

Ordinance No. 1344-2023

By Council Member Griffin
(by departmental request)

AN EMERGENCY ORDINANCE

To amend various sections of Chapter 192, as amended by various ordinances, relating to the 2016 Municipal Income Tax and to enact new Section 192.591 relating to alternative net profits apportionment for remote employees.

WHEREAS, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That the following Sections:

Sections 192.06, 192.11, 192.24, 192.26, and 192.29, as amended by Ordinance No. 1412-15, passed November 23, 2015, and

Section 192.57, 192.61, and 192.66, as amended by Ordinance No. 120-18, passed February 5, 2018,

are amended to read as follows:

Section 192.06 Definitions

Any term used in this chapter that is not otherwise defined in this chapter has the same meaning as when used in a comparable context in laws of the United States relating to federal income taxation, RC Chapter 718, or in RC Title LVII, unless a different meaning is clearly required. If a term used in this chapter that is not otherwise defined in this chapter is used in a comparable context in both the laws of the United States relating to federal income tax and in RC Title LVII or RC Chapter 718 and the use is not consistent, then the use of the term in the laws of the United States relating to federal income tax shall control over the use of the term in RC Title LVII.

For purposes of this section, the singular shall include the plural, and the masculine shall include the feminine and the gender-neutral.

As used in this chapter:

(a) “Adjusted federal taxable income” shall be used as defined in RC Chapter 718.

(b) (1) “Assessment” means any of the following:

A. A written finding by the Tax Administrator that a person has underpaid municipal income tax, or owes penalty and interest, or any combination of tax, penalty, or interest, to the municipal corporation;

B. A full or partial denial of a refund request issued under division (b)(2) of Section 192.14 of this chapter;

C. A Tax Administrator’s denial of a taxpayer’s request for use of an alternative apportionment method, issued under division (b)(2) of Section 192.14 of this chapter;

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D. A Tax Administrator's requirement for a taxpayer to use an alternative apportionment method, issued under division (b)(3) of Section 192.14 of this chapter; or

E. For purposes of division (b)(1) of this section, an assessment shall commence the person's time limitation for making an appeal to the Local Board of Tax Review under Section 192.40 of this chapter, and shall have "ASSESSMENT" written in all capital letters at the top of such finding.

(2) "Assessment" does not include notice(s) denying a request for refund issued under division (b)(3) of Section 192.28 of this chapter, a billing statement notifying a taxpayer of current or past-due balances owed to the municipal corporation, a Tax Administrator's request for additional information, a notification to the taxpayer of mathematical errors, or a Tax Administrator's other written correspondence to a person or taxpayer that does not meet the criteria prescribed by division (b)(1) of this section.

(c) "Audit" means the examination of a person or the inspection of the books, records, memoranda, or accounts of a person, ordered to appear before the Tax Administrator, for the purpose of determining liability for a municipal income tax

(d) "Board of Review" has same meaning as "Local Board of Tax Review".

(e) "Calendar quarter" means the three (3) month period ending on the last day of March, June, September, or December.

(f) "Casino operator" and "casino facility" have the same meanings as in RC 3772.01.

(g) "Certified mail", "express mail", "United States mail", "postal service", and similar terms include any delivery service authorized under RC 5703.056.

(h) "Compensation" means any form of remuneration paid to an employee for personal services.

(i) "Disregarded entity" means a single member limited liability company, a qualifying subchapter S subsidiary, or another entity if the company, subsidiary, or entity is a disregarded entity for federal income tax purposes.

(j) "Domicile" means the true, fixed and permanent home of the taxpayer to which, whenever absent, the taxpayer intends to return.

(k) "Exempt income" means all of the following:

(1) The military pay or allowances of members of the armed forces of the United States or members of their reserve components, including the national guard of any state;

(2) A. Except as provided in division (k)(2)B. of this section, intangible income;

B. A municipal corporation that taxed any type of intangible income on March 29, 1988, to Section 3 of S.B. 238 of the 116th General

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Assembly, may continue to tax that type of income if a majority of the electors of the municipal corporation voting on the question of whether to permit the taxation of that type of intangible income after 1988 voted in favor thereof at an election held on November 8, 1988.

(3) Social security benefits, railroad retirement benefits, unemployment compensation, pensions, retirement benefit payments, payments from annuities, and similar payments made to an employee or to the beneficiary of an employee under a retirement program or plan, long term disability payments received from private industry or local, state, or federal governments or from charitable, religious or educational organizations, and the proceeds of sickness, accident, or liability insurance policies. As used in division (k)(3) of this section, “unemployment compensation” does not include supplemental unemployment compensation described in Section 3402(o)(2) of the Internal Revenue Code;

(4) The income of religious, fraternal, charitable, scientific, literary, or educational institutions to the extent such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities;

(5) Compensation paid under RC 3501.28 or 3501.36 to a person serving as a precinct election official to the extent that such compensation does not exceed one thousand dollars (\$1,000.00) for the taxable year. Such compensation in excess of one thousand dollars (\$1,000.00) for the taxable year may be subject to taxation by a municipal corporation. A municipal corporation shall not require the payer of such compensation to withhold any tax from that compensation;

(6) Dues, contributions, and similar payments received by charitable, religious, educational, or literary organizations or labor unions, lodges, and similar organizations;

(7) Alimony and child support received;

(8) Awards for personal injuries or for damages to property from insurance proceeds or otherwise, excluding compensation paid for lost salaries or wages or awards for punitive damages;

(9) Income of a public utility when that public utility is subject to the tax levied under RC 5727.24 or 5727.30. Division (k)(9) of this section does not apply for purposes of RC Chapter 5745;

(10) Gains from involuntary conversions, interest on federal obligations, items of income subject to a tax levied by the state and that a municipal corporation is specifically prohibited by law from taxing, and income of a decedent’s estate during the period of administration except such income from the operation of a trade or business;

(11) Compensation or allowances excluded from federal gross income under Section 107 of the Internal Revenue Code;

(12) Employee compensation that is not qualifying wages as defined in division (hh) of this section;

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(13) Compensation paid to a person employed within the boundaries of a United States air force base under the jurisdiction of the United States air force that is used for the housing of members of the United States air force and is a center for air force operations, unless the person is subject to taxation because of residence or domicile. If the compensation is subject to taxation because of residence or domicile, tax on such income shall be payable only to the municipal corporation of residence or domicile;

(14) Intentionally left blank;

(15) All of the municipal taxable income earned by individuals under eighteen (18) years of age;

(16) A. Except as provided in divisions (k)(16)B., C., and D. of this section, qualifying wages described in division (b)(1) or (e) of Section 192.11 of this chapter to the extent the qualifying wages are not subject to withholding for the municipality under either of those divisions.

B. The exemption provided in division (k)(16)A. of this section does not apply with respect to the municipal corporation in which the employee resided at the time the employee earned the qualifying wages.

C. The exemption provided in division (k)(16)A. of this section does not apply to qualifying wages that an employer elects to withhold under division (d)(2) of Section 192.11 of this chapter.

D. The exemption provided in division (k)(16)A. of this section does not apply to qualifying wages if both of the following conditions apply:

1. For qualifying wages described in division (b)(1) of Section 192.11 of this chapter, the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employee's principal place of work is situated, or, for qualifying wages described in division (e) of Section 192.11 of this chapter, the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employer's fixed location is located;

2. The employee receives a refund of the tax described in division (k)(16)D.1. of this section on the basis of the employee not performing services in that municipal corporation.

