General Assembly is not setting forth any specific type of local tax reform, but is proposing to generally authorize the General Assembly and local governments to develop new revenue streams, so long as they do not violate other provisions of the Constitution.

However, both H.B. 14 and H.B. 724 (amending the statutory authority governing local jurisdictions to authorize the imposition of new revenue streams) limit local jurisdictions' power to impose a local sales and use tax. H.B. 14 sets forth that should the General Assembly authorize a local sales and use tax, the tax must have the same tax base and be administered in the same manner as the state-level sales and use tax. Further, after amending the applicable statutes to broaden the local jurisdictions' taxing power, H.B. 724 also provides that the local jurisdiction may not impose a sales or use tax. Presumably, this limitation in H.B. 724 is to prevent any local jurisdiction from imposing a sales or use tax after expanding its power before the General Assembly authorizes and prepares for the administration of same.

Even if the above legislation passes the General Assembly and is either signed into law by Governor Andy Beshear, or the General Assembly overrides his veto of the Bill (which would most certainly happen given the Republican majority), the law will only become

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effective if the citizens approve an amendment to the Constitution during the November 2024 election.

While local tax reform legislation has struggled to gain enough support in the past, given the 2023 legislation phasing out of the Bourbon Barrel Tax, which served as a source of income for many local jurisdictions, 2024 may be the year for local tax reform in the Commonwealth.

We will continue to monitor and report the progress of this and all Kentucky tax legislation. In the meantime, please contact the authors if you have any questions regarding Kentucky's state and local tax regime. You can also visit our Tax Law Defined Blog for more information and updates.

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