

DEPARTMENT OF LAW
ATTORNEY-CLIENT PRIVILEGED AND CONFIDENTIAL
COMMUNICATION

February 22, 2018

TO: President Matt Cherry and Members of Toledo City Council

THROUGH: Wade Kapszukiewicz, Mayor
Dale Emch, Director of Law

FROM: John Bibish IV, Chief of Collections-Taxation JBIV

SUBJECT: Immediate Consideration of Centralized Collection Ordinance

On February 21, 2018, the Franklin County Court of Common Pleas ruled in favor of the State of Ohio and found H.B. 49s centralization of business taxes constitutional. While the City ardently disagrees with this result, and has filed an independent action in Lucas County Court of Common Pleas on February 5, 2018, which is in the very early stages of litigation, it is now prudent to act.

This action consists of immediately adopting the mandated changes required by H.B. 49. Even though these mandated changes are subject to future court decisions that may find these provisions unenforceable, the City should avoid a cloud over our taxing authority. However, impractical or unlikely this is, it is in the best interests of the City to immediately consider this legislation and pass it without delay.

The major changes required by H.B. 49 are that Toledo businesses may choose to file their taxes through the Ohio Tax Commissioner and the Ohio Business Gateway for a fee of one-half percent (1/2%), which Toledo must absorb. The impact of this change flows throughout this ordinance and is the main reason for Toledo's suit against the State.

In addition, H.B. 49 eliminates the 'throwback rule' - a rule that relates to the taxation of gross receipts from the sale of tangible property. Without it, Toledo will no longer be able to tax businesses for goods made in Toledo but delivered outside of Toledo. There are other changes to the Toledo Tax code that are technical and administrative in nature.

Finally, I am attaching a redline of the changes to the existing Toledo Municipal Code. If you should have any questions or comments, please do not hesitate to contact me at your convenience.