(17) A. Except as provided in division (k)(17)B. or C. of this section, compensation that is not qualifying wages paid to a nonresident individual for personal services performed in the municipality on not more than twenty (20) days in a taxable year.

B. The exemption provided in division (k)(17)A. of this section does not apply under either of the following circumstances:

1. The individual's base of operation is located in the municipality.

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2. The individual is a professional athlete, professional entertainer, or public figure, and the compensation is paid for the performance of services in the individual's capacity as a professional athlete, professional entertainer, or public figure. For purposes of division (k)(17)B.2. of this section, "professional athlete", "professional entertainer", and "public figure" have the same meanings as in Section 192.11 of this chapter.

C. Compensation to which division (k)(17) of this section applies shall be treated as earned or received at the individual's base of operation. If the individual does not have a base of operation, the compensation shall be treated as earned or received where the individual is domiciled.

D. For purposes of division (k)(17) of this section, "base of operation" means the location where an individual owns or rents an office, storefront, or similar facility to which the individual regularly reports and at which the individual regularly performs personal services for compensation.

(18) Compensation paid to a person for personal services performed for a political subdivision on property owned by the political subdivision, regardless of whether the compensation is received by an employee of the subdivision or another person performing services for the subdivision under a contract with the subdivision, if the property on which services are performed is annexed to a municipal corporation under RC 709.023 on or after March 27, 2013, unless the person is subject to such taxation because of residence. If the compensation is subject to taxation because of residence, municipal income tax shall be payable only to the municipal corporation of residence;

(19) Income the taxation of which is prohibited by the constitution or laws of the United States.

Any item of income that is exempt income of a pass-through entity under division (k) of this section is exempt income of each owner of the pass-through entity to the extent of that owner's distributive or proportionate share of that item of the entity's income.

(l) "Form 2106" means Internal Revenue Service Form 2106 filed by a taxpayer under the Internal Revenue Code.

(m) "Generic form" means an electronic or paper form that is not prescribed by a particular municipal corporation and that is designed for reporting taxes withheld by an employer, agent of an employer, or other payer, estimated municipal income taxes, or annual municipal income tax liability, including a request for refund.

(n) "Income" means the following:

(1) A. For residents, all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the resident, including the resident's distributive share of the net profit of pass-through entities owned directly or indirectly by the resident and any net profit of the resident, except as provided in division (w)(4) of this section.

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B. For the purposes of division (n)(1)A. of this section:

1. Any net operating loss of the resident incurred in the taxable year and the resident's distributive share of any net operating loss generated in the same taxable year and attributable to the resident's ownership interest in a pass-through entity shall be allowed as a deduction, for that taxable year and the following five (5) taxable years, against any other net profit of the resident or the resident's distributive share of any net profit attributable to the resident's ownership interest in a pass-through entity until fully utilized, subject to division (n)(1)D. of this section;

2. The resident's distributive share of the net profit of each pass-through entity owned directly or indirectly by the resident shall be calculated without regard to any net operating loss that is carried forward by that entity from a prior taxable year and applied to reduce the entity's net profit for the current taxable year.

C. Division (n)(1)B. of this section does not apply with respect to any net profit or net operating loss attributable to an ownership interest in an S corporation unless shareholders' distributive shares of net profits from S corporations are subject to tax in the municipal corporation as provided in division (n)(5) of this section.

D. Any amount of a net operating loss used to reduce a taxpayer's net profit for a taxable year shall reduce the amount of net operating loss that may be carried forward to any subsequent year for use by that taxpayer. In no event shall the cumulative deductions for all taxable years with respect to a taxpayer's net operating loss exceed the original amount of that net operating loss available to that taxpayer.

(2) In the case of nonresidents, all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the nonresident for work done, services performed or rendered, or activities conducted in the municipality, including any net profit of the nonresident, but excluding the nonresident's distributive share of the net profit or loss of only pass-through entities owned directly or indirectly by the nonresident.

(3) For taxpayers that are not individuals, net profit of the taxpayer;

(4) Lottery, sweepstakes, gambling and sports winnings, winnings from games of chance, and prizes and awards won by residents in any jurisdiction and by nonresidents when such winnings result from a purchase or activity conducted in the City of Cleveland. If the taxpayer is a professional gambler for federal income tax purposes, the taxpayer may deduct related wagering losses and expenses to the extent authorized under the Internal Revenue Code and claimed against such winnings. Credit for tax withheld or paid to another municipal corporation on such winnings paid to the municipal corporation where winnings occur is limited to the credit as specified in Section 192.19 of this chapter.

(5) For residents, an S corporation shareholder's distributive share of net profits of the S corporation to the extent the distributive share would be allocated to this state under divisions (B)(1) and (B)(2) of RC 5733.05 if the S

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corporation were a corporation subject to taxes imposed under RC Chapter 5733, and the tax shall apply to the distributive share of a shareholder of an S corporation in the hands of the shareholder of the S corporation.

(o) “Intangible income” is used as it is defined in RC Chapter 718.

(p) “Internal Revenue Code” means the “Internal Revenue Code of 1986,” 100 Sta. 2085, 26 U.S.C.A. 1, as amended.

(q) “Limited liability company” means a limited liability company formed under RC Chapter 1705 or under the laws of another state.

(r) “Local Board of Tax Review” and “Board of Tax Review” means the entity created under Section 192.18 of this chapter.

(s) “Municipal corporation” means, in general terms, a status conferred upon a local government unit, by state law giving the unit certain autonomous operating authority such as the power of taxation, power of eminent domain, police power and regulatory power, and includes a joint economic development district or joint economic development zone that levies an income tax under RC 715.691, 715.70, 715.71, or 715.74.

(t) (1) “Municipal taxable income” means the following:

A. For a person other than an individual, income reduced by exempt income to the extent otherwise included in income and then, as applicable, apportioned or situated to the municipality under Section 192.14 of this chapter, and further reduced by any pre-2017 net operating loss carryforward available to the person for the municipality.

B. 1. For an individual who is a resident of a municipality other than a qualified municipal corporation, income reduced by exempt income to the extent otherwise included in income, then reduced as provided in division (t)(2) of this section, and further reduced by any pre-2017 net operating loss carryforward available to the individual for the municipality.

2. For an individual who is a resident of a qualified municipal corporation, Ohio adjusted gross income reduced by income exempted, and increased by deductions excluded, by the qualified municipal corporation from the qualified municipal corporation’s tax on or before December 31, 2013. If a qualified municipal corporation, on or before December 31, 2013, exempts income earned by individuals who are not residents of the qualified municipal corporation and net profit of persons that are not wholly located within the qualified municipal corporation, such individual or person shall have no municipal taxable income for the purposes of the tax levied by the qualified municipal corporation and may be exempted by the qualified municipal corporation from the requirements of RC 718.03.

C. For an individual who is a nonresident of the municipality, income reduced by exempt income to the extent otherwise included in income and then, as applicable, apportioned or situated to the municipality under Section 192.14 of this chapter, then reduced as provided in division

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(t)(2) of this section, and further reduced by any pre-2017 net operating loss carryforward available to the individual for the municipality.

(2) In computing the municipal taxable income of a taxpayer who is an individual, the taxpayer may subtract, as provided in division (t)(1)B.1. or C. of this section, the amount of the individual's employee business expenses reported on the individual's Form 2106 that the individual deducted for federal income tax purposes for the taxable year, subject to the limitation imposed by Section 67 of the Internal Revenue Code. For the municipal corporation in which the taxpayer is a resident, the taxpayer may deduct all such expenses allowed for federal income tax purposes. For a municipal corporation in which the taxpayer is not a resident, the taxpayer may deduct such expenses only to the extent the expenses are related to the taxpayer's performance of personal services in that nonresident municipal corporation.

(u) "Municipality" means the City of Cleveland.

(v) "Net operating loss" means a loss incurred by a person in the operation of a trade or business. "Net operating loss" does not include unutilized losses resulting from basis limitations, at-risk limitations, or passive activity loss limitations.

(w) (1) "Net profit" for a person other than an individual means adjusted federal taxable income.

(2) "Net profit" for a person who is an individual means the individual's net profit required to be reported on Schedule C, Schedule E, or Schedule F reduced by any net operating loss carried forward. For the purposes of this division, the net operating loss carried forward shall be calculated and deducted in the same manner as provided in RC Chapter 718.

(3) For the purposes of this chapter, and notwithstanding division (w)(1) of this section, net profit of a disregarded entity shall not be taxable as against that disregarded entity, but shall instead be included in the net profit of the owner of the disregarded entity.

(4) A. For purposes of this chapter, "publicly traded partnership" means any partnership, an interest in which is regularly traded on an established securities market. A "publicly traded partnership" may have any number of partners.

B. For the purposes of this chapter, and notwithstanding any other provision of this chapter, the net profit of a publicly traded partnership that makes the election described in division (w)(4) of this section shall be taxed as if the partnership were a C corporation, and shall not be treated as the net profit or income of any owner of the partnership.

C. A publicly traded partnership that is treated as a partnership for federal income tax purposes and that is subject to tax on its net profits in one or more municipal corporations in this state may elect to be treated as a C corporation for municipal income tax purposes. The publicly traded partnership shall make the election in every municipal corporation in which the partnership is subject to taxation on its net profits. The election shall be made on the annual tax return filed in each such municipal corporation. Once the election is made, the election is binding for a five (5)

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year period beginning with the first taxable year of the initial election. The election continues to be binding for each subsequent five (5) year period unless the taxpayer elects to discontinue filing municipal income tax returns as a C corporation for municipal purposes under division (w)(4)D. of this section.

D. An election to discontinue filing as a C corporation must be made in the first year following the last year of a five (5) year election period in effect under division (w)(4)C. of this section. The election to discontinue filing as a C corporation is binding for a five (5) year period beginning with the first taxable year of the election and continues to be binding for each subsequent five (5) year period unless the taxpayer elects to discontinue filing municipal income tax returns as a partnership for municipal purposes. An election to discontinue filing as a partnership must be made in the first year following the last year of a five (5) year election period.

E. The publicly traded partnership shall not be required to file the election with any municipal corporation in which the partnership is not subject to taxation on its net profits, but division (w)(4) of this section applies to all municipal corporations in which an individual owner of the partnership resides.

F. The individual owners of the partnership not filing as a C corporation shall be required to file with their municipal corporation of residence, and report partnership distribution of net profit.

(x) “Nonresident” means an individual that is not a resident of the municipality.

(y) “Ohio Business Gateway” means the online computer network system, created under RC 125.30, that allows persons to electronically file business reply forms with state agencies and includes any successor electronic filing and payment system.

(z) “Other payer” means any person, other than an individual’s employer or the employer’s agent, which pays an individual any amount included in the federal gross income of the individual. “Other payer” includes casino operators and video lottery terminal sales agents.

(aa) “Pass-through entity” means a partnership not treated as an association taxable as a C corporation for federal income tax purposes, a limited liability company not treated as an association taxable as a C corporation for federal income tax purposes, an S corporation, or any other class of entity from which the income or profits of the entity are given pass-through treatment for federal income tax purposes. “Pass-through entity” does not include a trust, estate, grantor of a grantor trust, or disregarded entity.

(bb) ~~“Pension” means any amount paid to an employee or former employee that is reported to the recipient on an IRS Form 1099-R, or successor form. Pension does not include deferred compensation, or amounts attributable to nonqualified deferred compensation plans, reported as FICA/Medicare wages on an IRS Form W-2, Wage and Tax Statement, or successor form.~~ “Pension” means a retirement benefit plan, as defined by RC Chapter 718 and Central Collection Agency (CCA) Rules and Regulations.

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(cc) “Person” includes individuals, firms, companies, joint stock companies, business trusts, estates, trusts, partnerships, limited liability partnerships, limited liability companies, associations, C corporations, S corporations, governmental entities, and any other entity.

(dd) “Postal service” means the United States Postal Service, or private delivery service delivering documents and packages within an agreed upon delivery schedule, or any other carrier service delivering the item.

(ee) “Postmark date,” “date of postmark,” and similar terms include the date recorded and marked by a delivery service and recorded electronically to a database kept in the regular course of its business and marked on the cover in which the payment or document is enclosed, the date on which the payment or document was given to the delivery service for delivery.

(ff) (1) “Pre-2017 net operating loss carryforward” means any net operating loss incurred in a taxable year beginning before January 1, 2017, to the extent such loss was permitted, by a resolution or ordinance of the municipality that was adopted by the municipality before January 1, 2016, to be carried forward and utilized to offset income or net profit generated in such municipality in future taxable years.

(2) For the purpose of calculating municipal taxable income, any pre-2017 net operating loss carryforward may be carried forward to any taxable year, including taxable years beginning in 2017 or thereafter, for the number of taxable years provided in the resolution or ordinance or until fully utilized, whichever is earlier.

(gg) “Qualified municipal corporation” means a municipal corporation that, by resolution or ordinance adopted on or before December 31, 2011, adopted Ohio adjusted gross income, as defined by RC 5747.01, as the income subject to tax for the purposes of imposing a municipal income tax.

(hh) “Qualifying wages” means wages, as defined in Section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted as follows:

(1) Deduct the following amounts:

A. Any amount included in wages if the amount constitutes compensation attributable to a plan or program described in Section 125 of the Internal Revenue Code.

B. Any amount included in wages if the amount constitutes payment on account of a disability related to sickness or an accident paid by a party unrelated to the employer, agent of an employer, or other payer.

C. Any amount included in wages that is exempt income.

(2) Add the following amounts:

A. Any amount not included in wages solely because the employee was employed by the employer before April 1, 1986.

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B. Any amount not included in wages because the amount arises from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under a stock option. Division (hh)(2)B. of this section applies only to those amounts constituting ordinary income.

C. Any amount not included in wages if the amount is an amount described in Section 401(k), 403(b), or 457 of the Internal Revenue Code. Division (hh)(2)C. of this section applies only to employee contributions and employee deferrals.

D. Any amount that is supplemental unemployment compensation benefits described in Section 3402(o)(2) of the Internal Revenue Code and not included in wages.

E. Any amount received that is treated as self-employment income for federal tax purposes under Section 1402(a)(8) of the Internal Revenue Code.

F. Any amount not included in wages if all of the following apply:

1. For the taxable year the amount is employee compensation that is earned outside of the United States and that either is included in the taxpayer's gross income for federal income tax purposes or would have been included in the taxpayer's gross income for such purposes if the taxpayer did not elect to exclude the income under Section 911 of the Internal Revenue Code;

2. For no preceding taxable year did the amount constitute wages as defined in Section 3121(a) of the Internal Revenue Code;

3. For no succeeding taxable year will the amount constitute wages; and

4. For any taxable year the amount has not otherwise been added to wages under either division (hh)(2) of this section or RC 718.03, as that section existed before the effective date of H.B. 5 of the 130th general assembly, March 23, 2015.

(ii) “Qualifying remote employee or owner”; “Qualifying remote work location”; “Reporting location”; and “Qualifying reporting location” shall have the same meaning as set forth in RC Chapter 718.

~~(ii)~~(jj) “Related entity” means any of the following:

(1) An individual stockholder, or a member of the stockholder's family enumerated in Section 318 of the Internal Revenue Code, if the stockholder and the members of the stockholder's family own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty percent (50%) of the value of the taxpayer's outstanding stock;

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(2) A stockholder, or a stockholder's partnership, estate, trust, or corporation, if the stockholder and the stockholder's partnerships, estates, trusts, or corporations own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty percent (50%) of the value of the taxpayer's outstanding stock;

(3) A corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under division ~~(ii)(4)~~ (jj)(4) of this section, provided the taxpayer owns directly, indirectly, beneficially, or constructively, at least fifty percent (50%) of the value of the corporation's outstanding stock; (Check is citation is correct. This may have been renumbered.)

(4) The attribution rules described in Section 318 of the Internal Revenue Code apply for the purpose of determining whether the ownership requirements in divisions ~~(ii)(1) to (3)~~ (jj)(1) to (3) of this section have been met.

~~(jj)(kk)~~ (kk)(ll) "Related member" means a person that, with respect to the taxpayer during all or any portion of the taxable year, is either a related entity, a component member as defined in Section 1563(b) of the Internal Revenue Code, or a person to or from whom there is attribution of stock ownership under Section 1563(e) of the Internal Revenue Code except, for purposes of determining whether a person is a related member under this division, "twenty percent (20%)" shall be substituted for "5 percent" wherever "5 percent" appears in Section 1563(e) of the Internal Revenue Code.

~~(kk)(ll)~~ (ll)(mm) "Resident" means an individual who is domiciled in the municipality as determined under Section 192.08 of this chapter.

~~(ll)(mm)~~ (mm)(nn) "S corporation" means a person that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.

~~(mm)(nn)~~ (nn)(oo) "Schedule C" means Internal Revenue Service Schedule C (Form 1040) filed by a taxpayer under the Internal Revenue Code.

~~(nn)(oo)~~ (oo)(pp) "Schedule E" means Internal Revenue Service Schedule E (Form 1040) filed by a taxpayer under the Internal Revenue Code.

~~(oo)(pp)~~ (pp)(qq) "Schedule F" means Internal Revenue Service Schedule F (Form 1040) filed by a taxpayer under the Internal Revenue Code.

~~(pp)(qq)~~ (qq)(rr) "Single member limited liability company" means a limited liability company that has one (1) direct member.

~~(qq)(rr)~~ (rr)(ss) "Small employer" means any employer that had total revenue of less than five hundred thousand dollars (\$500,000.00) during the preceding taxable year. For purposes of this division, "total revenue" means receipts of any type or kind, including, but not limited to, sales receipts; payments; rents; profits; gains, dividends, and other investment income; commissions; premiums; money; property; grants; contributions; donations; gifts; program service revenue; patient service revenue; premiums; fees, including premium fees and service fees; tuition payments; unrelated business revenue; reimbursements; any type of payment from a governmental unit, including grants and other allocations; and any other similar receipts reported for federal income tax purposes or under generally accepted accounting principles. "Small employer" does not include the federal government; any state government, including

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any state agency or instrumentality; any political subdivision; or any entity treated as a government for financial accounting and reporting purposes.

~~(rr)~~(ss) “Tax administrator” means the Commissioner of the Division of Taxation charged with direct responsibility for administration of an income tax levied by the municipality under this chapter.

~~(ss)~~(tt) “Tax return preparer” means any individual described in Section 7701(a)(36) of the Internal Revenue Code and 26 C.F.R. 301.7701-15 .

~~(tt)~~(uu) “Taxable year” means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.

~~(uu)~~(vv) (1) “Taxpayer” means a person subject to a tax levied on income by a municipal corporation in accordance with this chapter. “Taxpayer” does not include a grantor trust or, except as provided in division ~~(uu)(2)A.~~ (vv)(2)A. of this section, a disregarded entity.

(2) A. A single member limited liability company that is a disregarded entity for federal tax purposes may be a separate taxpayer from its single member in all Ohio municipal corporations in which it either filed as a separate taxpayer or did not file for its taxable year ending in 2003, if all of the following conditions are met:

1. The limited liability company’s single member is also a limited liability company.

2. The limited liability company and its single member were formed and doing business in one (1) or more Ohio municipal corporations for at least five (5) years before January 1, 2004.

3. Not later than December 31, 2004, the limited liability company and its single member each made an election to be treated as a separate taxpayer under division (L) of RC 718.01 as this section existed on December 31, 2004.

4. The limited liability company was not formed for the purpose of evading or reducing Ohio municipal corporation income tax liability of the limited liability company or its single member.

5. The Ohio municipal corporation that was the primary place of business of the sole member of the limited liability company consented to the election.

B. For purposes of division ~~(uu)(2)A.5.~~ (vv)(2)A.5. of this section, a municipal corporation was the primary place of business of a limited liability company if, for the limited liability company’s taxable year ending in 2003, its income tax liability was greater in that municipal corporation than in any other municipal corporation in Ohio, and that tax liability to that municipal corporation for its taxable year ending in 2003 was at least four hundred thousand dollars (\$400,000.00).

~~(vv)~~(ww) “Taxpayers’ rights and responsibilities” is used as defined in RC Chapter 718.

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~~(ww)~~(xx) “Video lottery terminal” has the same meaning as in RC 3770.21.

~~(xx)~~(yy) “Video lottery terminal sales agent” means a lottery sales agent licensed under RC Chapter 3770 to conduct video lottery terminals on behalf of the state under RC 3770.21.

Section 192.11 Collection at Source; Occasional Entrant

(a) The following terms as used in this section:

(1) “Employer” includes a person that is a related member to or of an employer.

(2) “Professional athlete” means an athlete who performs services in a professional athletic event for wages or other remuneration.

(3) “Professional entertainer” means a person who performs services in the professional performing arts for wages or other remuneration on a per-event basis.

(4) “Public figure” means a person of prominence who performs services at discrete events, such as speeches, public appearances, or similar events, for wages or other remuneration on a per-event basis.

(5) “Fixed location” means a permanent place of doing business in this state, such as an office, warehouse, storefront, or similar location owned or controlled by an employer.

(6) “Worksite location” means a construction site or other temporary worksite in this state at which the employer provides services for more than twenty (20) days during the calendar year. “Worksite location” does not include the home of an employee.

(7) “Principal place of work” means the fixed location to which an employee is required to report for employment duties on a regular and ordinary basis and excludes the terms identified in Section 192.06(ii). If the employee is not required to report for employment duties on a regular and ordinary basis to a fixed location, “principal place of work” means the worksite location in this state to which the employee is required to report for employment duties on a regular and ordinary basis. If the employee is not required to report for employment duties on a regular and ordinary basis to a fixed location or worksite location, “principal place of work” means the location in this state at which the employee spends the greatest number of days in a calendar year performing services for or on behalf of the employee’s employer.

If there is not a single municipal corporation in which the employee spent the “greatest number of days in a calendar year” performing services for or on behalf of the employer, but instead there are two (2) or more municipal corporations in which the employee spent an identical number of days that is greater than the number of days the employee spent in any other municipal corporation, the employer shall allocate any of the employee’s qualifying wages subject to division (b)(1)A. of this section among those two (2) or more municipal

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corporations. The allocation shall be made using any fair and reasonable method, including, but not limited to, an equal allocation among such municipal corporations or an allocation based upon the time spent or sales made by the employee in each such municipal corporation. A municipal corporation to which qualifying wages are allocated under this division shall be the employee's "principal place of work" with respect to those qualifying wages for the purposes of this section.

For the purposes of this division, the location at which an employee spends a particular day shall be deemed under division (b)(2) of this section, except that "location" shall be substituted for "municipal corporation" wherever "municipal corporation" appears in that division.

(b) (1) Subject to divisions (c), (e), (f), and (g) of this section, an employer is not required to withhold municipal income tax on qualifying wages paid to an employee for the performance of personal services in a municipal corporation that imposes such a tax if the employee performed such services in the municipal corporation on twenty or fewer days in a calendar year, unless one (1) of the following conditions applies:

A. The employee's principal place of work is located in the municipality.

B. The employee performed services at one or more presumed worksite locations in the municipality. For the purposes of this division, "presumed worksite location" means a construction site or other temporary worksite in this state at which the employer provides services that can reasonably be expected by the employer to last more than twenty (20) days in a calendar year. Services can "reasonably be expected by the employer to last more than twenty (20) days" if either of the following applies at the time the services commence:

1. The nature of the services are such that it will require more than twenty (20) days of actual services to complete the services;

2. The agreement between the employer and its customer to perform services at a location requires the employer to perform actual services at the location for more than twenty (20) days.

C. The employee is a resident of the municipality and has requested that the employer withhold tax from the employee's qualifying wages as provided in Section 192.10 of this chapter.

D. The employee is a professional athlete, professional entertainer, or public figure, and the qualifying wages are paid for the performance of services in the employee's capacity as a professional athlete, professional entertainer, or public figure within the municipality.

(2) For the purposes of division (b)(1) of this section, an employee shall be considered to have spent a day performing services in a municipal corporation only if the employee spent more time performing services for or on behalf of the employer in that municipal corporation than in any other municipal corporation

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on that day. For the purposes of determining the amount of time an employee spent in a particular location, the time spent performing one (1) or more of the following activities shall be considered to have been spent at the employee's principal place of work:

A. Traveling to the location at which the employee will first perform services for the employer for the day;

B. Traveling from a location at which the employee was performing services for the employer to any other location;

C. Traveling from any location to another location in order to pick up or load, for the purpose of transportation or delivery, property that has been purchased, sold, assembled, fabricated, repaired, refurbished, processed, remanufactured, or improved by the employee's employer;

D. Transporting or delivering property described in division (b)(2)C. of this section, provided that, upon delivery of the property, the employee does not temporarily or permanently affix the property to real estate owned, used, or controlled by a person other than the employee's employer;

E. Traveling from the location at which the employee makes the employee's final delivery or pick-up for the day to either the employee's principal place of work or a location at which the employee will not perform services for the employer.

(c) If the principal place of work of an employee is located in a municipal corporation that imposes an income tax under this chapter, the exception from withholding requirements described in division (b)(1) of this section shall apply only if, with respect to the employee's qualifying wages described in that division, the employer withholds and remits tax on such qualifying wages to the municipal corporation in which the employee's principal place of work is located.

(d) (1) Except as provided in division (d)(2) of this section, if, during a calendar year, the number of days an employee spends performing personal services in a municipal corporation exceeds the twenty (20) day threshold described in division (b)(1) of this section, the employer shall withhold and remit tax to that municipal corporation for any subsequent days in that calendar year on which the employer pays qualifying wages to the employee for personal services performed in that municipal corporation.

(2) An employer required to begin withholding tax for a municipal corporation under division (d)(1) of this section may elect to withhold tax for that municipal corporation for the first twenty (20) days on which the employer paid qualifying wages to the employee for personal services performed in that municipal corporation.

(3) If an employer makes the election described in division (d)(2) of this section, the taxes withheld and paid by such an employer during those first twenty (20) days to the municipal corporation in which the employee's principal place of work is located are refundable to the employee.

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(e) Without regard to the number of days in a calendar year on which an employee performs personal services in any municipal corporation, an employer shall withhold municipal income tax on all of the employee's qualifying wages for a taxable year and remit that tax only to the municipal corporation in which the employer's fixed location is located if the employer qualifies as a small employer as defined in Section 192.06 of this chapter. To determine whether an employer qualifies as a small employer for a taxable year, a Tax Administrator may require the employer to provide the Tax Administrator with the employer's federal income tax return for the preceding taxable year.

(f) Divisions (b)(1) and (d) of this section shall not apply to the extent that a Tax Administrator and an employer enter into an agreement regarding the manner in which the employer shall comply with the requirements of Section 192.10 of this chapter.

(g) In the case of a person performing personal services at a petroleum refinery located in a municipal corporation that imposes a tax on income, an employer is not required to withhold municipal income tax on the qualifying wages of such a person if the person performs those services on twelve (12) or fewer days in a calendar year, unless the principal place of work of the employer is located in another municipal corporation in this state that imposes a tax applying to compensation paid to the person for services performed on those days and the person is not liable to that other municipal corporation for tax on the compensation paid for such services. For the purposes of this division, a petroleum refinery is a facility with a standard industrial classification code facility classification of 2911, petroleum refining.

Notwithstanding division (d) of this section, if, during a calendar year, the number of days an individual performs personal services at a petroleum refinery exceeds twelve (12), the employer shall withhold tax for the municipal corporation for the first twelve (12) days for which the employer paid qualifying wages to the individual and for all subsequent days in the calendar year on which the individual performed services at the refinery.

Section 192.24 Return and Payment of Tax; Individuals Serving in Combat Zone

(a) Each member of the national guard of any state and each member of a reserve component of the armed forces of the United States called to active duty under an executive order issued by the President of the United States or an act of the Congress of the United States, and each civilian serving as support personnel in a combat zone or contingency operation in support of the armed forces, may apply to the Tax Administrator of the municipality for both an extension of time for filing of the return and an extension of time for payment of taxes required by the municipality under this chapter during the period of the member's or civilian's duty service and for one hundred eighty days thereafter. The application shall be filed on or before the one hundred eightieth (180th) day after the member's or civilian's duty terminates. An applicant shall provide such evidence as the Tax Administrator considers necessary to demonstrate eligibility for the extension.

(b) (1) If the Tax Administrator ascertains that an applicant is qualified for an extension under this section, the Tax Administrator shall enter into a contract with the applicant for the payment of the tax in installments that begin on the one hundred eighty-first (181st) day after the applicant's active duty or service

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terminates. Except as provided in division (b)(3) of this section, the Tax Administrator may prescribe such contract terms as the Tax Administrator considers appropriate.

(2) If the Tax Administrator ascertains that an applicant is qualified for an extension under this section, the applicant shall neither be required to file any return, report, or other tax document nor be required to pay any tax otherwise due to the municipality before the one hundred eighty-first (181st) day after the applicant's active duty or service terminates.

(3) Taxes paid under a contract entered into under division (b)(1) of this section are not delinquent. The Tax Administrator shall not require any payments of penalties or interest in connection with those taxes for the extension period.

(c) (1) Nothing in this division denies to any person described in this division the application of divisions (a) and (b) of this section.

(2) A. In accordance with RC 718.05(G), a A qualifying taxpayer who is eligible for an extension under the Internal Revenue Code shall receive both an extension of time in which to file any return, report, or other tax document and an extension of time in which to make any payment of taxes required by the municipality in accordance with this chapter. The length of any extension granted under division (c)(2)A- of this section shall be equal to the length of the corresponding extension that the taxpayer receives under the Internal Revenue Code. As used in this section, "qualifying taxpayer" means a member of the national guard or a member of a reserve component of the armed forces of the United States called to active duty pursuant to either an executive order issued by the President of the United States or an act of the Congress of the United States, or a civilian serving as support personnel in a combat zone or contingency operation in support of the armed forces.

B. Taxes the payment of which is extended under division (c)(2)A. of this section are not delinquent during the extension period. Such taxes become delinquent on the first day after the expiration of the extension period if the taxes are not paid prior to that date. The Tax Administrator shall not require any payment of penalties or interest in connection with those taxes for the extension period. The Tax Administrator shall not include any period of extension granted under division (c)(2)A. of this section in calculating the penalty or interest due on any unpaid tax.

(d) For each taxable year to which division (a), (b), or (c) of this section applies to a taxpayer, the provisions of divisions (b)(2) and (b)(3) or (c) of this section, as applicable, apply to the spouse of that taxpayer if the filing status of the spouse and the taxpayer is married filing jointly for that year.

Section 192.26 Extension of Time to File

(a) Any taxpayer that has duly requested an automatic six (6) month extension for filing the taxpayer's federal income tax return shall automatically receive an extension for the filing of a municipal income tax return. The extended due date of

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the municipal income tax return shall be the fifteenth (15th) day of the tenth (10th) month after the last day of the taxable year to which the return relates. The extended due date of the municipal income tax return for a taxpayer that is not an individual shall be the fifteenth (15th) day of the eleventh (11th) month after the last day of the taxable year to which the return relates.

(b) Any taxpayer that qualifies for an automatic federal extension for a period other than six (6) months for filing the taxpayer's federal income tax return shall automatically receive an extension for the filing of a municipal income tax return. The extended due date of the municipal income tax return shall be the same as that of the extended federal income tax return.

(c) A taxpayer that has not requested or received a six (6) month extension for filing the taxpayer's federal income tax return may request that the Tax Administrator grant the taxpayer a six (6) month extension of the date for filing the taxpayer's municipal income tax return. If the request is received by the Tax Administrator on or before the date the municipal income tax return is due, the Tax Administrator shall grant the taxpayer's requested extension.

(d) An extension of time to file under this chapter is not an extension of the time to pay any tax due unless the Tax Administrator grants an extension of that date.

(e) If the State Tax Commissioner extends for all taxpayers the date for filing state income tax returns under division (G) of RC 5747.08, a taxpayer shall automatically receive an extension for the filing of a municipal income tax return. The extended due date of the municipal income tax return shall be the same as the extended due date of the state income tax return.

Section 192.29 Penalty, Interest, Fees, and Charges

(a) As used in this section:

(1) "Applicable law" means this chapter, the resolutions, ordinances, codes, directives, instructions, and rules adopted by the municipality provided such resolutions, ordinances, codes, directives, instructions, and rules impose or directly or indirectly address the levy, payment, remittance, or filing requirements of a municipal income tax.

(2) "Federal short-term rate" means the rate of the average market yield on outstanding marketable obligations of the United States with remaining periods to maturity of three (3) years or less, as determined under Section 1274 of the Internal Revenue Code, for July of the current year.

(3) "Income tax," "estimated income tax," and "withholding tax" mean any income tax, estimated income tax, and withholding tax imposed by a municipal corporation under applicable law, including at any time before January 1, 2016.

(4) "Interest rate as described in division (a) of this section" means the federal short-term rate, rounded to the nearest whole number percent, plus five percent (5%). The rate shall apply for the calendar year next following the July of the year in which the federal short-term rate is determined in accordance with division (a)(2) of this section.

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(5) “Return” includes any tax return, report, reconciliation, schedule, and other document required to be filed with a Tax Administrator or municipal corporation by a taxpayer, employer, any agent of the employer, or any other payer under applicable law, including at any time before January 1, 2016.

(6) “Unpaid estimated income tax” means estimated income tax due but not paid by the date the tax is required to be paid under applicable law.

(7) “Unpaid income tax” means income tax due but not paid by the date the income tax is required to be paid under applicable law.

(8) “Unpaid withholding tax” means withholding tax due but not paid by the date the withholding tax is required to be paid under applicable law.

(9) “Withholding tax” includes amounts an employer, any agent of an employer, or any other payer did not withhold in whole or in part from an employee’s qualifying wages, but that, under applicable law, the employer, agent, or other payer is required to withhold from an employee’s qualifying wages.

(b) (1) This section shall apply to the following:

A. Any return required to be filed under applicable law for taxable years beginning on or after January 1, 2016;

B. Income tax, estimated income tax, and withholding tax required to be paid or remitted to the municipality on or after January 1, 2016 for taxable years beginning on or after January 1, 2016.

(2) This section does not apply to returns required to be filed or payments required to be made before January 1, 2016, regardless of the filing or payment date. Returns required to be filed or payments required to be made before January 1, 2016, but filed or paid after that date shall be subject to the ordinances or rules, as adopted from time to time before January 1, 2016 of this municipality.

(c) The municipality shall impose on a taxpayer, employer, any agent of the employer, and any other payer, and will attempt to collect, the interest amounts and penalties prescribed in this section when the taxpayer, employer, any agent of the employer, or any other payer for any reason fails, in whole or in part, to make to the municipality timely and full payment or remittance of income tax, estimated income tax, or withholding tax or to file timely with the municipality any return required to be filed.

(1) Interest shall be imposed at the rate defined as “interest rate as described in division (a) of this section”, per annum, on all unpaid income tax, unpaid estimated income tax, and unpaid withholding tax. This imposition of interest shall be assessed per month, or fraction of a month.

(2) With respect to unpaid income tax and unpaid estimated income tax, a penalty equal to fifteen percent (15%) of the amount not timely paid shall be imposed.

(3) With respect to any unpaid withholding tax, a penalty equal to fifty percent (50%) of the amount not timely paid shall be imposed.

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(4) With respect to returns other than estimated income tax returns, the municipality shall impose a monthly penalty of twenty-five dollars (\$25.00) for each failure to timely file each return, regardless of the liability shown thereon for each month, or any fraction thereof, during which the return remains unfiled regardless of the liability shown thereon. The penalty shall not exceed a total of ~~one hundred fifty dollars (\$150.00)~~ twenty-five dollars (\$25) in assessed penalty for each failure to timely file a return, except that a municipal corporation shall abate or refund the penalty assessed on a taxpayer's first failure to timely file a return after the taxpayer files that return.

(d) With respect to income taxes, estimated income taxes, withholding taxes, and returns, the municipality shall not impose, seek to collect, or collect any penalty, amount of interest, charges or additional fees not described in this section.

(e) With respect to income taxes, estimated income taxes, withholding taxes, and returns, the municipality shall not refund or credit any penalty, amount of interest, charges, or additional fees that were properly imposed or collected before January 1, 2016.

(f) The Tax Administrator may, in the Tax Administrator's sole discretion, abate or partially abate penalties or interest imposed under this section when the Tax Administrator deems such abatement or partial abatement to be appropriate. Such abatement or partial abatement shall be properly documented and maintained on the record of the taxpayer who received benefit of such abatement or partial abatement.

(g) The municipality may impose on the taxpayer, employer, any agent of the employer, or any other payer the municipality's post-judgment collection costs and fees, including attorney's fees.

Section 192.57 Filing Net Profit Taxes; Election to be Subject to Provisions of Chapter

(a) A taxpayer may elect to be subject to Sections 192.57 to 192.72 of the Codified Ordinances in lieu of the provisions set forth in the remainder of this chapter. Notwithstanding any other provision of this chapter, upon the taxpayer's election, both of the following shall apply:

(1) The State Tax Commissioner as defined in RC 718.01 shall serve as the sole administrator of the municipal net profit tax levied pursuant to this chapter for which the taxpayer as defined in Section 192.58(c) of the Codified Ordinances is liable for the term of the election;

(2) The Tax Commissioner shall administer the tax pursuant to RC 718.80 to 718.95, Sections 192.57 to 192.72 of the Codified Ordinances, and any applicable provision of RC Chapter 5703.

(b) (1) A taxpayer shall make the initial election on or before the first (1st) day of the third (3rd) month after the beginning of the taxpayer's taxable year by notifying the Tax Commissioner and the City, on a form prescribed by the Tax Commissioner.

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(2) At least quarterly, the Tax Commissioner shall notify each municipal corporation that a taxpayer lists in its election under division (b)(1) of this section that the taxpayer has made such election.

~~(2)~~(3) A. The election, once made by the taxpayer, applies to the taxable year in which the election is made and to each subsequent taxable year until the taxpayer notifies the Tax Commissioner and the City of its termination of the election.

B. A notification of termination shall be made, on a form prescribed by the Tax Commissioner, on or before the first (1st) day of the third (3rd) month of any taxable year.

C. Upon a timely and valid termination of the election, the taxpayer is no longer subject to Sections 192.57 to 192.72 of the Codified Ordinances, and is instead subject to the provisions set forth in the remainder of this chapter.

(c) The Tax Commissioner shall enforce and administer Sections 192.57 to 192.72 of the Codified Ordinances. In addition to any other powers conferred upon the Tax Commissioner by law, the Tax Commissioner may:

(1) Prescribe all forms necessary to administer those sections;

(2) Adopt such rules as the Tax Commissioner finds necessary to carry out those sections;

(3) Appoint and employ such personnel as are necessary to carry out the duties imposed upon the Tax Commissioner by those sections.

(d) The Tax Commissioner shall not be considered a Tax Administrator, as that term is defined in RC 718.01 and Section 192.62 of the City Codified Ordinances.

Section 192.61 Filing of Annual Return; Remittance; Disposition of Funds

(a) (1) For each taxable year, every taxpayer shall file an annual return. Such return, along with the amount of tax shown to be due on the return less the amount paid for the taxable year under Section 192.65 of the Codified Ordinances, shall be submitted to the Tax Commissioner, on a form and in the manner prescribed by the Tax Commissioner, on or before the fifteenth (15th) day of the fourth (4th) month following the end of the taxpayer's taxable year.

(2) If a taxpayer has multiple taxable years ending within one (1) calendar year, the taxpayer shall aggregate the facts and figures necessary to compute the tax due under this chapter, in accordance with Sections 192.58, 192.59, and, if applicable, 192.63 of the Codified Ordinances onto its annual return.

(3) The remittance shall be made payable to the Treasurer of State and in the form prescribed by the Tax Commissioner. If the amount payable with the tax return is ten dollars (\$10.00) or less, no remittance is required.

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~~(b)~~ The Tax Commissioner shall immediately forward to the Treasurer of State all amounts the Tax Commissioner received pursuant to RC 718.80 to 718.95. The Treasurer shall credit ninety-nine and one-half percent (99.5%) of such amounts to the municipal income tax fund and the remainder to the municipal income tax administrative fund established under RC 5745.03.

~~(e)~~(b)(1) Each return required to be filed under this section shall contain the signature of the taxpayer or the taxpayer's duly authorized agent and of the person who prepared the return for the taxpayer, and shall include the taxpayer's identification number. Each return shall be verified by a declaration under penalty of perjury.

(2) A. The Tax Commissioner may require a taxpayer to include, with each annual tax return, amended return, or request for refund filed with the Tax Commissioner under Sections 192.57 to 192.72 of the Codified Ordinances, copies of any relevant documents or other information.

B. A taxpayer that files an annual tax return electronically through the Ohio Business Gateway or in another manner as prescribed by the Tax Commissioner shall either submit the documents required under this division electronically as prescribed at the time of filing or, if electronic submission is not available, mail the documents to the Tax Commissioner. The Department of Taxation shall publish a method of electronically submitting the documents required under this division on or before January 1, 2019.

(3) After a taxpayer files a tax return, the Tax Commissioner may request, and the taxpayer shall provide, any information, statements, or documents required to determine and verify the taxpayer's municipal income tax.

~~(d)~~(c) (1) A. Any taxpayer that has duly requested an automatic extension for filing the taxpayer's federal income tax return shall automatically receive an extension for the filing of a tax return with the Tax Commissioner under this section. The extended due date of the return shall be the fifteenth (15th) day of the ~~tenth (10th)~~ eleventh (11th) month after the last day of the taxable year to which the return relates.

B. A taxpayer that has not requested or received a six (6) month extension for filing the taxpayer's federal income tax return may request that the Tax Commissioner grant the taxpayer a six (6) month extension of the date for filing the taxpayer's municipal income tax return. If the Tax Commissioner receives the request on or before the date the municipal income tax return is due, the Tax Commissioner shall grant the taxpayer's extension request.

C. An extension of time to file under division ~~(d)~~(c) (1) of this section is not an extension of the time to pay any tax due unless the Tax Commissioner grants an extension of that date.

(2) If the Tax Commissioner considers it necessary in order to ensure payment of a tax imposed in accordance with Section 192.03 of the Codified Ordinances, the Tax Commissioner may require taxpayers to file returns and make payments otherwise than as provided in this section, including taxpayers not otherwise required to file annual returns.

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~~(e)~~(d) Each return required to be filed in accordance with this section shall include a box that the taxpayer may check to authorize another person, including a tax return preparer who prepared the return, to communicate with the Tax Commissioner about matters pertaining to the return. The return or instructions accompanying the return shall indicate that by checking the box the taxpayer authorizes the Tax Commissioner to contact the preparer or other person concerning questions that arise during the examination or other review of the return and authorizes the preparer or other person only to provide the Tax Commissioner with information that is missing from the return, to contact the Tax Commissioner for information about the examination or other review of the return or the status of the taxpayer's refund or payments, and to respond to notices about mathematical errors, offsets, or return preparation that the taxpayer has received from the Tax Commissioner and has shown to the preparer or other person.

~~(e)~~(e) When income tax returns or other documents require the signature of a tax return preparer, the Tax Commissioner shall accept a facsimile or electronic version of such a signature in lieu of a manual signature.

Section 192.66 Additional Penalties

(a) In addition to any other penalty imposed by Sections 192.57 to 192.72 of the Codified Ordinances or RC Chapter 5703, the following penalties shall apply:

(1) If a taxpayer required to file a tax return under Sections 192.57 to 192.72 of the Codified Ordinances fails to make and file the return within the time prescribed, including any extensions of time granted by the Tax Commissioner, the Tax Commissioner may impose a penalty not exceeding twenty-five dollars (\$25.00) ~~per month or fraction of a month, for each month or fraction of a month elapsing between the due date, including extensions of the due date, and the date on which the return is filed. The aggregate penalty, per instance, under this division shall not exceed one hundred fifty dollars (\$150.00).~~ , except that the Commissioner shall abate or refund the penalty assessed on a taxpayer's first failure to timely file a return after the taxpayer files that return.

(2) If a person required to file a tax return electronically under Sections 192.57 to 192.72 of the Codified Ordinances fails to do so, the Tax Commissioner may impose a penalty not to exceed the following:

A. For each of the first two (2) failures, five percent (5%) of the amount required to be reported on the return;

B. For the third (3rd) and any subsequent failure, ten percent (10%) of the amount required to be reported on the return.

(3) If a taxpayer that has made the election allowed under Section 192.57 of the Codified Ordinances fails to timely pay an amount of tax required to be paid under this chapter, the Tax Commissioner may impose a penalty equal to fifteen percent (15%) of the amount not timely paid.

(4) If a taxpayer files what purports to be a tax return required by Sections 192.57 to 192.72 of the Codified Ordinances that does not contain information upon which the substantial correctness of the return may be judged

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or contains information that on its face indicates that the return is substantially incorrect, and the filing of the return in that manner is due to a position that is frivolous or a desire that is apparent from the return to delay or impede the administration of Sections 192.57 to 192.72 of the Codified Ordinances, a penalty of up to five hundred dollars (\$500.00) may be imposed.

(5) If a taxpayer makes a fraudulent attempt to evade the reporting or payment of the tax required to be shown on any return required under Sections 192.57 to 192.72 of the Codified Ordinances, a penalty may be imposed not exceeding the greater of one thousand dollars (\$1,000.00) or one hundred percent (100%) of the tax required to be shown on the return.

(6) If any person makes a false or fraudulent claim for a refund under Section 192.68 of the Codified Ordinances, a penalty may be imposed not exceeding the greater of one thousand dollars (\$1,000.00) or one hundred percent (100%) of the claim. Any penalty imposed under this division, any refund issued on the claim, and interest on any refund from the date of the refund, may be assessed under Section 192.67 of the Codified Ordinances without regard to any time limitation for the assessment imposed by division (a) of that section.

(b) For purposes of this section, the tax required to be shown on a tax return shall be reduced by the amount of any part of the tax paid on or before the date, including any extensions of the date, prescribed for filing the return.

(c) Each penalty imposed under this section shall be in addition to any other penalty imposed under this section. All or part of any penalty imposed under this section may be abated by the Tax Commissioner. The Tax Commissioner may adopt rules governing the imposition and abatement of such penalties.

(d) All amounts collected under this section shall be considered as taxes collected under Sections 192.57 to 192.72 of the Codified Ordinances and shall be credited and distributed to municipal corporations in the same proportion as the underlying tax liability is required to be distributed to such municipal corporations under RC 718.83.

Section 2. That the following existing Sections:

Sections 192.06, 192.11, 192.24, 192.26, and 192.29, as amended by Ordinance No. 1412-15, passed November 23, 2015, and

Section 192.57, 192.61, and 192.66, as amended by Ordinance No. 120-18, passed February 5, 2018,

are repealed.

Section 3. That the Codified Ordinances of Cleveland, Ohio, 1976, are supplemented by adding new Section 162.591 to read as follows:

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Section 192.591 Alternative Net Profits Apportionment for Remote Employees

(a) Terms used in this section have the same meanings as in section 718.021 of the Revised Code.

(b) A taxpayer may elect to apply the provisions of this section to the apportionment of its net profit from a business or profession. For taxpayers that make this election, the provisions of Section 192.14(b) of the Codified Ordinances apply to such apportionment except as otherwise provided in this section.

A taxpayer shall make the election allowed under this section by notifying the tax commissioner in writing on or with the taxpayer's net profit return or, if applicable, a timely filed amended net profit return or a timely filed appeal of an assessment. The election applies to the taxable year for which that return or appeal is filed and for all subsequent taxable years, until the taxpayer revokes the election. After the taxpayer makes the initial election, the election applies to every municipal corporation in which the taxpayer conducts business.

Nothing in this section prohibits a taxpayer from making a new election under this section after properly revoking a prior election.

(c) For the purpose of calculating the ratios described in division (a) of Section 192.14 of the Codified Ordinances, all of the following apply to a taxpayer that has made the election described in division (b) of this section:

(1) For the purpose of division (a)(1) of Section 192.14 of the Codified Ordinances, the average original cost of any tangible personal property used by a qualifying remote employee or owner at that individual's qualifying remote work location shall be situated to that individual's qualifying reporting location.

(2) For the purpose of division (a)(2) of Section 192.14 of the Codified Ordinances, any wages, salaries, and other compensation paid during the taxable period to a qualifying remote employee or owner for services performed at that individual's qualifying remote work location shall be situated to that individual's qualifying reporting location.

(3) For the purpose of division (a)(3) of Section 192.14 of the Codified Ordinances, and notwithstanding division (d) of that section, any gross receipts of the business or profession from services performed during the taxable period by a qualifying remote employee or owner for services performed at that individual's qualifying remote work location shall be situated to that individual's qualifying reporting location.

(d) Nothing in this section prevents a taxpayer from requesting, or the tax commissioner from requiring, that the taxpayer use, with respect to all or a portion of the income of the taxpayer, an alternative apportionment method as described in division (b) of Section 192.14 of the Codified Ordinances. However, the commissioner shall not require an alternative apportionment method in such a manner that it would cause a taxpayer to incur tax liability in a municipal corporation solely because a qualifying remote employee's or owner's qualifying remote work location is located in that municipal corporation.

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(e) Except as otherwise provided in this section, nothing in this section is intended to affect the withholding of taxes on qualifying wages pursuant to sections 718.011 and 718.03 of the Revised Code.

Section 4. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

DDR:DB:nl
11-20-2023
FOR: Director Abonamah

